

The Last of Three Introductions

I will explore socioeconomic rights. In all, I aim to show what we have gotten wrong, how we got them wrong, and how we can remedy the situation.

But before we get to those chapters, there are some other interesting stories I would like to share with you about my human rights journey, including my first-hand experience of corruption in the Nigerian judiciary.

Imprisonment for romance and ₦10,000 magistrate

Sometime in April of 2013, I was faced with the task of picking a topic for my PhD. I had spent the prior fifteen months in the UK doing a master's in law and was, at this time, terribly homesick. But before jetting back to Nigeria for a well-deserved holiday, I had to complete my PhD application. I already knew what I wanted to research on. The topic only needed some elaboration and finetuning.

See, I've always been interested in human rights. Perhaps this is largely because of the many injustices I witnessed first-hand growing up with my father. Interestingly, however, and despite the peculiar situation of Nigeria, human rights did not constitute a part of the primary and secondary school curricula. One would have thought that a nation soaked in human rights atrocities would at least take the basic step of teaching and sensitising its populace and agencies to the meaning and need for human rights. No. Not Nigeria.

I personally do not remember being taught anything about human rights from primary to secondary school. It wasn't until my fifth (and final) year at the university that I had the option—yes, it was optional—of choosing human rights as a module. And, of course, I chose it. The implication of this flawed curriculum is that many lawyers and even judges you see in court have never learnt anything about the substance of human rights. And these are the same people supposed to argue and interpret them.

In my final year at the university, we were required to submit a

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final project on any law-related topic. I chose to write on women's reproductive health rights. I still recall the surprise of some of my friends and tutors at my choice. As the son of the Biafran *strongman*, I had been expected to pick a more *macho* topic. Perhaps a constitutional treatise on the balkanisation of Nigeria or some legal dissection of the Nigeria-Biafra war. Not women's reproductive rights. I remember one administrative member of staff saying something about how they had looked for my proposal among the slush pile with anticipation, only to be disappointed when they saw my topic.

Then I became a lawyer and became even more exposed to the level of lawlessness and corruption exhibited at both the executive and judiciary. As a human rights enthusiast, I was amazed at how abuse and executive subjugation had come to be accepted as the norm. The culture of abusing government positions, juxtaposed with endemic corruption, even by magistrates, was the order of the day.

I will share two examples.

One evening I was called to a police station somewhere in Festac, Lagos, to help out a relative who had been arrested with a friend whilst legally parked on the side of a road. I was only nineteen at the time and still enrolled at the Nigerian Law School, Lagos. Upon getting to the station, I was led to a room where some police officers were clearly cajoling one of the 'suspects' to add more details to his 'statement'. When I asked what crime the duo had been arrested for, one of the police officers very confidently narrated how he had chanced upon them parked on a quiet street and sitting alone in the car.

'What are two adults doing alone in a car at such a secluded place?' He queried.

When I asked which provision of the law prohibited two adults from sitting in a car, one of the officers started yelling at me and

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ordering me to leave the room, but I stood my ground. To cut a long story short, after much *gragra*, the officers agreed to release the hapless victims.

Just think about it. They arrested two people just for sitting together in a car. At some point, during the heat of our argument, one of the officers began to insinuate that the suspects were being romantic in the car. Just imagine that! I asked them to show me where it was forbidden to be romantic in a car in the Criminal Code. It was really crazy. I vividly remember one of our aides, a middle-aged man, saying to me on our way back: 'This is the first time I have left a police station without paying a bribe. I never knew it was possible to go to a police station and not part with money.'

Yes, we left there without paying a dime.

My second example very sadly involved a magistrate at the then newly constructed magistrates' court at Igbosere, Lagos. It was 2001. I was a *fresh* barrister at the time under the tutelage of Festus Keyamo, SAN. I was to represent a client who was charged with a bailable offence. I stood up when the case was called and applied for my client's bail, which the magistrate routinely granted, albeit with some conditions, which included providing certain documents and sureties. Not wanting to be returned to jail, my client rallied round to meet the bail conditions, and in a short while, we had all the necessary documents ready. All that was needed was for the magistrate to endorse them and sign for my client's release.

