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Statehood and Human Rights Violations: Lessons from the Oputa-Led Truth Commission in Nigeria

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Abstract

The multi-plural Nigerian state has had to manage interactions among groups with diverse sentiments. This is fueled by the struggle for resources, their allocation, religious sentiments, and other social interactions. Democratic dispensations since independence in 1960 have faced issues of political legitimacy, economic responsibility, and responsiveness to international affairs. Thus, the inauguration of the Justice Oputa-led commission to investigate and make adequate recommendations on human rights abuses, especially from 1966 to 1999, and to start the reconciliation process easily earned the administration a global appeal. However, apart from the politics of membership that confronted truth-seeking commissions, legitimization was also a major factor that determined the commission's outcome. Hence, the nature of politics and interest subsists where conflict, struggle, and polarization deny victims access, documentation, intervention, and healing. To this extent, this study examined the socio-political environment; the constitution of truth and fact-finding commissions; and the implementation of the recommendations from such commissions, if any. Methodologically, the research relies on archival and documented studies to capture different interrelated perspectives. Also, content analysis was adopted to present the patterns and communications. The study recommended that adequate legislation and political will are essential for the success of truth commissions.

1.0 Introduction

The return to civil rule in May 1999 marked the beginning of the fourth republic, as there had been three failed attempts at democracy. The several military interregnums from 1965 suspended democratic practices and rule by decree. Thus, civil restrictions led to brutalization and several atrocities against human rights, even as governments sometimes engaged in extrajudicial killings. These experiences produced a politically and socio-economically divided country bequeathed to the civilian administration of the fourth republic. Given that a state and social contract were established, with strong personalities to drive the system, the study determined that former military officers who were politically exposed in previous military regimes, and the massive electoral fraud and violence that occurred during the elections, shaped the politics of the era. However, these events did not halt the regional and global wave of democratization, and they compelled the government to engage in interventions that would satisfy the demands of local and international democratic development partners and communities.

The new civilian administration headed by President Olusegun Obasanjo, who himself was a retired general and former military head of state, was inaugurated on the 29th of May, 1999. The social, economic, and political divisions in the country were obvious, and the Human Rights Violations Investigations Commission (HRVIC) was constituted on the 14th of June, 1999, with a retired justice of the Supreme Court, Chukwudifu Oputa, as Chairman; Dr. Mudiaga Odje, SAN, OFR; Rev. Fr. Matthew Hassan Kukah; Barr. Bala Ngilari; Mrs. Elizabeth Pam, MFR; Mrs. Modupe Areola; Alhaji Adamu Lawal Bamalli; and Nu'uman Dambata, as members. The mandate of the HRVIC was to establish the causes, nature, and extent of human rights violations - in particular, the assassinations and attempted killings - between January 15, 1966, and May 28, 1999, to identify perpetrators (individuals or institutions),

determine the role of the state in the violations, and to recommend means to pursue justice and prevent future abuses (Kukah 2011).

This study is divided into sections aimed at dissecting the establishment, operational environment, and lessons from the Oputa-led HRVIC engagements. The study established that the political environment that birthed the commission was not only toxic but also filled with unpreparedness, undeclared intentions, and a lack of political will to deliver on its mandate. To make this argument, the paper draws specifically on documents from the unofficial release of the HRVIC and other related sources in the areas of state, politics, and human rights. The first section focused on conflict and political economy theories to explain the interrelatedness that involves group manipulation by privileged individuals who are often influential. Second, the state, government, and politics in the context of the study were discussed as creating the operational environment for engagements and ensuing manipulations to fester. Third, the study discussed the events leading to the establishment of the Truth Commission, including several abuses that took place after the military overthrow of January 1984. In the fourth section, I focused on the legality and constitution of the membership of the Human Rights Violations Investigations Commission (HRVIC), where the powers to conduct an inquiry and engage in public hearings were situated. The fifth section contained the basic engagements of the HRVIC. Lastly, the study established that weak legislation and subsequent lack of political will contributed to the failure of the commission to achieve the purpose for which it was created.

