

THE STATE AND INDIVIDUAL RIGHTS IN THOMAS HOBBS: A PARADIGM FOR NIGERIA

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Abstract

The issue of governance as it relates to human rights has continued to elicit various reactions across the globe. In the preamble to the 1999 constitution of the Federal Republic of Nigeria, it was explicit that the protection of the fundamental rights of the citizens should be paramount. This paper aims at analyzing the Nigerian government's approach to issues of human rights. The transition of man from the state of nature to civil society as espoused by Thomas Hobbes aptly exemplifies the Nigerian society. This paper observes that while Hobbes's state of nature is antithetical to what a sound society should be Nigeria still remains in the antiquated state of nature. The paper employed content analysis research approach, while data is gotten from secondary sources. It is recommended that Nigeria must begin now to strengthen the institutions responsible for protection of human rights.

Keywords: State of Nature, Civil Society, Individual Rights, The State.

Introduction

From ancient times, man has remained the most complex and enigmatic being in the cosmic order. Dating from the period of antiquity to the contemporary epoch, he has been studied from the sociological, anthropological, ethical and political perspectives.

Consequently in the political arena, most political philosophers recognize the individual as rational, political and one who by nature possesses some inalienable rights which include among others right to life, private property, equality and justice. These rights they argue are prior to the state. Thus Ben (1959:110) opines:

No government or positive law can deprive him of them nor can any higher claim prevail against them. If they are to be limited at all it is only by the consent of their possessor.

The issue of individual right has been a matter of incessant perplexity. It is a stark reality that this right of man has been jeopardized all through the ages. Thomas Hobbes ninety-one years of life covered some of the most turbulent years in English history. Based on this then, Thomas Hobbes, after observing the civil strife in England which posed serious threat to the individual rights and made life a meaningless drama, postulated a political theory so as to secure the rights of the individuals.

In chapter 4 of the 1999 constitution of the Federal Republic of Nigeria, it is clearly stated that the promotion and protection of the inalienable rights of her citizens should be paramount. This avowed objective seems to be relegated to domain of history. This paper aims at analyzing the Nigerian government's approach to issues of human rights vis-avis Thomas Hobbes concept of individual rights. The analytic method of research was adopted in order to give a comprehensive detail of the issue at stake.

Hobbes Concept of the State of Nature

Ignited by the political quagmire in the England of his days, Thomas Hobbes felt that it was of urgent importance to posit a political theory that would enhance the promotion and maintenance of peace. He compared what was happening in the government with what is termed the state of nature; how men lived in the primitive condition.

He began the naturalistic account of human nature by seeing life as motion, controlled by natural impulse, where man is ruled by the appetite for what he considers good and aversion for what he considers evil. This motion is as a result of the fact that man by nature is insatiable. Life then in this state of nature is characterized by such welter as unrest, misery, war, insecurity, constant fear of death and most especially is ruled by the egoistic law of self-preservation.

In this same state of nature, all men are equal and as such have equal right to whatever they consider necessary for their survival. Hobbes (1968:39) opines:

The right of nature is the liberty each man hath to use his own power as he will himself and consequently of doing anything which in his own judgment and he shall conceive to be the aptest means there unto.

Equality in this context means that everyone is free and capable of hurting his weak neighbor and usurping what he considers expedient for his own protection. As such the situation becomes unbearable and chaotic.

In Hobbes state of nature, a man of physical strength could overcome another of weaker strength and deprives him of his possession. But the weak could use his intelligence and in collaboration which those in the same cadre with him, gains advantage over the strong. If one lacks in one aspect of life, he is compensated in another.

Worthy of note is that the right of all to all that predominates this state does not in any way mean that one man has a right and others corresponding duties. The word 'right' in the Hobbesian state of nature is the freedom possessed by man:

To do what he would and against whom he thought fit and to possess, use and enjoy all that he would or could get.

Hobbes did not stop there, rather he moved on to bring to line-light what he considered to be the root cause of these quarrels and disorder. He identified three fundamental causes viz:

In the nature of man, we find three principal causes of quarrel. First, competition, secondly, difference, thirdly, glory (Stumpf, 1994:231).

