

Right to Survival as Extension of Rights

Fowowe Adetomiwa Isaac*

Department of Law, Erstwhile National Assistant Secretary General at Law Students' Association of Nigeria, Adekunle Ajasin University Akungba-Akoko, Ondo State, Nigeria

Abstract

By the nature of mankind, the protection of the life of humans have become the topmost priority in every sphere. This is evident as embedded in the legal contributions to life via the creation of fundamental human rights where the right to life is customarily recognized in various countries. Thus, by the provision of the constitutions of numerous countries, every human has been accorded the fundamental human right of life. Without protecting life, all other human rights protections are meaningless.

Keywords: Universal declaration of human rights; Life of an individual; Right to survival; Economic, social and cultural goals; Legislation's

Introduction

In addendum, where countries do not recognize life as a fundamental human right, perhaps by virtue of their practice of unwritten constitutions, international treaties exist in the place of this lacunas. For instance, one of the bedrocks of international law – the Universal Declaration of Human Rights, 1948 – provides thus: Everyone has the right to life [1-3].

However, it is worthy of note that living transcends beyond the oxygen taken in by humans; the right to life is significantly extended to the right to stay alive. Living to humans encompasses a comfortable and standard life; a life devoid of hazards that are ordinarily sufficient in ending the life of a person. In this sense, every human, by virtue of living, should equally be accorded the inherent right to live in a healthy and supportive environment that will promote life.

Following this necessity, the right to life of an individual have been extended to understand the imperative of the provision of a conducive and protective atmosphere in living by the 'right to survival'. This essentially means that every human has the right to live in an atmosphere or a condition that such life will not be endangered.

Accordingly, the thrust of this composition is focused at critically examining the right to survival as an extension to the right to life using pivotal areas as a yardstick for this examination.

Conceptual framework of right to survival as extension of right to life: Whilst the right to survival as an extension of the right to life is to be examined, it is equally expedient to examine the word 'survival' being affixed as a right in this context. Basically, survival means the ability to keep living. It has equally been defined as "the continuation of life or existence". Accordingly, the right to survival, in its application, denotes the right of a person to continuing living. Comparatively, this right is an evident extension of the right to life of a person [4]. Where a law guarantees the human right of a person to life, the function of the right to survival bothers on the enforcement of the key elements or factors that will ensure the maintenance of such life.

The right to survival is premised on the necessity to expand the scope of the right to life. Thus, the right to survival can be contextually defined in the right to life as the legal guarantee or compulsion of the pivotal components that sustains the life of a man. In other words, the right to survival provides that a man is entitled to basic entities such as adequate and quality food, water, hygienic and peaceful environment, housing, clothing, health, and so on. The right to survival has equally been put in the perspective of having access to minimum needs such as food,

clean water, healthcare, and shelter – the bare minimum requirements to support human survival. Albeit there are other factors that support the right to survival of a person, such as finances, education, security, and so on, the basic ones are the prior listed [5].

The Court also have roles to play in the right to survival of a person. The primary function of the court in this regard is to enforce this right where issues or dispute arise in its application. In the case of *Sawhoyamaxa Indigenous Community v. Paraguay, Merits*, the Court posited thus:

the states must adopt any measures that may be necessary to create an adequate statutory framework to discourage any threat to the right to life; to establish an effective system of administration of justice able to investigate, punish and repair any deprivation of lives by state agents, or by individuals; and to protect the right of not being prevented from access to conditions that may guarantee a decent life, which entails the adoption of positive measures to prevent the breach of such right [6].