2.0 Understanding Conflict and Political Economy of the Pre-May 1999 Nigerian State

The commissioning of the Oputa panel was to resolve conflicts and unite the various individuals, groups, and communities who had fallen out over ideology and resources. These manifested politically through North versus South confrontations, indigene versus settler disputes, religious clashes, struggle over land and other resources, and ethnic clashes, or a combination of more than one, among others. These differences are understandable from the perspective of post-modernist scholars who submit that human nature is socially determined. The proponents believe that faculties, aptitudes, and dispositions are inborn. Hence, the contestation made the state the battleground, and almost all sectors were infiltrated. This laid credence to the argument of the conflict theory apologists that acknowledged internal or external dimensions with which the manifestation of crisis in the state plays out. Turchin, Whitehouse, Korotayev, François, Hoyer, Peregrine, Feinman, Spencer, Kradin, Currie (2018: 2). Conflict Theory gained currency in the work of Dahrendorf (1959) in the title: *Class and Class Conflict in Industrial Society* which assumes that the unequal distribution of scarce resources and power is the reason for conflicts that take place within different forms, and consequential effects. The work departed from Marx's focus and centrality on the conflict between the social classes and looked instead to the conflict between interest groups and established that social inequalities have their basis not only in economics but also in bureaucratic power and other authorities within the state with the power to allocate wealth. Marx was concerned with class and the dialectics of capitalism and argued that capitalism would produce its

grave-diggers by creating the conditions under which class consciousness and a failing economy would come into existence (Allan, 2010).

There was a huge socioeconomic and power-sharing distribution gap in Nigeria during this period, and it cut across the citizens and elites of the major regions. Thus, citizens sometimes resolve to self-help (Falola and Dauda, 2016; Abioro, 2017). Furthermore, the categorized groups contributing to conflict are: *quasi-group* which represents the aggregate of people occupying identical power positions and holding latent interests or unconscious role expectations; an *interest group* is the association of people mobilized into action by their membership of groups, they share manifest interests or conscious goals; and *conflict group* that attempts to instigate revolutionary social change, sometimes through violent means. In this sense, all categories (quasi, interest, and conflict groups) can be identified as playing one role or the other at various times in the agitation and violent clashes in the socially divisive Nigerian state.

However, the political economy theory has gained almost universal recognition as a study or inquiry concerned with the production, distribution, and exchange of wealth. Of note, there is a reciprocal interaction of wealth and power that takes place within the institutional framework of very important forms of social organization, the state, and the market. Thus, antisocial, interreligious, intercultural, and interethnic tensions exist within the country with political and economic conflagrations of immense and diversified proportions (Olanrewaju, Folarin & Folarin, 2017; Abioro, 2016; and Isyaku, 2013). Political economy from a global standpoint and approach is eschewed to reflect the perspective of individuals and groups who engage in economic activities as and when they can. Issues that follow include, but are not limited to, how people strive to secure a decent life and, when possible, to improve their condition. Of note, the two dominant assumptions in economic theory today are (i) there is a correlation between economic activity and some form of class development; and (ii) that, left to their own devices, individuals become strong actors on the market, and market forces will drive development. The former derives from an understanding of the relation between labor and social differentiation that issues from a near-universal (Marxian) view of the link between economic and political actions, while the latter represents the foundation for the current development orthodoxy. If they could, ordinary Nigerians would seize the opportunities available in the market and contribute in this way not only to economic development but also to growth (Chabal, 2005).