At this time, the court had finished sitting and the magistrate was in his chambers. The procedure was to hand over the bail documents to the court clerk who would, in turn, pass them on to the magistrate. While vetting the documents, the clerk expressed strong pessimism that the magistrate would endorse the application given the absence of monetary inducement. He informed us that it was customary for clients to include a *gift* of ₦10,000 as an essential part of the bail documents.

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I was shocked. No one had told us at law school that you had to bribe magistrates. Naturally, I rejected this proposition confident that the magistrate would approve the bail as we had provided the necessary documentation. How wrong I was! The clerk re-emerged a few minutes later from the magistrate's chamber, informing us 'officially' that the Magistrate was not satisfied with one of the sureties provided. It was completely unbelievable and farcical. There was nothing wrong with the surety. The magistrate had simply rejected him.

Not wanting to return to jail, my client (it must be said, without my endorsement) handed over ₦10,000 to the clerk, who slipped it into a brown envelope and disappeared into the magistrate's office with the same application that had earlier been rejected. He reappeared a few moments later with a signed bail bond. I hope you read that correctly—the same application as the first. No new documents, no new sureties, no changes whatsoever.

I had another strikingly similar experience with another Lagos magistrate who demanded a bribe. In hindsight, I should probably have confronted or petitioned against them. But I was simply shocked at the time. It was my first year as a lawyer. I was still very young, and no one had prepared us for this. I remember recounting my ordeal to some of the other senior colleagues at the office who didn't appear very surprised. It was the norm, it appeared.

Now think about it. A magistrate. A member of the bench. A person charged with deciding the fate of alleged criminals is the same person demanding a bribe from a suspect. What a farce! What a shame!

What makes it worse is that the magistrate is demanding a bribe from a poor victim who, if they don't pay, will be remanded in prison. Now, this suspect, having satisfied his bail conditions, has a right to be released from detention, but a magistrate is willing to sit

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on that because of ₦10,000. So, this is not just corruption, it is also callousness, sitting on a person's human rights—the rights to liberty and fair trial—because of bribe money.

What these examples show is that there is a frightening lack of respect or regard for human worth and dignity by those in the corridors of power and justice. And this is not limited to government officials. It extends to the people. I go on to demonstrate this through my concept of *floating shadows*.

Floating shadows

What is the value of a Nigerian life?

See, there is this *thing* I want to draw to your attention.

Before I do, permit me to share some news stories with you.

In November 2016, Amnesty International reported that over 150 persons were killed in a vicious government crackdown on members of a secessionist movement, the Indigenous People of Biafra. There were widely circulated videos of police opening fire on the unarmed protesters. These viral videos notwithstanding, there was not a single public inquiry into the deaths of these protesting men and women. During an Al Jazeera interview, the presenter tried to show the videos to Nigerian President, Muhammadu Buhari, under whose administration the killings had taken place. And what did the president do? He simply dismissed the video with an angry wave of the hand. He couldn't even be persuaded to look at the footage.

In the same year, a judicial inquiry concluded that Nigerian troops be prosecuted for the 2015 killing of 349 Shia Muslims in the northern city of Zaria. The Shiites were reportedly killed and then buried without the permission of their family members. A military source had reportedly explained that the heavy crackdown and killings were 'intended to teach the Shia a lesson' after members of the sect had stopped the convoy of the army's chief of staff in Zaria.

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Yes, you read that right. Three hundred and forty-nine lives were wasted in order to teach some people a lesson. How more worthless can life get? I wouldn't even kill mosquitoes just to teach them a lesson, but there you have it.

Now, despite the deaths, despite the 349 lessons, not one army officer lost his job. There was not one publicised trial. In the week that I first wrote this paragraph—sometime in November 2018—some two years after the above massacre, the Shiites had just buried forty-nine of their members who were shot down by the Nigerian army during a protest in Abuja.

And I am yet to come to this *thing*.

The numbers are even more telling when one looks at the protracted battle against Boko Haram. In one example, the Associated Press reported that, in a single month (June) of 2013, the Nigerian Army delivered 1,795 bodies to a single mortuary in Maiduguri, in its bid to flush out the militant group.

That wasn't a typo. One thousand seven hundred and ninety-five bodies.

