

**The Jurist-Biblical perspective of Jesus' and Saro-Wiwa's trials:
the challenges of human rights violations in
Niger Delta, Nigeria**

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Abstract

In order to explain the challenges of human rights violations in Niger Delta, Nigeria clearly, human rights violations were traced from the biblical era to contemporary society using the excruciating trials of Jesus Christ, Saro-Wiwa and eight others as a case study. The aim of this article is to elucidate the socio-economic effects of human rights violations and the resultant disposition of the religious body to violations, degrading treatments and brutalities inflicted on innocent citizens by the ruling class. A newly devised jurist-contextual method was used by applying the contemporary constitution of a given society to analyse and justify the subject under consideration. The findings revealed that human rights violations have not improved despite the civil rule in Nigeria. The nation's security agencies continue to dehumanise the citizens, carry out extrajudicial killings of innocent civilians on a regular basis and some towns were heinously annihilated with impunity. These lawless acts of tyranny and violations of human rights pose a serious threat to Nigeria's nascent democracy and its corporate existence as a nation. Consequently, it is recommended that if the nation must be rid of vices and develop, the church must not be in apathy, but should fearlessly – like the early church – denounce all violations, injustice and cruelty of the ruling class to the people of Niger Delta; and the Nigerian government must rebuild the devastated towns and villages of Ogoni land. Finally, the ruling class and all the security agencies must respect, uphold and obey the law of the nation in which human rights are entrenched.

Introduction

In Nigeria, human rights violation has reached a crescendo where school children, clergy, academics and the elderly are kidnapped and held to high ransom. Besides this, innocent citizens continue to fall victim to the police's careless, accidental and extrajudicial killings, political brutality, bombing and other acts of terrorism on a regular basis. This is so bothersome that some countries like the U K and Australia have to caution their citizens that a visit to Nigeria is unsafe and that the situation of the nation constitutes a threat to life.¹ Just as it was experienced in the New Testament world when Jesus suffered disgrace, injustice and abuse, the Nigerian government, police, military and other security forces commit extrajudicial killings, inhuman tortures, arbitrary arrests and detention of innocent people in Niger Delta on a regular basis.

Jurisprudence consideration of the abuse and injustice to Jesus in his trial

In the presence of Pilate, Jesus Christ was accused "of making himself a rival with Caesar." So, Pilate investigated Jesus and announced to the chief priests and the crowd that:

You brought me this man as one who was inciting the people to rebellion. I have examined him in your presence and have found [sic] no basis for your charges against him. Neither has Herod, for he sent him back to us; as you can see he has done nothing to deserve death (Luke 23:14).

Despite this judgment, Pilate proposed to release Jesus if the mob would give consent to it. On a point of law, he ought to have allowed him to go without asking leave of them. This is an infringement of the supremacy of the contemporary constitution, which states that:

¹ *The Nigerian Tribune*. 2006. 1September.

The constitution is supreme and its provisions shall have binding force on all authorities and person.²

The conduct of Pilate is a deviation from the rule of law, because the primary task of any court is to deliver justice according to the tenets of the rule of law in any contentious issue. A court needs three types of knowledge to adjudicate a matter successfully. These include:

- knowledge of the facts involved
- knowledge of the applicable law or rules and
- knowledge of the just method in applying the law to the issue in dispute³

Pilate failed to acknowledge the facts involved in Jesus' case – that Jesus was a victim of human malice. For instance, there were frequent reports on how the Pharisees, Elders and Sadducees had always plotted to kill Jesus before his eventual arrest and trial because of jealousy and resentment. For this reason, Weaver insists that the cause of Jesus' death lies solely with the powers of evil of conspiracy.⁴

Secondly, as a presiding judge, one would expect Pilate to be knowledgeable about the applicable Jewish civil and criminal law.

Anyone who strikes a man and kills him shall surely be put to death ... if a man schemes and kills another man deliberately, take him away from the altar and put him to death (Ex.21:12–14).