The right to survival is applicable to all forms of life. In the context of children, this right include access to medical care, nutrition, protection from harmful habits (including drugs) and safe working environments under the right to health [7]. There are many local and international laws that pursue this objective. One of the key international laws that legislate for children across the globe is the Convention on the Rights of the Child, 1990; remarkably, the preamble of this law states thus:

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community [8]... (Emphasis are the writer's)

***Corresponding author:** Fowowe Adetomiwa Isaac, Department of Law, Erstwhile National Assistant Secretary General at Law Students' Association of Nigeria, Adekunle Ajasin University Akungba-Akoko, Ondo State, Nigeria, Tel: +2349057501333, E-mail: fowowe.adetomiwa@gmail.com

Received: 23-May-2022, Manuscript No. JCLS-22-66273; **Editor assigned:** 25-May-2022, PreQC No. JCLS-22-66273(PQ); **Reviewed:** 09-May-2022, QC No. JCLS-22-66273; **Revised:** 14-Jun-2022, Manuscript No. JCLS-22-66273(R); **Published:** 21-Jun-2022, DOI: 10.4172/2169-0170.1000335

Citation: Isaac FA (2022) Right to Survival as Extension of Rights. J Civil Legal Sci 11: 335.

Copyright: © 2022 Isaac FA. This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

In the recognition of the right of children to survival, the Convention has further entrenched in its provisions:

1. *States Parties recognize that every child has the inherent right to life.*
2. *States Parties shall ensure to the maximum extent possible the survival and development of the child* [9].

Construing this provision, countries that are party members to this convention have the legal obligation to “afford the necessary protection and assistance” via the provision of basic facilities in order to “promote social progress and better standards of life” for children [10,11]. These provisions include the right to be born, right to minimum standards of food, shelter and clothing, right to live with dignity, right to health care, to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy [12]. It imposes an obligation on States Parties to introduce all appropriate measures, both positive and negative, to promote the survival and development of the child [13].

Discussion

Equally, the right to survival for animals have been supported in a study where it was posited that “in order to revitalize conservation, we must restore the full underlying rationale for protecting wildlife and habitats” [14]. The natural existence of animals in wildlife is one of the distinctive feature of Earth that even serve mankind in various ways. Thus, following this reason and the fact that animals have life, agitations have been made pushing against the excessive killing of animals that could lead to their possible extinction. These campaigns are of the sole objective that animals have their right to survival that cannot be trampled upon by man in the chase of their selfish interest. Manifestly, the right to survival precedes the right to life in a course to sustain such life. It is a right that gives rise for the compulsory and enforceable provisions of these necessities to a man.

Fundamentally, the right to survival, as an extension of the right to life, is such that mandates the obligation that countries across the globe ensure the production and provision of basic amenities in order to prolong the life of such person and humanity in general. As an extension to the right to life, the right to survival seeks to preserve such life by enforcing the provisions of basic amenities.

Constitutional provisions for the right to life and survival (right to health and environment):In its identification as a right, it has become evident that the right to survive stems from the express or implied provision of the right to life. Thus, as a concept, the right to survival have gathered very minimal direct recognition as a right, let alone being entrenched in a written law. There are very limited recognition of the express provisions of the ‘right to survival’. The Child Convention made an attempt to make on via the provision of Article 6 of the Convention of the Rights of the Child, 1990 where it provided that States Parties shall ensure to the maximum extent possible the survival and development of the child. Besides this near express provision, other international laws nor national laws or constitutions recognize the ‘right to survival’ as a right.

In light of the above, it is expedient to note that although there are minimal express provisions of the right to survival, there are notable provisions of the law that practices and acknowledges the right to the survival of a person. Following the thrust of the right to survival as making beneficial provisions for a better standard of living, there are laws that are in approval of this. In other words, whilst the right to survival entail provisions such as the “right to minimum standards of

food, shelter and clothing, right to live with dignity, right to health care, to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy”, there are direct and express provisions of the law that seek for the enforcement of these provisions; significantly, in various countries and continents across the globe [15].

The Supreme Court of Nigeria rightly posited in the case of Hassan v. E.F.C.C [16] thus:

The moral doctrine of fundamental rights aims at identifying the fundamental prerequisites for each human leading a minimally good life. (Emphasis are the writer’s)

Consequently, the right to life in its entirety and in relation to the right to survival is designed and provide in such a way to ensure the sustainability of lives via entitlements to basic amenities and needs. Further, in the case of Yakye Axa Community, the Court explicitly linked the right to life with the right to health, the right to food, and the right to access clean water [17]. These rights are what is now termed as the right to survival of a person in a country. All of these rights are implicated in the idea of the right to a decent living [18]. The Court also linked these rights to the right to cultural identity and education, especially for indigenous communities that derive so much of their identity from cultural practices and beliefs [19].