Now let's come to this *thing*.

What is particularly worrisome in all the examples above is not simply the ignoble number of unexplained deaths at the hands of the state. The concern also goes beyond the pitiable absence of meaningful inquests or, more importantly, prosecutions of trigger-happy soldiers and policemen.

What is even more befuddling is the anonymity—insignificance and nonchalance—of the dead—of the unjustly killed.

These people have no names. All 1,795 of them.

They are unknown.

They are simply shadows.

Think about it. How many newspaper headlines have you read that go something like these: 'Police, IPOB clash: 80 feared dead', 'Over 200 feared dead in Police – Shiite clash'. 'Boko Haram overruns Army barrack, 20 soldiers killed'. Always, there are no

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names—no identity. The victims are just a number.

They are floating shadows.

By comparison, let us, for a second, compare the treatment by the US of the victims of the 9/11 attack. First, these nearly 3,000 victims all have names. As a matter of fact, their names are inscribed on bronze parapets at the site of the attack and illuminated at night. There are heavily attended memorials held every year, and a huge museum has been built in their honour.

I recall a book I read in the first year of my PhD. It was by an English journalist, Tim Butcher, who was recounting his journey through the heart of the Democratic Republic of Congo. In the book, *Blood River: A Journey to Africa's Broken Heart*, Butcher laments the failure of the Congolese government to prosecute the mass killings on the Ubundu-Kisangani road that resulted in loss of life 'on the same order of magnitude' as the 11 September attack in the US. He was left bewildered as he traversed the area that, despite the thousands of deaths recorded at that site, there were no repercussions, memorials, court cases, or even official historical accounts of what had happened there.

As I read that part, I just thought: Ah! Nigeria has a brother.

To the reader, if you are Nigerian, or perhaps just a keen observer, have you wondered why those '73 people killed in herdsmen attacks' do not have names? Do you know that those '2000 feared dead in Boko Haram's deadliest massacre yet' will not be remembered in history? And I didn't make that one up. Two thousand persons were reportedly killed in a matter of days in 2015 by Boko Haram insurgents. Sadly, there are no memorials for them. No events. No names. No publicity. No bronze parapets. No museums.

They are only shadows. Floating shadows.

The same goes for the hundreds killed in the 2018 herdsmen attacks. The hundreds of Shiites gunned down by the Nigerian army. The thousands of soldiers who have died in the line of duty

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at the hands of Boko Haram. The thousands of unarmed Biafran protesters that have been killed at the hands of the police. The hundreds of Shiites that were shot by military men. The list goes on.

And these are lives we are talking about here. It has come to the point where the worth of a Nigerian life is no more than that of a KFC chicken.

But even chickens are not killed to teach other birds a lesson.

The ones that got a name

The police and government forces are not the only culprits. Much as we, the people, may want to push the blame squarely onto the government, it has to be conceded that the disregard for individual life is often reflected in the ordinary life of many Nigerians.

Yes. Sadly. Just like the police, we constantly demonstrate sheer disregard for human life. We constantly create hundreds and thousands of nameless shadows. One disturbing way we do this is through mob actions and jungle justice. Hardly a day passes by without gory pictures of mobbed and burnt suspects *gracing* our laptop and phone screens. The practice of lynching suspected thieves, beating them to stupor, setting them ablaze and watching them burn to death has unfortunately become a near-standard practice in many parts of Nigeria. Such is the rampant nature of this practice that standardized procedures and items such as sticks and tyres have been used with alarming uniformity, consistency, and brutality.

Just accuse someone of theft in the marketplace and watch as the tyres and petrol appear magically out of thin air. It is sometimes confounding as to how [ab]normal people—people you greet in the streets—can easily turn into cold-blooded murderers and shadow creators in the twinkle of an eye.

But some shadows have names.

Nigeria's horrific lynchings never got the deserved public attention

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until sometime in October 2012 when four young men, Ugonna Obuzor, Toku Lloyd, Chiadika Biringa, and Tekena Elkanah, were accused (it was later found, wrongly) of theft. Remember them?