“Here is a law concerning [wilful] murder, the murderer must be put to death, also he that kills a man ‘whether upon sudden passion or in malice’, must also be put to death.” Likewise, the Roman law protects citizens from all kinds of assault and no man shall be executed without a due judicial process. In this regard, Pilate turns “judgment away backward” and justice subjugated to the fear of popular fury. He made the truth to fall and equity suspended under the uncivil demand of Jesus' persecutors.

Thirdly, Pilate fails in his knowledge of a just method to apply the law to the issue in dispute. The universal rule of fairness demands that the trial judge be fair to the accused standing trial. It is a rule from time immemorial and it has been described as

The universal principles of ancient origin and common to mankind. They were recognized by the Ancient Greeks and Romans, enshrined in the Holy Bible, and recognized as part of our indigenous and other African cultures, and principles of justice. It is, indeed, a principle of divine justice.⁵

Akintunde, another scholar, added that the universal principle of divine concept of fairness in a trial is now contained in the “rules of natural justice”. The basis for this rule is that justice is fairness. It entails that an accused must have the freedom to answer the accusation against him; and, once again, the adjudicator must be neutral, independent and impartial (Akintunde 1996:53). This position is asserted in the biblical code on execution.

Do not show partiality in judging; hear both small and great alike.

Do not be afraid of any man, for judgment belongs to God (Deut.1:17).

Do not pervert justice, or show partiality to the poor or favouritism to the great, but judge your neighbour fairly (Lev.19:15). Do not accept a bribe, for a bribe blinds the eyes of the wise, and twists the words of the righteous (Deut16:19).

Natural justice is traceable to the Garden of Eden where God never condemned Adam until he was allowed to explain himself. God's judgment only came after he had been given the opportunity to defend his case (Gen 3:12). In the contemporary constitution, Jesus' right to a fair hearing could be said to have been breached because the constitution provides that:

² Section1, part1, Constitution, (1999), Federal Republic of Nigeria.

³ Edeko, ES.2003. *Jurisprudence*. Benin: Tide Publishers p 86.

⁴ Weaver, D. The Nonviolent Atonement. Available at <http://www.Homepage.nt/word.com.on?date>

⁵ Adolphus Kabiri-Whyte, Justice Supreme Court, in Adeniyi Versus Governing Council of Yaba College of Technology Lagos, 1993.

In the determination of his civil rights and obligation including any question or determination or against any government or authority, a person shall be entitled to a fair hearing. Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal.⁶

Without fairness there is no justice and in any situation where the adjudicator is peevish and irritable; confidence is lost in his ability to bring justice to the case. This is why Osamor says that the fairness of a trial is fundamental to the administration of justice and that it does not only give integrity to the legal system but also ensures the confidence of the society in the administration of justice system.⁷

The concept of fair hearing is summed up in two Latin maxims. "Audi Alteram Partem." – No man must be condemned unheard and "Nemo Judex in causa sua." – No one should be a judge in his own case (Osamor, 2000:230). Firstly, in line with the principle of "Audi Alteram Partem, Jesus' right to a fair hearing had been violated. He did not have the knowledge of his offence prior to his trial but only came to learn about it at his trial. Evans has argued that:

Where the charge or charges are communicated to the offender for the first time at the trial, justice demands that he be given time- even if this will mean the postponement of the trial to enable him to prepare his defence to the accusations or charges.⁸

Part of the privilege that an accused must be given is the opportunity or right to proper facilities for preparing his defence.⁹ Unfortunately for Jesus, between the period of his arrest and the point of his trial, he was blindfolded and seriously distracted by the guards who teasingly demanded prophecy from him. "He was subjected to tedious and harrowing conditions of thirst, beaten and dehydration; and at daybreak without food he was led to his trial proceedings impudently" (Luke 22:66).