In the examination of this phase of this article, attention shall be focused at the right to health and environment being an essential part of the right to the survival of a human being in any part of the world. This is particular because these two rights, albeit very necessary to the existence of an individual, is seldom recognized by the laws of most countries. Thus, whilst examining these rights, among other subservient references, references shall be made predominantly to the Nigerian and Indian laws.

The right to health: Health remains a daily and global concern to the existence of every person. Health is seen as the most basic and vital asset, regardless of age, gender, socioeconomic status, or ethnic heritage. Consequently, there must be a reasonable attention directed at ensuring that the right to health of the people in a country remains the peak of all priorities. In the international realm, it was recognized that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition” [20]. Further, the World Health Organization (WHO) defined health to be:

a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity [21].

Accordingly, depicting its great importance, the right to health as a human right has hence become an internationally recognized right and doctrine in which many countries seek to pursue for her citizens. Understanding health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable health care of appropriate quality as well as to providing for the underlying determinants of health, such as safe and potable water, sanitation, food, housing, health-related information and education, and gender equality [22]. In Free Legal Assistance Group, Lawyers’ Committee for Human Rights v. Zaire, the Commission determined that the inability of a state party to provide basic health services such as safe drinking water and electricity, as well as a scarcity of medicine, constitutes a violation of the right to the best achievable state of physical and mental health [23]. In this concern, there are notable international recognitions of the right to health in international law.

The Universal Declaration of Human Rights, being the first

international declaration of fundamental human rights, recognized the right to health in its provision:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services [24]...

In another copious recognition of the right to health, the International Covenant on Economic, Social and Cultural Rights enumerates in its covenant thus:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

a. The reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

b. The improvement of all aspects of environmental and industrial hygiene;

c. The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

d. The creation of conditions which would assure to all medical service and medical attention in the event of sickness [25].

This provision states the particular steps to be taken in the safeguarding of the health and the advanced provision of healthcare in Nigeria. Apropos of the above, there are equally national recognitions of the right to health using Nigeria and India as a case study. In Nigeria, the Constitution of the Federal Republic of Nigeria states thus:

The State shall direct its policy towards ensuring that –

The health, safety and welfare of all persons in employment are safeguarded and not endangered or abused;

There are adequate medical and health facilities for all persons [26].

This is construed to mean that all the laws the government is to make must be targeted at providing adequate and quality health and medical facilities across the country. In other words, this provision, in implied terms, recognizes the right to health of Nigerians in which the government must always seek to uphold. It is on this basis the National Health Insurance Scheme was established [27]. The scheme was created to be a leading agency committed to achieving financial access to quality healthcare for all Nigerians. It equally bears a mission to mobilize and pool financial resources for strategic purchasing of affordable and quality [28]. Since the establishment of the National Health Insurance Scheme, there have been significant increases in outpatient and inpatient attendance, revenue, expenditure and improved access to medicines.

Also, the National Health Act establishes a National Health System empowered to provide “for persons living in Nigeria the best possible health services within the limits of available resources” and to “protect, promote and fulfil the rights of the people of Nigeria to have access to health care services” [29,30]. These initiatives have been put in place to recognize the right to survival of Nigerians via ensuring an adequate and quality medical and healthcare access. Although the provision of the right to health in the Nigerian Constitution has certain controversies as to its non-enforcement, the law has made such provision enforceable by the provision of legislation’s [31].

In *Femi Falana v Attorney-General of the Federation*, the applicant sought to enforce the right to health as provided in Article 16 of the African Charter by asking the court to compel the Federal Government to repair and upgrade medical facilities in the country [32]. The trial court struck the suit out on the ground that the court’s jurisdiction to entertain any suit relating to the Directive Principles has been ousted by section 6(6)(c) of the Constitution. However, this right can now be enforced indirectly by enforcing the related legislation’s that guarantees the right to health. For instance, in the enforcement of the right to health, Nigerian citizens can approach the court of law to enforce the provisions of the National Health Act that provides and guarantees the right to health of all citizens.