The men were stripped naked, set ablaze, and clubbed to death as they burned. Videos of the lynching went viral and elicited an unprecedented level of condemnation across the country. The police swooped into action, arrested some of the key perpetrators and charged them to court. In 2017, a Port Harcourt High Court Judge convicted three suspects of murder.

While the Aluu Four killings (as it has come to be known) was horrific, the public response was encouraging. I vividly remember watching the horrific clips online. The videos were so gory that I could hardly bring myself to eat days after.

However, I was filled with hope at the public outcry against the savage killings. For the first time, it seemed that Nigerians were taking a united stance against jungle justice—one that could precipitate the end of the horrible practice in Nigeria. If some people did not know that it was wrong to lynch an individual, this was their moment of education, their moment of enlightenment. This was the time when they would know that it was not only wrong, but criminally condemnable. I followed the Aluu Four developments with keen interest and read with satisfaction the deluge of condemnations on several online and social media platforms. The end of lacing and mob actions was in sight, I thought.

I was wrong.

Jungle justice did not end with Aluu Four. Less than a few months after those events, I saw pictures of an alleged thief set ablaze on the streets of Lagos. I was aghast. The weeks rolled by with yet other stories of mob actions and killings. I was overwhelmed with disappointment. We had not learnt anything from Aluu Four. The deaths of the young men seemed to have been in vain.

The examples I've used so far in this introduction relate to only

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one human right—the right to life. As you'll hopefully come to appreciate as you read on, the situation only gets worse with the other twelve or so civil rights, the other six or so socioeconomic rights, and the other five or so group rights—all of which are routinely violated in Nigeria.

But, you may ask, why is no one seeing things from this human rights angle? Why is no one doing something about it? Well, I am not sure I have the answers to those questions. Nigerian politicians, even when they make their lofty promises and manifestoes, do not think about human rights. Yes, they talk about electricity. They talk about roads. They talk about hospitals. They talk about security. Of course, if these areas were fixed, the country would be a much better place. But they are not, so it is all political grandstanding. But even in their grandstanding, the politicians do not remember human rights. They do not even see it as a problem.

Why?

As I said earlier, I am not sure I know the answer.

The Atiku manifesto

In 2018, after nearly four years of President Buhari's administration, many Nigerians had become disillusioned with the situation of the country. Besides seeming gains in the agricultural sector, the country appeared to be losing on every front. Insecurity was rife with Boko Haram killing Nigerians, including soldiers, at will. Human life had no value. Herdsmen ravaged some communities and left a trail of blood and corpses. Journalists were arrested for publishing reports against the government. Suspects were kept in detention despite contrary court orders. The state of the economy had worsened, and Nigeria had replaced India as the poverty capital of the world.

The elections were close, and the only obvious replacement was Alhaji Atiku Abubakar, the presidential candidate of the Peoples

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Democratic Party (PDP). Of course, there were other candidates, in short, seventy of them. But given the nature of Nigerian politics, only the incumbent or his PDP counterpart had any realistic chance of winning.

I remember reading Alhaji Atiku's manifesto for the presidential elections. I had come across it on a popular Nigerian news forum and eagerly opened the link. It presented a good read, and it was clear that the writers had made a deliberate effort to cover the myriad of challenges the country faced and how the Atiku team would confront those challenges. The manifesto touched on crucial issues pertaining to security, the economy, infrastructure—everything. Well, almost everything. For me, there was a glaring omission. I remember hitting ctrl + F and typing 'human rights'. The 186-page document, compiled by a team of experts, only used the term human rights three times. And those three times, it was mentioned only in passing (e.g., corruption . . . denies millions of people . . . their human rights).

Of course, the manifesto did touch on some issues relating to education and health, some of which will be discussed in later. However, it was not clear, as is the case with Nigerian politics, whether these were identified from the point of view of doing the people a favour or giving them what is truly theirs. You know, when Nigerian politicians make promises, they act like they are going to carry out the projects with their own money. They act like they are giving gifts and freebies to the people. They are not servant-leaders. No. They are lords and emperors whom the people should fear. Kings that the people should beg for pittance. There is hardly any indication that the people are or should be entitled to those things. I often cringe when I hear governors say *I built so-so kilometres of roads. I built schools and hospitals. I paid workers.* I feel like confronting them and saying, *Hey sir, shut up. You didn't build anything. Hardworking underpaid workers did. And it isn't your*

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money. It's the commonwealth of the people. Your administration (note: not you!) only oversaw a project that you were supposed to do. You did not build anything, okay?