The adoption of conflict and political economy theories as the framework of analysis in this study is justified by their capacity to capture the introduction of violence and other forms of armed struggles to hijack the legitimate creation and distribution of wealth with enormous disregard for national cohesion. These resulted in the political struggle for the creation of local governments or states, as well as the location of their headquarters, and the appointment to political offices. This was the experience between the Ife and Modakeke in Osun State and the Afizere, Berom, and Anaguta in Plateau State. The economic coloration plays out through the struggle for land and other natural endowments such as water and other natural resources. Sometimes, it takes the form of a community against foreign investors as seen in Ken Saro-Wiwa's non-violent nationalist advocacy against the oil multinational corporations such as Agip and

Anglo-Dutch Shell oil company, among others, over land degradation in the Ogoni region. It is on record that the extra-judicial killing of Ken and other Ogoni chiefs by the state led to the resurgence and subsequent wanton arms struggle against the state by the later-day activists in the Niger Delta region. Also, the herders and farmers' attacks across the country were another dimension that involved a conflict between two economic interests, irrespective of region. The social dimension can be seen in the distribution of social services in either location, such as schools, access to scholarships, location of hospitals, construction of bridges, and appointment into civil service. Lastly, pockets of religiously motivated attacks broke out due to intolerance in a few cases that are related to blasphemy or the mode of dressing, mostly in the northern part of the country.

3.0 The State and the Responsibility of Securing the Lives of the Citizens

As a social construct, the state is a product of man's conscious desire to build security, socio-political, and economic strengths as well as relationships within and across boundaries. From a historical perspective, there was an era when nature dictated the cohabitation of man, and it was orderless. Hobbes and Locke have opinionated life was short, nasty, and brutish due to unregulated and unsanctioned interaction during the period. Hence, the decision to have it regulated. Descriptive theorists of statehood opined that it is constituted by some government that controls a certain territory, either by appointed, elected, or non-elected officers. Whereas, social ontological theorists explain it as involving all kinds of institutions (Spencer 2010). These two schools provides basic foundations that established the state: one, for social integration that is created to achieve development and engage in economic and infrastructural transactions among others, and two, of conflict management between intra and inter-groups who compete for scarce resources such as land and water that ultimately leads to the struggle for conquest (Turchin et al, 2018:2). In both, the state is organized to ensure the provision of services for development as well as possessing the sole control over every element of administering force to manage conflict in the polity. To that extent, all human activities are deposited and streamlined by it, such that its capacity to determine security, economy, well-being, and the nature of politics is not in doubt. This empowered the state and increased the contest for its control. In Nigeria and other developing countries, the state is a big venture, as barely can any human endeavor be achieved without the approval or influence of its agencies. (Abioro, 2016; Tan, 2018).

Scholars who took off from Aristotle had no cause to contest his view on humans being tagged as "political animals". They also agree with his submission that for humans to reach their maximum potential, they must engage in politics. To this extent, Lasswell's definition of politics as who gets what, when, and how readily comes to mind and is justified (Miller 2017, Lasswell, 2020). The post-ideological school defines politics as involving the contestation and allocation of scarce resources. However, it extends beyond values and lifestyles; it involves identity and culture, as it is about material resources. Also, the traditional left-right ideological cleavages of understanding politics take root from the post-World War II era, when welfare advancement and progressive incremental taxation held sway (Boswell:

2020). Classical scholars are united in politics of the recent era being about contestation and struggle for power beyond looking at policy issues to address the needs of the people. Manifesting through values, ideas, and beliefs, it has played out over resource and wealth access, allocation, and distribution. The involvement of politics in the affairs of the state is entrenched in the social contract through elections, consensus, and other forms of agreements reached between the governed and those given the authority to rule over their affairs.

Meanwhile, the issues for debate among developed and developing nations include security, economy, environment, climate change, homelessness, drug abuse, and poverty, among others. In the modern era, irrespective of ideologies, states, through the appointed or elected leaders ensure power is centralized and exercised through designated state officers (Boswell, 2020). Meanwhile, in the interaction and contestations, Marxian and post-Marxian theorists opined it plays out through internal and external conflicts between social classes. In this conflictual state, “state structures serve to reify, manage, and reinforce divisions among classes as well as protect the privileges enjoyed by the elites.” Also, with human interaction comes inevitable disagreements with the potential to cause crises if not managed. The state, through its agencies and institutions, has the responsibility to protect the lives and property of the citizens, create and effectively distribute social services, and maintain the enabling environment for the potential and abilities of the citizens to thrive. In the course of managing relationships through wealth allocation, and distribution, the political environment festered on long-term military rule and weakened the state bureaucracy, promoted nepotism, amplified corruption, and amputated social and human justice that relegated unity and cohesion in the country (Olasupo, Patrick & Abioro 2024; Akanni 2019; Umukoro 2018; and Onwuazombe 2017).