In the Indian jurisdiction, there is no express provision of the right to health. However, flowing from the fact that the right to health is an extension of the right to life, it is safe to posit that Article 21 of the Constitution of India, that guarantees the right to life, also ensures the right to health of her citizens. It is equally worthy of note that the Constitution pay homage to the provision of public health and healthcare policies in the country. The Directive Principles of State Policy in Part IV of the India Constitution provide a basis for the right to health [33]. Article 39 (E) directs the State to secure health of workers, Article 42 directs the State to just and humane conditions of work and maternity relief, Article 47 casts a duty on the State to raise the nutrition levels and standard of living of people and to improve public health [34]. Moreover, the Constitution does not only oblige the State to enhance public health, it also endows the Panchayat and Municipalities to strengthen public health under Article 243G [35].

Albeit there are no express provision of the right to health in the Indian Constitution, [i]n contrast to Nigeria, Indian courts have held that the right to life under the Indian Constitution encompasses protection for the background conditions of good health, as well as ensuring access to required medical services [36]. While expanding the scope of Article 21 of the Indian Constitution and the responsibility of the government to give medical help to every person in the country, the Supreme Court of India, in the case of *Paschim Banga Khet mazdoor Samity & ors v. State of West Bengal & ors* [AIR (1996) 4 SCC 37], declared that in a welfare state, the government’s fundamental duty is to guarantee the welfare of the people. Providing adequate medical facilities for the people is an obligation undertaken by the government in a welfare state [37,38].

The Supreme Court of India also declared in *Bandhua Mukti Morcha v. Union of India* [1984 SC 812] that, while the DPSP are not binding requirements and merely have persuasive value, they should be implemented by the state [39]. Furthermore, the Court determined that under Article 21, dignity and health are included in the definition of life and liberty. In *State of Punjab & Ors v Mohinder Singh Chawla* [AIR (1997) SC 1225], the apex Court maintained that the right to health is inextricably linked to the right to life, and that the government has a constitutional obligation to provide health care [40].

Right to environment: On the same pedestal at which the right to health is essential to the living of a person, the right to a healthy and clean environment is equally necessary. With increasing environmental awareness in the last decades, the environment has become a higher political priority and many constitutions now expressly guaranteed a right to a healthy environment as well as procedural rights necessary to implement and enforce the substantive rights granted [41].

Thus, it is necessary that, in the pursuit of the right of survival, the legislation’s of various countries are molded in such a way that will tackle these environmental challenges in the pursuit to guarantee and

enforce the right to a healthy environment for the people.

In Nigeria, it is worthy of note that the Constitution provides and recognizes the need to provide a healthy environment where it states as follow:

The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria[42].

Equally, Article 24 of the African Charter on Human and People's Rights provides thus:

All peoples shall have the right to a general satisfactory environment favourable to their development.

These provisions are in agreement to the dire need for a safe and healthy environment which is strongly affiliated with the survival of human beings in various countries. However, in Nigeria, the enforcement of this right is, just like the right to health, to some extent deterred following its non-enforcement in Court. In this regard, the Nigerian government have made laws that directly recognizes and guarantees the right to an healthy environment for the people. These laws include:

- National Environmental Standards Regulations and Enforcement Agency (Establishment) Act 2007 (NESREAA). This statute was created under the 1999 Constitution of the Federal Republic of Nigeria (section 20) and repealed the Federal Environmental Protection Act 1988 [43]. The NESREA, the major federal body responsible for protecting Nigeria's environment is responsible for enforcing all environmental laws, regulations, guidelines, and standards [44]. This includes enforcing environmental conventions, treaties and protocols to which Nigeria is a signatory [45].