Ah! I digress again. Back to the manifesto.

Atiku's manifesto also glaringly failed to acknowledge fundamental civil and political rights, many of which are routinely breached, from time immemorial, by successive Nigerian governments as well as by the people who have exploited the failure of government. This was not what I had expected.

I had expected a manifesto that would dedicate a special section or chapter to human rights. Or even one hinged on human rights.

Why?

Simple.

Any government in Nigeria that can ensure the maximum protection of civil, socioeconomic, and group rights will be, without an iota of doubt, the best in the history of the country—maybe even in Africa. Why? Simple again. Because it will be a government that carries out its core duties with a sense of obligation—because they have to and not because they are nice. They provide good health services because they recognise the people's right to health, not because they don't like seeing people die. They provide schools because they recognise the people's right to education, not because Awolowo did it or because you want to be known as the governor that started free education in your state. It will be a government that understands and respects human dignity. A government that does not arrest dissenters because it knows they have the right to freedom of expression, not because they don't want to look bad before the international community. A government that does not shoot protesters. A government that does not torture prisoners. A government that respects the independence of the judiciary. A government that ensures the effective operation of emergency services. A government that

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ensures that every group feels included and is not neglected. I could go on and on.

But what the politicians promise, and what Nigerians have gotten used to, is a Father Christmas kind of government. The kind that acts like they own the treasury and the people should be grateful for the few roads and hospitals they construct. Now, this is the main point, just in case you are wondering: ‘what difference does it make whether these things are done under the banner of human rights or not? As long as the government does most of these, should we not be satisfied?’ The secret lies in the second part of the word *human rights*. The fulfilment of these needs should be considered a right and not a privilege such that when they are not adequately provided for, the aggrieved citizens can demand and even bring legal action to enforce them. Yes! The people would be able to enforce their rights.

Just imagine that for a second. There is a robbery. Someone rings the police. They don’t turn up. The robbers have a field day and even shoot a victim dead. The deceased’s family brings a suit against the government for breach of the dead person’s right to life because the police had failed in their duty to protect the person. The court finds in their favour. The government pays damages. Think about it. Sounds hilarious, right? I know. But this is what happens in other countries where the people actually have rights. In fact, I’ll share a case with you. It is one I discuss with my students every year. In that case, (*Michael v Chief Constable of South Wales Police*, in case you want to check it out), a woman dialled 999—the UK’s emergency service—and informed them that her ex-boyfriend had turned up at her house, found her with another man, and turned aggressive. The ex-boyfriend drove the other man home and promised to return to hurt her. In his words: ‘I’m going to drop him and [kill you]’. The call handler immediately called South Wales Police and summarised the conversation but failed to mention the threat to kill. The police

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graded the call G2 meaning that officers would respond within sixty minutes. The woman called again, there was a scream, and the line went dead. The police hurried to the scene only to find her dead, having been stabbed multiple times by her ex-boyfriend. Her family brought a case against the police for negligence and failure to protect her right to life.

And what did the court say? The court was reluctant to accept that the police had been negligent and rejected that claim, but they held that the right to life claim could proceed to trial. Now I want you to read that again. The police had actually turned up, only that they had wrongly assessed the gravity of the situation, which meant that they turned up late. And the UK's Supreme Court was saying that they could be liable for failing to protect the woman's right to life.

I'll permit my Nigerian friends a giggle here. Imagine that. Suing the Nigerian police for not turning up on time! Ha! In Obasanjo's words, *I dey laugh!*

This is what I mean by having a right.

Now let's try to be more incredulous and imagine we could hold the government liable for the hundreds of thousands of deaths caused by bad unmotorable roads every year. Or those aggravated by the near absence of emergency services. Haha! I dey laugh again.

You see what I mean? When you cannot enforce it, then you don't have a right to it. When you are not owed reparation or damages, then you do not have a right.