Interpreting the above means; the first makes meaning for gain, the second for safety, and the third for reputation. These were as result of man not being contented with his position in nature; he always strives to be better than he really is.

Hobbes also commented that prior to the formation of civil state and the sovereign, men were engaged in unbridled poise for war with one another. This situation is what he termed the state of war. War here does not lexically imply fighting, but portrays the situation where man lives in continual fear and insecurity. One considers his neighbours as a serious threat to his life and an enemy of his wellbeing.

More so, nothing like common power, no laws, no rules, no morality, no justice. Each individual feels that he is entitled to everything: one owns a thing if another strong person does not interrupt and deprives him of that. The episode is precisely that of war of all against all. Every individual decides how best to survive this anarchy and disorder.

Sequel to this chaotic situation and disorderliness, Hobbes (1968: 185) asserts:

There is no place for industry because the fruit thereof is uncertain; no navigation nor use of the commodities that may be imported by sea. No commodious building, no instrument of moving and removing such things as required much force... no account of time, no art, no letters, no society and which is worst of all continual fear and danger of violent death. And the life of man solitary, poor, nasty, brutish and short.

Hobbes attributed this capricious and precarious state of nature to man's continual insatiable want of power, honour and fame.

Come to think of it, the state of nature as proposed by Hobbes is far from being a historical fact. Rather, he uses it as anecdote to portray what is obtainable in a lawless society. This is because if we are to follow his hypothetical analogy of the state of nature in which he presents man as being antisocial, politically and socially adrift, the question then is, how can men agree to form a society.

In order to combat these societal ills, Hobbes found out what he referred to as *Lex natural* (is) (natural law). According to him, these laws will urge them to organize themselves into civil society; where political stability, equity, peace and harmony would be the order of the day.

The Formation of Civil State

Following Hobbes description of life in the state of nature which was characterized by constant fear, insecurity, war and ruled by the egoistic law of self-preservation, it became pertinent therefore that men should form a society. Hobbes opined:

The state or political society is instituted by way of remedy for the inconvenience of the state of nature to avert, not to escape from a state of

war. These inconveniences are three-fold, first, the want of established, settled, known law received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies, secondly, the want of a known and disinterested judge, with authority to determine all difference according to the established law; thirdly, the want of power to back and support the sentence when right and give it due execution (Appadorai, 1975: 24-25).

From this, it is deducible that because the family and village could no longer offer man the desired protection, hence the formation of the state as the last resort. Also, the primary task of the state is the realization of common good. We can conveniently therefore, assert that the *raison d'être* of the state is the common good. Man, not finding peace in the original state of nature, decides that the best thing to do is to come together and form a society which would cater for his needs.

Cicero in the ancient period defined the state as quoted in Nwoko (1988:31) as an association of a good number of persons based on justice and partnership to secure good.

Also Thomas Higgins (1956:427) pointing out what the state is, comments:

By a state we mean not just a body of rulers – a government – but an organic community both governors and the governed, who occupy a given territory and under some independent polity or form of rulership seek by public action an adequate human good.

Hobbes sees the emergence of the civil state from the point of view of fear and anarchy. Men realized that the disorder and anarchy in the pristine state would not be to their best interest therefore they entered into what he termed “social contract”. Furthermore, he enumerated the two ways of entering into the social contract viz: by institution and by acquisition. In the case of the former, it is voluntary and made at the same time as if an individual would say to everyone:

I authorize and give up my right of governing myself, to this man or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner (Hobbes, 1968:192).

In the latter case which he refers also as commonwealth by force; man in this situation:

For fear of death or bond do authorize all the actions of that man or assembly that hath their lives and liberty in his power (Copleston, 1985:35).

The greatest undoing of Hobbes is that he attributed virtually all power to the sovereign; he makes the law, interprets the law and executes the law.

The Duties of the State to an Individual

Nothing exists in nature without a purpose. Before men decided to abandon the state of nature for the civil state, certain responsibilities were attached to it. It is as it were, such

functions and duties that the state must exercise so as to be that which it should be. Thus Douglas (1961:13) opines that:

Government exists for man not man for government. The aim of government is security for the individual and freedom for the development of his talent. The individual needs protection from government itself....