4.0 Human Rights and Restorative Justice in Nigeria

Human rights and transitional justice are inseparable as they complement each other in the national life of the country. Argued as a modern Western creation, human rights are largely influenced by the French and American revolutions as well as the Universal Declaration of Human Rights, expressed on December 10th, 1948. It affirms that the dignity, equality, and guaranteed rights of human persons are sacrosanct. Another view holds that Asian and African values exist and determine human rights. Thus, the universal applicability of the concepts is eroded. it established that cultural relativism and the cross-cultural legitimacy of human rights are central to determining the adaptability of human rights (Ibhawoh 2019: 142; 2001: 43). Meanwhile, it is sufficient to conclude that irrespective of the universalist versus culturalist debates, legal entitlements from social contracts strengthen the recent demands of the citizens from the State.

Some studies argued that a truth commission should be principally concerned with the identification of key institutions, parties, ideologies, and structures with which violations of human rights were allowed to fester. They further stated that individual roles in the abuses are not as important, as they often do not execute such an agenda without the support of the state. This argument is justified by the establishment of secret tribunals, politically motivated assassinations, and state cleansing of ethnic, religious, and

social groups, among other regular unrest across the country. Human rights are laws and practices that protect ordinary people, minorities, groups, and races from every form of oppression. It is explicit to every human being irrespective of nationality, sex, ethnicity, origin, color, and any other status. Scholars have expressed it constitutes the foundation for justice and peace across the world. The rights include the fundamental rights that are guaranteed in speech, religion, freedom from fear, lack, and want (Ofoegbu 2014; and Humana 1983). Meanwhile, transitional justice is a corrective measure introduced to correct the atrocities committed by previous administrations, either military or civilian. In some cases, it not only enhances civilian regimes, it interrogates and resolves causes and issues around violations, brutalization, and other forms of human abuse. New administrations often initiate it to restore confidence and promote peace and cohesion, even as it serves as a reparative and reconciliatory strategy (Ifaloye, Folarin, and Duruji, 2019: 932; Hoogenboom & Vieille: 2009). The various conflicts and protracted crises in Nigeria and the global acceptance of truth commissions made it viable at the dawn of the republic.

5.0 Nigeria in the Pre-Oputa Era

The post-independent Nigerian state was a beacon of hope for development and national cohesion despite the pre-independent political agitations and regional politics of the period (Abioro, 2016). The prime ministerial model adopted at independence shared substantial economic powers with the regions and gave relevance to the premier, who was the political head. As at the time the military struck on January 15, 1966, in an event that marked the end of the first republic and the beginning of a protracted military incursion that lasted about three decades and three years only with brief civilian rule of four years and three months in between, within this period, the military coups and the civil war of 1967-70 as well as poor management of the economy has led to disintegration and weak national cohesion across this country. Similarly, corruption, nepotism, and favoritism had become a social malady. After two failed attempts at restoring democracy in 1979 and 1993, the nation successfully transitioned to civilian rule in May 1999.

The fourth democratic dispensation commenced with the abrogation of the military decree that suspended human rights and gave powers to state security to arrest and detain any civilian suspected of being a threat to the security and economy of the country indefinitely. It also revoked the decree denying the courts the power to challenge government actions. The administration inherited several agitations and unresolved cases of extrajudicial executions involving security services, and abuses ranging from political imprisonment, torture, and other violations by politically connected individuals. Another significant state oppression is how the government handled the individuals involved in the protest against oil companies in the south-south region, specifically, the Ken Saro-Wiwa and the other “Ogoni nine” chiefs who organized systemic and non-violent protest against the ill-treatment of the community by the oil multinational corporation of Anglo-Dutch Shell oil company (Amnesty International, 2000:2). There were violent clashes involving herders and farmers over access to land, water, and grazing routes, especially in the north-central and southwestern regions. Though conveniently regarded as diversionary, was the unprofessional approach to inter-communal and religious conflicts between the Yoruba and