Secondly, the principle of "Nemo Judex in causa sua" does not allow anyone to be a judge in his own case as stated earlier. In fact, both ancient and modern tenets of administration of criminal justice do not give permission to the same person to be the accuser, the prosecutor and the adjudicator.¹⁰ In Jesus' case his accusers were the prosecutors and the judges. This might be one of the reasons why Jesus maintained a dignifying silence as the only option in a gross violation of his right to a fair hearing. Again, "his right to dignity of human person" was violated when the high priests derided him, the guards beat him, the crowds spat at him and the soldiers stripped him naked and made fun of him. His experience was such that hell was let loose and he suffered the greatest indignity of life (Luke 22:63–66). His dehumanisation, in contemporary society, is a violation of section 34 (1) (a) of 1999 constitution of Federal Republic of Nigeria which states that: "Every individual is entitled to respect for the dignity of his person, and accordingly – no person shall be subjected to torture or to inhuman or degrading treatment."

When Jesus was condemned, he ought to have had time to prepare himself for death, but the sentence was passed and the warrant of execution was signed in that same hour. There was a law made by the Roman Senate, in Tiberius' time that execution of criminals should be postponed for about ten days after sentence.¹¹ Therefore, the rush with which Jesus was executed without giving him a minute of rest was a violation of his right to life.

The question is: why could a man proclaimed to be innocent, law-abiding, virtuous and saintly not enjoy the protection of law? The reason for this is that Jesus' trial was not an honest judicial proceeding. The proceeding was an organised conspiracy of the highest order. It was a persecution on the ground of his religious avowal and not a prosecution for criminal acts. The whole proceeding was put in place to provide legal justification for their action of cruelty and violation of human rights. Similar to this in contemporary society is the trial of Ken Saro-Wiwa.

Early Church's denunciation of the cruelty and injustice to Jesus

The early church of the New Testament time came out ebulliently to denounce the unjust execution of Jesus by the Jewish and Roman authorities. With brazen fearlessness they condemned these leaders for their abuses and cruelties to an innocent person, Jesus Christ (Acts 4:10–11). They formulated a

⁶ Section 36, (1) and (4), Constitution, (1999).

⁷ Osamor, B. 2000 *Fundamentals of criminal procedure in Nigeria*. Abuja: Dee-sage Nigeria Ltd p 230.

⁸ Evans, JM (ed).1980. *De Smith's, Judicial Review of Administrative Action*, USA: Stevens Publishers. p 204.

⁹ Evans, 204.

¹⁰ Akintunde, E.1996. *The Trial of Jesus Christ*. Benin: Emiola Publishers p 54.

¹¹ Matthew, H.1992. *Commentary on the whole Bible*.USA: Hendrickson Publishers. p 1766.

kerygma that did not only expose the misdeed of the ruling Jews but also promoted the messiahship, lordship and divinity of Jesus (Acts 4:12). In doing this, they were threatened with jails and martyrdom, but they were too effervescent to be cowed (Acts 4:1–23; 7:55–56; 8:1–3).

The ruling Jews sternly ordered that the church should stop its public activities and proclamations about Jesus (Acts 4:17–18). Rather than voiceless disposition, the church undauntedly upheld its prophetic and admonishing roles openly and defiantly (Acts 4:19–20; 5:25). As a result of the church's persistent teachings, fearless affirmation, resolute declaration and thought-provoking proclamation; 3 000 people changed their socio-religious misconception about Jesus as a convicted criminal and called him their lord and saviour (Acts 2:38–41).

Saro-Wiwa's trial in the military regime

Kenule Beeson Saro-Wiwa was a victim of extrajudicial killing under the Nigerian military regime. He lived from 10 October 1941 to 10 November 1995.¹² He was a fearless nonviolent revolutionist leader of the Niger Delta militia group, Movement for the Survival of Ogoni People (MOSOP). He championed Ogoni's demands for 50% derivation as against the 13% they were receiving and that the derivation must be made directly to the host community rather than the state government.¹³ In addition, they also asked for devolution of power and true federalism, which means that all federated ethnic regions should have full control over their political affairs. They see this as a political participation that will make their region produce the next president.¹⁴ Also, they asked for the creation of at least two more states in their area to give equity to all the geopolitical zones of the nation. They see this as an option to keep Nigeria one.