The individual as an integral part that make up the state is a responsibility of the state and as well should be allowed to enjoy some undeprivable rights. Some of these rights as enumerated by Eze (1984:5) include:

The right to self-determination, the right to life, freedom from torture and inhuman treatment, freedom from slavery and forced labour, the right to liberty and security, freedom of movement and choice to privacy, freedom of thought, conscience and religion, freedom of opinion and expression, the right to assembly, freedom of association, the right to marry and found a family, the right to participate in one's government either directly or through freely elected representatives, the right to nationality and equality before the law.

Some other duties and obligations of the state include, provision of education, provision of social amenities, maintenance of law and order etc. For a state bereft of these, life in such a state would be chaotic and unbearable.

The state should not only claim to guarantee these rights, but should equally make them available to the individual. The law that should guide any given state is that of reciprocity – giving and receiving – either from the state or from the individual or vice versa.

The Duties of the Individual to the State

As long as the state makes efforts to shoulder her responsibilities, the individual should in like manner strive to perform those functions required of him in the state. Supporting this view, Nzeribe (1988:38) has commented that:

Rights and privileges also carry obligations... the rights of the citizens in a state is balanced by the citizens obligation to the state.

According to Hobbes duty could be seen as an obligation laid upon someone not to go contrary or violate this voluntary submission of his natural rights to the sovereign. He maintained that the first duty of the individual is to obey the sovereign, failure to do this depicts injustice which is punishable by the law. Also it is the fundamental duty of the citizen to obey the law. Imagine how unsafe the state will look like, if there is total breakdown of law and order. Hobbes also sees the individual as duty bound to respect the rights of his fellow citizens.

Furthermore, the individual has the duty to fight and defend the state should the need arises, but he equally owes himself the duty not to engage in anything that would bring

about his demise. It should however be noted that without the duties of the citizens, individual rights cannot be attained because the state as an abstract entity is meaningful only in man. Thus, the need for an individual to perform his duties to the state becomes imperative if the avowed objectives of the state is to be realized.

The Individual Rights

The term Individual Rights is better analyzed than defined. This is because an attempt at definition cannot be easy, since it is made up of more than one concept.

Doncel (1967:446) conceives of an individual as “a being which is one itself and distinct from all other being”. That is to say that an individual is a single entity as distinct from the society.

Right can be applied in two senses – as depicts what is morally good in contradistinction to that which is morally evil, and also to express the moral power of an individual to exact ones just due.

So combining the two, individual rights could be seen as those inalienable and intrinsic rights which belong to each man. It has almost the same meaning with human rights, natural rights, rights of man which is defined by Tabiu (1998:9) as:

Those rights which are inherent in our nature and without which we cannot live as human beings and without which no society is viable and able to survive

From the analyses above it should be noted that individual rights are never the products of the state, rather that which are gratuitously given by nature. This implies that each person needs them in order to survive in the society. Thus, aware of the importance of these rights to individuals, part of the Declaration of American Independence on July 4, 1776 reads:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness (Edet, 1988:192).

Also enshrined in the preamble of the 1999 Nigerian constitution was:

We the people of the Federal Republic of Nigeria: provide for a constitution for the purpose of promoting the good government and welfare of all persons in our country on the principles of Freedom, Equality and Justice....

Hobbes postulated, inter alia, these rights to be under the custodian of the state: Rights to Life, Liberty, Equality, Justice and Education. Although, there are other human rights but for precision, we have to peg down on these as enumerated by Hobbes.

Right to Life

Life as is commonly and universally held is the substratum on which all human activities are based. Right to life therefore is the infrastructure on which other rights are built. This is because one has to be alive before talking about other rights. Attempting to obliterate this right would tantamount to putting one's existence into jeopardy. Hobbes asserts that it is the recognition of this right that led to the formation of the state.