In Nigeria, the citizens are beggars. Begging for roads, and food, and electricity, and housing, and hospitals. And when one government constructs one road, people start singing the governor's praises: *Ah, that governor is trying. That governor is working. He deserves another term. Let's hope he remembers this other road in our local government. Oh! I hope he remembers us. I hope the change reaches us here.*

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The Father Christmas system.

Sadly, the media is not helping. They continually project routine government projects as the personal accomplishments of individual governors and presidents. Rather than project these developments as required services and duties to the people, the media frame the stories in such a way as to suggest that the said executive, whether governor or president, is performing such act due, entirely, to his or her benevolence. One would even be forgiven for thinking that the president or governor is using his or her own personal funds to finance the projects. Below are a few examples of such news headlines over recent years.

Governor [Ambode] donates ₦50m to social club.

Okorochoa donates land, cash to Big Brother Naija winner, Miracle.

No apologies for my donations: Gov. Akpabio responds to critics, donates ₦36.5 million to Eagles. (Imagine that! No apologies, he says. Like it's his money, and he can do anything with it.)

Governor Emmanuel donates ₦100m to Uyo Varsity.

Buhari donates \$500,000 to G'Bissau for elections.

I will shortly touch on the substance of some of these headlines, but first, it has to be pointed out that what you've just seen are real headlines, and it is the normal way of describing government donations and projects in Nigeria. You will rarely see headlines such as *Imo State government builds three new hospitals*, or *Akwa Ibom donates fifty vehicles to the Police*. Nah. The media like to personalise such news, invariably giving the impression that, whilst in office, these government officials own the public treasury and are free to make donations based on their whims.

The governors themselves employ this rhetoric. In one interview with Channels TV, Senator Rochas Okorochoa, whilst stating his accomplishments as governor of Imo State, said:

The first international cargo airport in Imo state, I built it . . . I built thirty hospitals . . . I built one of the best state

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*high courts, the best prison, the best police headquarters.
I built the first and second flyovers in Imo state. I changed
all the lanes in the capital from two lanes to eight lanes . . .
I built one of the best government houses in this country.*

I, I, I. Everywhere.

He goes on:

For my eight years in office, I never took salary or security votes. I forfeited my security votes just to create free education. That's my sacrifice.

Haha! Please join me in laughter. The governor refers to the controversial security votes (which, by the way, Nigerian governors use to enrich themselves) as his. Yes. His personal money. Channelling that money—billions of naira—to important projects in the state was a sacrifice which he should be applauded for.

What did Obasanjo say again? Ah! *I dey laugh!*

Now, let's spend a few minutes examining the content of some of those headlines above. I have carefully chosen them to distinguish between two types of government donations in Nigeria—public-driven and frivolous donations. One can see that the last two headlines are more easily defensible as policy-driven donations. However, the first three are hard to justify as state expenses.

In trying to explain some questionable donations to individuals and groups, Godswill Akpabio, former governor of Akwa Ibom state, at a banquet where he doled out ₦36.5 million, including apartments, to the Nigerian football team, explained that *his* donations were captured in the state's annual budget as 'grants'. Of course, one can question whether cash gifts to footballers, most of whom play in well-paid foreign leagues, amount to *grants*. One can also question whether cash and land gifts to winners of a private TV show or social club should be covered by state funds.

But I digress. The issue of corruption and how government officials spend money will be discussed later. The point I'm making,

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and which I hope has been passed across, is how these projects and donations, should they be even defensible, are made to look like privileges: the governor or president doing someone a favour. The better approach, both by the media and government, would be to sensitise the people on their rights and entitlements. Government endeavours, even though commendable, should be seen only as the performance of duties for which those officials were elected or appointed. Even more important, they should be seen as duties predicated on the existence of enforceable human rights. Akpabio and Okorochoa are not *dashing* anyone their personal money. The money belongs to the state.

I know this section has gone on for a while. I could go on, but I'll just summarise. A system founded on human rights will meet the wants and needs of the citizens. Such a system is also far-reaching enough to encompass capital government projects such as the construction of roads, rails, and bridges. A government that seeks to guarantee the socioeconomic rights of its people will also build basic infrastructure as these are often critical to the economic wellbeing of the people. Adopting this rights-based approach could provide a basic structure for development in Nigeria.

Introduction over.