Further to this, they called on the federal government and the oil companies to employ their youths. They stressed that they remain the only ethnic group with no good primary and secondary schools and no federal institutions and most of their regions are not connected to the national grid.¹⁵ Saro-Wiwa, in his article, "The coming war in the Delta", further demanded that the government :

Pay royalties to the landlords for oil mined from their land, and citizens from the oil-bearing areas must be represented on the boards of directors of oil companies prospecting for oil in particular areas; and communities in the oil-bearing areas should have equity participation in the oil companies operating therein. Finally, the Niger Delta people must be allowed to join in the lucrative sale of crude oil. Only in this way can the cataclysm that is building up in the Delta be avoided.¹⁶

Also, in January 1993, MOSOP under the leadership of Saro-Wiwa and Dr Garick Leton, successfully organised an elaborate Ogoni Day rally. In the rally, Garick lamented that:

We wake up to find our lands devastated by agents of death called oil companies. Our atmosphere has been totally polluted, our lands degraded our waters contaminated, our trees poisoned, so much so that our flora and fauna have virtually disappeared. We are asking for the basic necessities of life: water, electricity, and education. But, above all, we are asking for the right to self-determination so that we can be responsible for our resources and our environment.¹⁷

This agitation made Ken Saro-Wiwa and his men odious to the Abacha regime who declared them as *persona non-grata*. Consequently, Saro-Wiwa, Daniel Gbooko, Paul Levera, Felix Nuate, Baribor Bera, Berinem Kiobel, John Kpuine, Saturday Dobe and Nordu Eawo were arrested and charges of treason and murder were trumped up against them before a special military tribunal inaugurated by Sani Abacha.

As the trial went on, Saro-Wiwa's lawyers withdrew their services as a protest against the tribunal's violation of the defendants' rights to a fair hearing. However, the "tribunal went ahead with witnesses bribed with money and promised jobs with shell to testify against Saro-Wiwa and others".¹⁸ Eventually, the tribunal sentenced him and the eight others to death by hanging. He was subjected to

¹² Internet Encyclopedia, available at en.wikipedia.org/wiki/ken-sarowiwa also on www.hibeam.com.

¹³ *The Punch*. 2006. Tuesday 5 September: 10.

¹⁴ *The Sun*. 2006 Thursday 5 January: 4.

¹⁵ *The Nigerian Tribune*. 2006. 1 September.

¹⁶ Saro-Wiwa, K. 1991. *Similia: Essay on Anomie Nigeria* Port Harcourt: Saws Publishers p 168.

¹⁷ *The Sun*: 19.

¹⁸ Internet Encyclopedia, [en.wikipedia](http://en.wikipedia.org).

inhumane treatment whereby acid was poured on him before he was shamefully hung on 10 November 1995.

Jurisprudence arguments on Saro-Wiwa's right to defence counsel

In any criminal matter, the defendant's right to a defence counsel is unnegotiable and could not be denied. When the lawyers resigned from the tribunal in protest, the principle of fair hearing demanded that special provision must be made for him. Hence, the trial and the eventual conviction of Saro-Wiwa, without access to a defence counsel, is unconstitutional under the Nigerian constitution of 1999 which stipulates that: "Every person who is charged with a criminal offence is entitled to defend himself in person or by a legal practitioner of his own choice."¹⁹

The importance of this constitutional right is seen in the emphasis placed on it in section 211 of the Criminal Procedure Act which stresses that:

Both the complainant and the defendant shall be entitled to conduct their respective cases in person or by a legal practitioner; and where the defendant is in custody or on remand, he shall be allowed the access of the legal practitioner at all reasonable time.

It would have been right on the point of law if the tribunal had used its discretion to compulsorily provide a legal representation for Saro-Wiwa and the other men since it was a case that would lead to capital punishment.