Life as a matter of fact is regarded by some races in the world as sacred. Life is considered as belonging entirely to God, hence if anyone attempting suicide is caught he is severely punished. As suicide is abhorred in the society, so also are Abortion and Euthanasia.

The right to life includes self-defense in cases of danger and the provision of basic necessities on the part of the government to better living. Life has no duplicate and as such should be handled with care. Being aware that life is a precious gift, the state is duty bound to protect human life.

Right to Liberty

It should be noted that all men by nature are equally free. Liberty does not allow one to be a hindrance towards another person's progress for Thomas Paine quoted in David (1984:113) sees liberty as: The power to do whatever that does not injure another.

Liberty as concept connotes a wider area. Here it is to be considered from Laski's perspective. He treats it under three headings namely: (1) Private liberty, covering freedom for the individual to choose in those areas that are more personal to him, such as religion. (2) Political Liberty which involves the freedom to possess the franchise and to express one's opinion. It has to be noted that Buhari's administration of 1983 tried to undermine this right when it promulgated the draconian decree no. 4. And (3) Economic Liberty which is giving one the chance to earn his daily bread, have job opportunity and right hours of work and wages.

Giving support to this Mill (1952:267) outlines also three major realms: (i) Liberty of conscience that is, of thought and feeling (ii) Liberty of taste and pursuit, planning and framing our own life and conduct – our individuality. (iii) Liberty of association. He further added that wherever these liberties are interfered with, the society is not free.

As an addendum, the 1999 constitution of Nigeria showing the importance of liberty in chapter IV section 35, subsection 1 says:

Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in accordance with a procedure permitted by law.

Hobbes gives individual the liberty to disobey the sovereign if he commands him either to kill or maim himself. He is also at liberty to even sue the sovereign when he owes him or takes his land by coercion. He did not advocate for liberty to disobey if such can tamper with the end for which the state is established. Despite the fact that one is at liberty, Locke

(1980:9) avers, it is not a license.... to destroy himself or so much any creature in his possession.

For instance, if one deliberately publishes a libelous article against someone on the ground of liberty, it is punishable by the law.

Right to Private Property

As noticed in the state of nature, right to private property is only temporary because in such a state, the principle of action is 'might is right'. On this ground, the formation of the civil state is partly to aid individuals to be permanent owners of their property.

In line with this Oruche (1988:33) has the definition of right to property as:

Those rights and interest which one has in anything subject to ownership whether that thing be movable or immovable, tangible or intangible.

From this definition it could be deduced that this right to property is conferred on the individual by the state and therefore cannot be removed without jurisdiction. More so this right is within the confines of the law.

In reaction to Hobbes opinion that the formation of the civil state was as a result of protecting the private property, Locke dissented and observes that the right to private property precedes the civil law. He maintained that by nature everyone has the right to inherit his father's property. Although, Locke disagrees with Hobbes on the issue of this right, he pitched tent with him on the "why" of the formation of the civil state.

He observes:

The great and chief aim of men uniting into a commonwealth and putting themselves under government is the preservation of their property (Stumpf, 1994:272).

The right to private property includes; the right to acquire what is expedient to one's life; such as land, money or goods. Also the very right to make use of those things at one's discretion.

But then where it is necessary, the government can step in and deprive a person of this right if the purpose is for the interest of the whole. For instance a person's land can be taken for construction of road but with appropriate and commensurate compensation. Scotus (1961:176) adding his quota on the importance of private property says:

After the original sin, establishment of the right to private property becomes necessary because of man's greed, violence and sloth.

By and large, the right to individual ownership ought to be all embracing and its respect imperative

Right to Equality and Justice

Equality and Justice are so much intertwined that treating one in isolation from the other more often than not poses a problem. Justice as a matter of fact involves two parties, and for Justice to be done there must be a compromise or equality between the two parties.

Equality in this context has to do with a natural recognition that all human beings irrespective of any pre-justice are born equal and therefore everyone should be treated as such. Hence, it behooves on the state in allocation of basic amenities, appointments and job opportunities to her citizens to be aware of this. Were this sense of equality to be put into play, the idea of some people being regarded or segregated upon as second class citizen finds no justification. Gregory Vlastos, in King (1983:313) did not mince word about this when he said:

One man's (prima facie) right to well-being is equal to that of any other
and one man's (prima facie) right to freedom is equal to that of any other.