Hausa ethnic groups over economic and religious factors that festered during the previous administration (BBC: 2021).. Some of the occurrences took place at Shasha and Mile 12 markets, as well as other strategic places of interest in Lagos, as well as Sabo and other critical places in Kano state. Similarly, Kaduna and Plateau states were not spared in these communal and social conflicts. Ife and Modakeke in Osun state were also engaged in a fierce battle over the location of the administrative headquarters of the local government.

The era witnessed the emergence of regional militancy/armed groups such as the Oodua People's Congress (OPC), Movement for the Emancipation of Niger Delta (MEND), Niger Delta People's Volunteer Force (NDPFV), Niger Delta Vigilant (NDV), and the Niger Delta Liberation Front (NDLF), all in the southern region of Nigeria, agitating for resource control. (Abioro 2025; Amnesty International, 2000:1). The deficit in human dignity was obvious, and in response, the President Olusegun Obasanjo-led administration determined to revisit the relationship between the government and the governed; thus, in the spirit of national unity and reconciliation, the Oputa-led panel was to assist the victims to overcome the trauma and extend hands of fellowship and friendship to all Nigerians across divides.

6.0 The Oputa Panel and the Human Rights Violations in Nigeria

The political landscape of the fourth republic witnessed a massive entrance of former military rulers into the political space, and Ekeh (1998:4) referred to it as the "civilianization" of military rulers. Unfortunately, the initial posture was to present military rule as more capable and effective to civilians. However, the period of military rule in Nigeria was marked by several human rights violations, political repression, and economic vandalism (Human Rights Watch, 2000). Nigeria's human rights violations investigation commission sat between June 1999 and May 2002. The discord and disintegration of the nation were ceded in the military intervention of January 1966. Other factors include the civil war of 1967–1970, the intermittent military coups, the collapse of the second republic, and the annulment of the 1993 presidential elections (Abioro 2025). Also, the extrajudicial murder of Ken Saro Wiwa and the other Ogoni chiefs over their stand on how oil production has devastated the environment by the Abacha junta and other inhuman atrocities committed under his regime, such as the attacks on pro-democracy activists, socio-economic oppression that led to the international sanctions by the commonwealth, and the recall of 15 high commissioners by the member countries, and other sanctions that affected sports, trade and the economy.

The commission received several petitions of human rights violations, abuse of state power, violent conflicts, massacres, religious and ethnic tensions, and other social threats that almost led the country to a conundrum. Of note, the scope of the commission was extended from 1984 to 1966 due to widespread demand from several victims and citizens who were able to show that the events following the January coup of 1983 could not be treated in isolation from previous events. Thus, the work of the commission covered about 33 years during which the country had eight different administrations. As a result of the long duration, well over 10,000 petitions were received by the Commission, and only about 150 cases were heard, which resulted in an eight-volume report that was submitted in May 2022 (Ifaloye,

Folarin, & Duruji, 2019; and Kukah, 2014). The extended scope covered the period of military regimes and civilian administrations before the termination of the first republic. Although the military apologists argued that the duration is ambiguous, investigating events and national occurrences over such a length of time could be cumbersome.