- Environmental Impact Assessment Act (Cap E12 LFN 2004). The general principles, techniques, and methods of environmental impact assessment in diverse sectors are outlined in this regulation.

- Harmful Waste (Special Criminal Provisions etc) Act (Cap H1 LFN 2004). This law makes it illegal to transport, deposit, or dump hazardous material on land or in territorial seas.

- Endangered Species (Control of International Trade and Traffic) Act (Cap E9 LFN 2004). As mandated by several international treaties, this provides for wildlife conservation and management, as well as the preservation of endangered species.

- National Oil Spill, Detection and Response Agency Act 2006 (NOSDRA). The goal of this law is to put in place machinery for Nigeria's National Oil Spill Contingency Plan to ensure a safe, fast, effective, and appropriate reaction to massive or disastrous oil pollution.

These laws have been put in place in the respect of the right to a health environment og the people. There are equally several established agencies in this regard which include the Federal Ministry of Environment, National Environmental Standards and Regulations Enforcement Agency (NESREA), National Oil Spill Detection and Response Agency, Directorate of Petroleum Resources (DPR), Nigerian Nuclear Regulatory Authority, and so on.

In the case of Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation[[2019] 5 NWLR (Pp. 587, paras. D-F; 597, para. H)], the Supreme Court recognized the right to a healthy environment when the Court stated thus:

Section 33 of the 1999 Constitution guarantees the right to life while section 20 of the Constitution provides that the state shall protect and improve the environment and safeguard the water, air and land, forest

and wild life of the country. Also, article 24 of the African Charter on Human and Peoples' Rights provides that all people shall have the right to a general satisfactory environment favourable to their development. These provisions show that the Constitution, the legislature and the African Charter on Human and Peoples' Rights, to which Nigeria is a signatory, recognise the fundamental rights of the citizenry to a clean and healthy environment to sustain life [46] (Emphasis are the writer's)

Further, in the landmark case of Jonah Gbemre v. Shell Petroleum Development Co. Nigeria and 2 Ors [47]. The case can be found in the court records with suit No. FHC/B/CS/153/2005 (Federal High Court Benin Division) (Justice Nwokorie).], members of the Iwherekan village in Delta State, Nigeria, filed a lawsuit alleging that flares from the defendant's oil and gas explorations were harmful to their health and the environment, as well as causing food shortages. They claimed that their fundamental rights under the Nigerian Constitution (articles 33 and 34 – life and dignity of human person) as well as the African Charter had been violated (Arts 4, 16, and 24). The applicants requested a declaration that the right to life guaranteed by Section 33 of the Nigerian Constitution, as well as the right to dignity of the human person guaranteed by Section 34 of the Nigerian Constitution, "includes the right to a clean poison free, pollution free, and healthy environment." The Supreme Court agreed with this broad interpretation of the right to life, noting that "both constitutionally guaranteed rights (right to life and right to dignity of human being) unavoidably encompass the right to a clean, poison-free, pollution-free, healthy environment." The Court went on to say that "respondents' actions in continuing to flare gas in the course of their oil exploration and production activities in the applicants' community is a gross violation of their fundamental right to life (including a healthy environment) and dignity of human person as enshrined in the Constitution[48].

On the other strand, the Constitution of India, 1950 in Article 48A makes an express provision of the responsibility of the State to the citizens in guaranteeing their right to a healthy environment:

The State shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country.

Equally, Article 51A(g) makes an express recognition of the right to environment, however, this falls within the fundamental duties of the citizens:

It shall be the duty of every citizen of India - to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures

It is the responsibility of all citizens, just as it is the responsibility of the state, to not only conserve the environment but also to take sufficient measures to improve it. In Kinkeri Devi v. State[AIR (1988) HP 4], the Himachal High Court in the application of Article 48-A and Article 51A(g) held that it is both a constitutional obligation to the state and a constitutional duty of citizens to not only maintain but also develop the environment, as well as to preserve and defend the country's forests, flora and fauna, rivers and lakes, and all other water resources.