Expanding on this Hobbes (1963:183) says nature hath made men so equal in the faculties of body and mind. He went further to say that granted that a man can excel the other intellectually or physically, when everything is brought and added together, all men are equal. He substantiated this by saying that every man acknowledges the other for his equal. Since the state came into being to redress the confusion in the chaotic state of nature, it is the onus of the state to equitably accord each individual his due and this is justice. Therefore it is deducible that equality is the foundation stone of justice.

For Hobbes, justice is for the performance of one's covenant and non performance means injustice. A just man performs his covenant while an unjust man does not. He further distinguished justice into commutative and distributive that is exchange and distribution respectively.

Right to Education

Education from its Latin root 'educere' means 'to lead out of ignorance'. Francis Bacon rightly pointed out that "Reading maketh man, and knowledge is power". How then can one read and acquire knowledge except through education. In this regard the U.N.O. declared in Article 26(1):

Everyone has the right to education, education should be free at least in the elementary and fundamental stages. Elementary education should be compulsory.

Education is of paramount importance for personality development of the individual. It aids one to know and assert his rights and duties in the state. Without education one cannot know what is happening within and around him. It helps in developing peoples' mentality to respect for freedom of others, promote understanding, tolerance and friendship among nations and individuals.

A state bereft of education is doomed to destruction; for without it a country cannot develop in any sphere of activity.

Aristotle according recognition to the importance of education says that education is not only important for the individual but also for the interest of the whole state. He affirms that:

Education should be the affairs of the state and regulated by the law (Nwoko, 1988:30).

Hobbes on his part regards the mother as occupying a primordial position in the education of her child. According to him also in the commonwealth, the sovereign should be the protagonist of whatever is to be taught for the common good of the commonwealth.

The Nigerian Government and Individual Rights

The main focus here is on the present government of Nigeria and its preparedness to guard and protect human rights. In treating this issue, the emphasis is on human rights abuses in the last decade with special attention from 2014 till date. Granted that Nigeria has remained active in signing and ratifying international human rights treaties, the major challenge faced is when trying to implement these treaties domestically. The reasons are not far-fetched; Nigeria operates a bi-cameral system and cannot apply international treaties unless they are ratified by the legislative houses. Furthermore, because the constitution is supreme law, the Supreme Court of Nigeria often resolves conflicts in favour of the constitution, therefore, restricting the expansion of potential human rights (Egede, 2007: 249).

The Charter of Paris for a New Europe adopted in 1990 re-affirmed that:

Human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law. Their protection and promotion is the first responsibility of government. Respect for them is an essential safeguard against an over-mighty State (Umozurike, 2010: 153).

This is because these rights are never and can never be the products of the state, and any attempt at removing them by the state becomes the highest injustice against man.

The government of Nigeria pays lip service to issue of human dignity. This can be seen in the total lack of welfare packages and lackadaisical approach to human rights abuses. As mentioned earlier, it does seem that what is obtained in the Nigerian government is what Hobbes regarded as the state of nature. Human rights abuses according to 2014 Human rights watch's report is in the increase in Nigeria.

Shall one talk about right to life. Each day very many people are butchered like fowls. Instances bound, needless to catalogue them because as we write people are being massacred by rampaging herdsmen, dreaded Boko Haram sect, Niger Delta Militants, abuse and unlawful killing of citizens by law enforcement agents etc. Commenting on abuses in Nigeria in 2011, the U.S. Department of state opines:

The most serious human right problems were the abuses committed by the militant sect known as Boko Haram, which was responsible for killings, bombings, and other attacks throughout the country, resulting in numerous death, injuries, and the widespread destruction of property; abuses committed by the security services with impunity, including killings, beatings, arbitrary detention, and destruction of property....

These are those that we read about in the dailies, no mention has been made about those not exposed to the public.