Apart from the loss of memory and institutional facts, conflicting versions of events were presented at the panel, even as the operating environments were not devoid of political and social emotions. The panel contended with intentional or distorted facts, loss of memory, and improper documentation from institutions, state actors, and protected individuals (Human Rights and Violations Investigations Commission, 2002). In January 2003, the government annulled the panel on the basis that it was unconstitutional, citing the Supreme Court's decision in *Fawehinmi v Babangida* as the foundation for the annulment. In that case, two former military leaders brought an action against the commission over its power to make them testify, and the Supreme Court held that the power to hold public hearings lies with the state governments of Nigeria and not the federal government, according to the 1999 Constitution (Abioro, 2025). Meanwhile, the South African Truth and Reconciliation Commission had the power of subpoena. It was the first of such to be given the power to subpoena witnesses. This power also gave the power to offer amnesty in exchange for the truth. This offer enabled South Africans to know a lot more about the past. However, this power was contested through the courts and up to the Supreme Court, as some accused hid under this and refused to show up at the public hearings (Kukah, 2014). Significantly, other concerns include the nomination of all the members by the executive, as well as the inappropriate administrative staffing and financing that were provided for the commission.

Methodologically, the HRVIC engaged in special sessions and public hearings that adopted corroborative patterns across all the geopolitical regions of the country to execute the mandate it was saddled with. Apart from having to delay the findings and recommendations of the commission for six months, there was a public statement announcing the annulment as a result of the Supreme Court verdict, which ruled the investigative powers vested in the Commission to be unconstitutional. Another reason given by the Supreme Court is that the power to establish investigative commissions rested with the state authorities, not the federal government, thus restricting the Commission's legal powers to the federal capital territory. Consequently, the reports were never published, and the recommendations were never implemented (Guaker, 2009).

7.0 Conclusion

The political environment and the democratic process were filled with manipulations, violence, and corruption. Also, the involvement of some military officers who were part of the previous coups and subsequent regimes that transformed into the new administration created some form of suspicion and cannot be excused from some institutional connivance to deny justice. Truth Commissions have a salient responsibility, and the precondition for their establishment is the acknowledgment of abuse and other ills that have been committed; thus, the critical role of creating a template about the past and the future for access, documentation, and justice is incontrovertible. To this extent, the establishment of the

Justice Oputa-led Truth Commission by the administration of President Olusegun Obasanjo in 1999 was dead on arrival, as weak legislation and a lack of political will contributed to the inability of the commission to achieve the purpose for which it was created. However, human rights and social justice can only be achieved when injustice is addressed, and perpetrators are brought to book. The study makes the argument in support of establishing truth commissions in the future, but advocates for equipping such commissions with powers to summon and adjudicate on behalf of the state, even as such are properly financed with adequate secretariat staff.

Declarations

Funding declaration:

The Author did not receive any funding for the study.

Competing Interest declaration:

There are no Competing Interests.

Ethics declaration for: Statehood and Human Rights Violations: Lessons from the Oputa-Led Truth Commission in Nigeria

- **Name of the approving ethics committee**: Departmental Research Committee
- **Ethical guidelines/standards**

The study adheres to the highest standards of professional research ethics, academic integrity, and responsible conduct of research through:

1. **Contextual Integrity and Objective Representation:** When analyzing testimonies, state abuses, and historical grievances recorded by the Oputa Panel, the investigator bears an ethical duty to prevent historical distortion. Data will be analyzed and presented objectively, preserving the original context of the statements, whitepapers, and legal arguments without editorial manipulation or bias.
2. **Public Domain Verification:** The investigator will ensure that all accessed materials—including the volumes of the Oputa Panel Report, civil society compilations, and video recordings of the hearings—are legally in the public domain, officially unclassified, or cleared for public access. No classified state secrets, leaked materials, or illegally obtained documents will be utilized.
3. **Respect for Privacy and Anonymity in Reporting:** Although the Oputa Panel hearings were publicly broadcast and are a matter of historical record, the investigator will exercise academic discretion. If specific public testimonies contain highly sensitive or deeply personal information regarding living individuals who were victims of violence, the study will focus on institutional and structural trends rather than unnecessarily sensationalizing individual traumas.
4. **Meticulous Source Attribution:** To prevent plagiarism and maintain absolute transparency, all archival institutions (such as national archives, digital libraries, and human rights repositories) will

be meticulously credited. Every piece of primary text, whitepaper data, or legal precedent will be cited using standard academic referencing formats.

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