Osamor further explains that the right of an accused to counsel in such cases with the penalty of death cannot be shelved. The court must appoint a defence counsel for anyone charged with a capital offence if the accused is not represented by a counsel. Osamor emphasises that the court does not have to seek the consent of the accused before taking up the constitutional role of appointing a counsel to defend him. Also, section 352 of the Criminal Procedure Act and section 186 of the Criminal Procedure Code make it mandatory for the court to provide legal representation for anyone under a capital case.²⁰ This ought to be the legal provision that the tribunal in the trial process of Saro-Wiwa should have employed to make his trial fairer. The failure of the tribunal in this regard was an abuse of the rule of law and it is a violation of Saro-Wiwa's right to life.

¹⁹ Section 36 (6) (c), Constitution, 1999.

²⁰ Osamor, 231.

Human rights violations in Niger Delta under the Nigerian democratic rule

The democratic rule in Nigeria has not improved the human rights situation in Niger Delta since 1999. Soldiers, naval security and the police continue to dehumanise people and also annihilate communities on a regular basis. For instance in 1999 as a result of civil unrest which led to the death of 10 police officers and one soldier in Odi, the Federal government sent in troops but 40 of them were killed in a gun battle with the militant groups.²¹ In response, Obasanjo dispatched two warships and about 6,000 soldiers to Odi—a community of 15,000 people:

They embarked on a scorched earth campaign and over the next two weeks razed Odi to the ground with mortars and heavy-calibre machine guns. Dozens of civilians were killed and every building in the Odi town was destroyed.²²

Alamiyeseigha further stressed that the invasion of Odi by Federal forces and the pointless massacre of its people and their properties had been immense and disturbing and would take a long time to heal. As if this was not enough, the Ogodobori community was ruthlessly massacred in 2004, the Odiami community was annihilated in 2005 and the Okrekoko community was levelled in 2006.²³ All these are heinous dehumanisation and barbaric genocidal terrors on defenceless people calling for justice and equity over their God giving wealth.

The effects of human rights violations in Niger Delta on national socio- economic development

Human rights violation in Niger Delta is a serious threat to the democratic process and the corporate existence of the country because the government's practice of bringing army officers of northern and western origins to always destroy another region will breed hatred and disharmony that can lead to another civil war.

It is also a threat to the energy security of Nigeria. For instance, during the first half of 2006, Nigeria's energy industry was crippled due to bombing and other military actions in some parts of the Niger Delta region where the majority of the nation's energy resources are extracted.

The violation of human rights, which includes terrorism and the incessant kidnapping of oil workers in the Niger Delta, will affect the nation's economy. No investor would want to put his or her resources in an economy that is being threatened by war. The hostage taking of foreign nationals is not only a threat to global peace but also a slur on Nigeria's international image.

Furthermore, human rights violations lead to the destruction of lives and properties. It is an economic loss and a setback for the nation in a situation like the Odi massacre where the people, business centres and houses were levelled.

In addition to this, the suspension of Nigeria from the Commonwealth of Nations as a result of the brutal execution of Saro-Wiwa brought untold hardship to the citizens due to the economic distress the nation suffered.

Again, human rights violations encourage regional unrest which has often led to the formation of various ethnic militias to fight for the regional rights of their people. This includes the Odua People's Congress (OPC) for the West, the Movement for the Actualization of the Sovereign State of Biafra (MASSOB) for the East and the Arewa People's Congress (APC) for the North. The militias are social miscreants who have done the nation no good other than creating mishaps like kidnapping, human rituals, killings and political thuggery which has made peaceful co-existence difficult among the various ethnic groups in Nigeria.

The challenges of human rights violations to religions

As it was in the biblical era when the Jewish elitist class and religious leaders culpably encouraged injustice and cruelty to an innocent person, Jesus Christ; so also is the religious body voiceless and passive about human rights abuse in the Niger Delta. Religion, as the mother of politics, must remain the opium of common people in society, because:

Every society has dynamics that dictates its political process.
In Nigeria two factors can be identified as such dynamics:

²¹ *The Nigerian Tribune*. 1999. 13December:22

²² Alamiyeseigha, DPS.2005. *Managing Youth unrest in Nigeria* London: News Africa, UK Ltd. p 64.