Nigeria professes right to liberty. On right to personal liberty, Chapter IV of the 1999 constitution of Nigeria Section 35 (1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty. However, it is obvious as observed by Iyare (2014) that the Nigeria government is known to oppose anti-government protest and demonstration. For instance the recent Bring Back our Girls protest in Abuja, “End impunity Now” rally organized by ANEEJ, anti-government policies rally tagged #I STAND WITH NIGERIA, which was disrupted by the Police, among several other protests by the academia, labour, civil society, etc.

Is right to private property for all in Nigerian case? Some disgruntled individuals in the society have made acquisition of property their sole right. This has led to high level of corruption being witnessed in Nigeria. It is obvious that a corrupt system of leadership cannot guarantee the protection of human right because corruption itself, is an abuse of the rights of the people (Kalu, 2011). Continuing he queries, is it not an abuse of human right for leaders to embezzle public fund that should be used to develop the nation and improve the lives of the people? (Ibid.).

In a country where the everyday slogan is “all animals are equal but some animals are more equal than others”, who is interested in equity, justice and fair play in any dealing? How can there be justice and equality when at the back of the mind of some people all niceties in the world should belong to them, hence, the unbridled amassment of wealth and enthronement of materialism. The desire and placing of material values over and above human beings usually lead to robbery, kidnapping, electoral fraud among others which constitute human right abuses.

The standard of education in the country is nothing to write home about. According to Iyare (2014) educational system in the country has been bastardized over the years by poor management most especially by the same government that is expected to be the custodian of quality education for future leaders. On the part of teachers; a good number are unqualified. Can a rotten tree produce a sound fruit? Thus the Latin dictum; *Nemo dat quod non habet* (No one gives what he has not). Some take teaching profession as a part-time business while engaging in full-time business else-where. Some others take teachings for selfish utilitarian purposes hence organizing of evening lessons. In short a teacher herself pin-pointed it clearer thus:

Most of my colleagues have sheds at Owerri main market and other markets in the town. They are there on fulltime, because teaching is now part-time. Those who have no money to set up their own business resort to full-time “lesson” teachers (The Leader, 1995:7).

The parents on the other hand, are not better off. Some encourage their children inadvertently to be lazy either by way of buying results or bribing their way through into the universities and higher schools of learning. Some also go to the extent of hiring thugs to beat the teachers and even being in support of their children for doing so. In a situation like this how can education progress instead of retarding. It is a shame because education is a tool that should be used to instruct and develop the future leaders.

International non-governmental organization on human right like Amnesty International, Human Right Watch, International Commission of Jurist, International Federation of Human Rights, Human Right Africa, Oxfam, World Organization against torture, International Freedom of Expression, Exchange and Anti-Slavery International among others have investigated Nigerian cases of human right abuses and have a poor record of Nigeria.

Recommendations

Knowledge of a problem is a step-forward towards its solution, and solution to a problem can be effected when practical guidelines are proffered and worked upon. In the light of this therefore this paper advocates the following:

1. Let those voted into power be apprehensive of the fact that they are there to represent the wish of the electorates. For Socrates would argue that the art of politics is for the interest of the subjects (citizens).
2. There should be equality in all its ramifications. Equality implies that there are certain amount of benefits the society owes each citizen as rights and when such benefits are paraded as favours, inequality sets in, thus creating room for nepotism and tribalism to take upper hand.
3. The state (government) should realize that it is taken as the last resort by the citizens. She therefore should stand aloof in doffing justice; Justice unmitigated by any ethnic and personal prejudices.
4. The citizens should be aware that the state belongs to them and therefore its boom or doom spells much on them. Each individual should not regard the state as belonging to them but not to him.

Conclusion

The socio-political situation in Nigeria especially now calls for urgent attention both on the sides of the government and of the individuals. Let the government and the individuals be abreast with their avowed duties, so that the state will timely answer its name and rights of individuals respected.

There can never be a state without individuals, there can never be individuals without rights and human rights cannot be respected unless the state and the individuals carry out their duties and obligations towards each other.

Nigeria cannot afford at this point in her life to lag behind in global reckoning as a result of human rights abuses. What is needed now on the part of the government is political will and strengthening of human rights institutions.

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