In another case of Goa Foundation v. the State of Goa, the petitioner was a society registered under the regulations governing society registration, and its members were Indian citizens who had a fundamental obligation under Article 51-A to safeguard and improve the environment, lakes, woods, and rivers, as well as to have compassion for living beings [49]. The question of whether the society had locus standi to move to the court or not was raised before the court. The Supreme court gave a resounding affirmative response to this question,

holding that society had the same fundamental responsibility. The petitioner was found to have locus standi to go to court in order to not only prevent environmental degradation, but also to form and implement provisions aimed at restoring the ecology and maintaining ecological balance.

In the well acclaimed case of *M.C Mehta v. Union of India*, due to stone crushing activities in and around Delhi was causing a huge problem of pollution in the environment [50]. The court was well aware of the unavoidable effects and environmental issues produced by the country's economic activity. It cannot be allowed, in the name of environmental development, to damage the quality of the ecosystem and raise various forms of pollution to the point where it becomes a health concern to all inhabitants. Citizens also have a right to clean air and a pollution-free environment in which to live, according to the ruling.

Conclusively, the right to health and the right to a healthy environment is very paramount to the survival of every individual on Earth. Thus, there should be adequate legal protection of these, as well as its enforcement. A healthy environment is critical because it encourages the excellent health of a bigger number of people, resulting in less resource diversion or massive spending on people's care.

Statutory and procedural support for right to survival: From the legal sphere, there are statutory instrument that in one way or the other preach or recognize the right to survival in the country; ranging from the local level to the international level. In other words, there are legislation's that either bind the student or the citizens in the provision of basic amenities that will ensure the sustainability of human beings in the country. On an international scale, the following legislation's serve as a statutory and procedural support for the right to survival for various party members:

□ The Universal Declaration of Human Rights, 1948: The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations [51]. It sets out, for the first time, fundamental human rights to be universally protected [52]. These rights include the right to health, right to healthy environment, right to basic education, right to economic relief, and so on.

- International Covenant on Economic, Social and Cultural Rights, 1966: This is an international treaty that acknowledges that all peoples have the right to self-determination, which includes the freedom to choose their political status, pursue their economic, social, and cultural goals, and control and dispose of their own resources. It affirms a people's negative right to not be robbed of their means of subsistence, and it requires those remaining in charge of non-self-governing and trust territories (colonies) to support and protect their right to self-determination. Among other fields, this treaty focuses on the economic aspect of a person's life.

- The 1951 Refugee Convention: The core concept is Non-refoulement, which states that a refugee shall not be sent back to a nation where their life or freedom is in grave danger. This is currently regarded as a rule of international customary law. This convention basically deals with the rights that a refugee has that will ensure his survival in such circumstance.

- 1984 Convention against Torture: This is a United Nations-

reviewed international human rights convention that strives to prevent torture and other forms of cruel, brutal, or degrading treatment or punishment all over the world. The Convention requires member states to adopt adequate steps to prevent torture in any territory under their authority, and it prohibits member states from transporting people to countries where they are likely to be tortured.

- 2006 Convention on Persons with Disabilities: The Convention is a human rights document with a clear social development component. It adopts a broad classification of people with disabilities and maintains that all people with disabilities, regardless of their nature, are entitled to all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to people with disabilities, and it identifies areas where adaptations are needed for people with disabilities to effectively exercise their rights, as well as areas where their rights have been violated and where rights protection is needed.

In a conclusion, these international laws have become a supportive statutory instrument for the right to survival of a man. Even more, individual countries have begun to enact laws in this regard, such as laws that guarantee the right to environment and a healthy environment. As a procedural role the government plays, for instance, in Germany, the government gives parents a particular amount of money for the development of children below the age of 18. The child benefit is a monthly payment given to all parents in Germany, regardless of their income, to ensure that their children's basic needs are covered [53]. The German child benefit is provided by the Family Benefits Office (Familienkasse) at the Federal Employment Agency [54]. These efforts are procedures that have been initiated to ensure the right to survival of a person.