²³ Human Rights Watch, *Crackdown in the Niger Delta*. available at www.hrw.org/reports.on ?date

economic power and religious power, of these dynamics, religion holds the premier position.²⁴

Unfortunately today, there is no longer a strong symbiosis between the state's exercising of power and religious modulation. This is why a religious body (Christianity, Islam and Indigenous) finds comfort in the situation in Niger Delta. The principle of checks and balances that enhances good and just governance has drizzled out of religions; what exists instead is rivalry and contest between Christianity and Islam. On the other hand, Igboin observed that:

The preoccupation of religious adherents in Nigeria is the theoretical framework or abstract dogma of their different religions to the utter neglect of the practical and the symbiotic application of the metaphysical speculations.²⁵

The result of this is that, the church's noiselessness against crimes and the passivity of Islam to social vices have left religions to secular leaders; who have reshaped these religions into a double-edged sword of cohesion and division to the point that they have become a serious threat to national unity and development. The irony of it all is that religious voices in Nigeria have been winkled out of the church and mosque to the altar of political manipulation for secular leaders to achieve their inordinate ambitions, such as; regional agitation for power retention, ethnic political domination or the factional struggle for power at national level. For Nigeria to overcome social vices and develop, religious leaders must reposition religions to be alive to their preternatural responsibilities.

Recommendations

Human rights violations must be of utmost importance to religious institutions for the nation to develop. When the church is politically and socially apathetic, pathetic incidents happen to the society on which the church is the "salt and light" (Mat 5:13-14). Therefore, the contemporary church must emulate the early church's fearless denunciation of injustice and cruelty of the ruling class. The church must always condemn all arbitrariness, human rights violations and extrajudicial killings in Niger Delta. In short, all religions (Islam, Christianity and Indigenous) must come together to promote national consciousness and respect for human rights, justice and moral values in governance.

There must be criminal prosecution of those government agencies allegedly responsible for abusing unarmed civilians. The Nigerian government must rebuild or reconstruct the devastated towns and villages in Ogoni land. The government must recognise the right of the Ogoni people to a just and fair share of the resources that predominantly come from their own land. The area must be freed from external aggression. Soldiers of northern origin must never be deployed to massacre innocent people as experienced in Abacha's regime.

Above all, the ruling class must respect, uphold and obey the law of the nation in which the rights of the citizens are entrenched.

Conclusion

It can be concluded that injustice is a societal phenomenon from the biblical era. Pilate repeatedly found Jesus innocent of the charges hushed up against him Rather than discharging and acquitting him, Pilate left Jesus to the Jewish people for execution. Even on the cross Jesus was declared innocent (Luke 23:40-41) and in death the centurion gave a final verdict of his innocence (Luke 23:47). Yet, he could not enjoy the protection of law.

Likewise, Ken Saro-Wiwa and eight others, despite international outrage and clamour for clemency, were executed extra judicially on "charges widely viewed as entirely politically motivated and completely unfounded".²⁶ They were denied the right to appeal to the verdict of death against them. Their executions infringed on their "right to life".²⁷ The manner in which the trial proceedings were conducted constitutes a denial to their "right to dignity of human person".²⁸ No nation can develop in a state of anarchy where lives and properties are destroyed on a daily basis. Therefore, if Nigeria must

²⁴ Iorjaah, I. 2006. Utilization of religion for unity in Nigeria: a viewpoint, in *Issues in the practice of religion in Nigeria, Nigerian Association for the Study of Religions (NASR.)* Ilorin: Decency PS Ltd. p145.

²⁵ Igboin, B. Utilizing religion for the unity of Nigeria in the new millennium: a positive tolerance approach in *Issues in the Practice of Religion in Nigeria* 59.

²⁶ Internet Encyclopedia, en.wikipedia.

²⁷ Section 33, Constitution, 1999.

²⁸ Section 34, Constitution, 1999.

develop socio-economically her law must be *salus populi suprema lex*: the safety of people is the supreme law. In other words, the rights, lives and properties of the citizens must be protected while the church, whose ethical values include justice, peace and sanctity of life, must loudly reprimand any violation.