Nigeria covid-19 regulations and right to survival: Apropos of the established, it has become apparent that the government has a duty to the citizens in enforcing their right to survival in various circumstances via different mechanisms. This postulation is no different in its applicability to pandemic.

With the combined effect of this, and the recent uprising of the covid-19 pandemic, it is expected that the Nigerian government does possibility in ensuring the right to survival of the people by sourcing for available vaccine and the provision of healthcare facilities that can adequately care for the infected persons. Asides the individual benefit this serves, there is also an advantage as it limits the rapid level of the contraction of the virus.

As of the 4th of March, 2022, Nigeria still battles with the coronavirus, also known as covid-19. The Nigeria Center for Disease Control, the body national body responsible for overseeing the alienating of the virus in the country, as of the 4th of March, 2022, records 254,606 confirmed cases of covid-19 nationwide [55]. This figure is rather endangering to the survival of the citizens considering the contagious nature of the virus. In essence, as of present, the situation of covid-19 virus in Nigeria is unacceptable to the right to survival of Nigerians

According to an international report, Nigeria can only test 2,500 samples each day, and only half of them are actually administered due to a lack of human resources, testing kits, and laboratories, as well as a case definition for testing that prioritizes symptomatic people and their connections [56]. Only 138,462 samples had been tested in Nigeria, a country with a population of 200 million people, as of June 30, [2020], whereas South Africa, a country with a population of 58 million people, has previously done 1,630,008 tests. Before the epidemic, Nigeria had only 350 ventilators and 350 ICU beds for its total population. The

country received 100 additional ventilators in April 2020, but this will not be enough to meet the expanding caseload.

To mitigate the impact of COVID-19, the Nigerian government has implemented a number of health, social, and economic initiatives. However, several of the policy remedies have flaws and, when taken together, are insufficient to address the scope of the problem.

Conclusion

The entire existence of a person has attributed to the guarantee of the constitutional provision of the right to life. However, a person cannot be alive without the necessary implantations put in place that will ensure the sustainability of such life. As a result, there have been notable and significant expansion of the right to life to entail the right to survival. In other words, by the provision of the right to survival, necessary parties; the government and the public in general, have a constitutional duty to provide and ensure the basic amenities that will keep a person alive. Albeit there a limited direct provisions for the right to survival of a person, there are legislation's that play this role, and can be enforced in the court of law.

Acknowledgement

None

Conflict of Interest

None

References

- <https://lawglobalhub.com/section-33-of-the-nigerian-constitution/>
- <https://opil.ouplaw.com/view/10.1093/law:ihrl/3039iachr07.case.1/law-ihrl-3039iachr07>
- https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf
- <https://www.merriam-webster.com/dictionary/survival>
- Acharya U (2014) The Future of Human Development: The Right to Survive as a Fundamental Element of the Right to Development. *Denv J Int'l L Pol'y US* 42: 1-29.
- https://www.corteidh.or.cr/docs/casos/articulos/seriec_146_ing.pdf
- <https://www.savethechildren.in/child-protection/understanding-four-most-important-sets-of-childrens-rights/>
- <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- <https://www.cypcs.org.uk/rights/uncrc/articles/article-6/>
- <https://www.coe.int/en/web/compass/convention-on-the-rights-of-the-child>
- <https://research.wou.edu/c.php?g=551307&p=3785494>
- https://www.smilefoundationindia.org/child_rights.html
- Vaghri Z (2022) Article 6: The Rights to Life, Survival, and Development. *CHIR US* 25: 1-429.
- Gray J, Curry P (2016) Ecodemocracy: Helping Wildlife's Right to Survive. *ECOS USA* 37: 1-5.
- <https://www.fundsformgos.org/developing-countries-2/india/smile-foundation-grants-for-emerging-grass-root-ngos-working-with-underprivileged-communities-in-india/>
- <https://legalpediaonline.com/the-check-out-the-summary-of-this-case-ken-wafor-v-economic-and-financial-crimes-commission/>
- <https://www.globalhealthrights.org/yakye-axa-indigenous-community-v-paraguay/>
- https://labour.gov.in/sites/default/files/THEINDUSTRIALDISPUTES_ACT1947_0.pdf
- <https://research.wou.edu/c.php?g=551307&p=3785494>
- https://libguides.up.edu/chicago/short_form
- https://hero.epa.gov/hero/index.cfm/reference/details/reference_id/80385
- <https://research.wou.edu/c.php?g=551307&p=3785494>
- <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>
- http://hrlibrary.umn.edu/africa/comcases/25-89_47-90_56-91_100-93.html
- https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf
- <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>
- <https://evaw-global-database.unwomen.org/fr/countries/africa/nigeria/2010/section-17-of-the-constitution>
- <https://assets.kpmg/content/dam/kpmg/ng/pdf/commentaries-on-the-national-health-insurance.pdf>
- <https://www.nhis.gov.ng/company-alternative/>
- https://nigeriahealthwatch.com/wp-content/uploads/bsk-pdf-manager/2018/07/01_Official-Gazette-of-the-National-Health-Act-FGN.pdf
- <https://link.springer.com/content/pdf/bbm%3A978-94-015-7706-9%2F1.pdf>
- <https://lawglobalhub.com/section-6-of-the-nigerian-constitution-1999/>
- https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID3673480_code2971446.pdf?abstractid=3673480
- Sirohi N (2020) Declaring the Right to Health a Fundamental Right. *ORF IND*: 1-10.
- <https://libanswers.brunel.ac.uk/faq/48874>
- <https://indiankanoon.org/doc/104300010/>
- Shah BS (1999) Illuminating the Possible in the Developing World: Guaranteeing the Human Right to Health in India, *Vand J Transnat'l L Rev US* 32: 1-53.
- Islam B (2017) Right to Health: A Constitutional Mandate in India. *IJARIE IND* 3: 1-12.
- <https://www.jsalaw.com/covid-19/right-to-health-as-a-fundamental-right-guaranteed-by-the-constitution-of-india/>
- <https://www.aironline.in/legal-judgements/1997%20AIR%20SCW%201260>
- Razzaque J (2002) Human Rights and the Environment: The National Experience in South Asia and Africa. *OHCHR EU* 4: 1-26.
- Sodipo E, Omofuma O, Nwachi VC (2017) Environmental Law and Practice in Nigeria: Overview. *TRPL UK*: 1-418.
- https://www.indiacode.nic.in/showdata?actid=AC_CEN_13_14_00005_20123_2_1517807323686&orderno=4
- https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&mdsg_no=IV-4&src=IND
- <https://copyright.gov.in/documents/copyrightrules1957.pdf>
- <https://lawcareigeria.com/osewverha-v-owhofasa-2020/>
- <https://www.globalhealthrights.org/wp-content/uploads/2013/02/Hc-2005-Gbemre-v.-Shell-Petroleum-Development-Company-and-Ors..pdf>
- <https://indiankanoon.org/search/?formInput=air%201988%20hp%204>
- https://main.sci.gov.in/supremecourt/2019/28817/28817_2019_2_1501_19350_Judgement_10-Jan-2020.pdf
- https://main.sci.gov.in/supremecourt/1985/63998/63998_1985_31_26_24489_Judgement_02-Nov-2020.pdf
- <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- <https://www.fda.gov/media/77765/download>
- [https://www.iamexpat.de/expat-info/social-security/child-benefits-germany-kindergeld#:~:text=Child%20benefit%20\(Kindergeld\),at%20the%20Federal%20Employment%20Agency](https://www.iamexpat.de/expat-info/social-security/child-benefits-germany-kindergeld#:~:text=Child%20benefit%20(Kindergeld),at%20the%20Federal%20Employment%20Agency)
- <https://www.unicef.org/media/100986/file/PRACTICAL%20GUIDE%20To%20blended.pdf>
- <https://covid19.ncdc.gov.ng/advisory/>
- Dixit S, Ogundeji YK, Onwujekwe O (2020) How Well Has Nigeria Responded to Covid-19?. *Brookings US*: 1-7.