



**NATIONAL OPEN UNIVERSITY OF NIGERIA  
INTERNATIONAL JOURNAL OF MIGRATION AND  
GLOBAL STUDIES - [IJMGS]**

**PUBLISHED BY  
CENTRE OF EXCELLENCE IN MIGRATION AND  
GLOBAL STUDIES**

**VOLUME 1, NUMBER 1, January 2021**

**ISSN: 2782-7534**

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**ISSN: 2782-7534**

### **Editorial Brief**

The Centre of Excellence in Global and Migration Studies (CEMGS) is a 2019 Tertiary Education Trust Fund (TetFund) intervention that commenced operation in March 2020. It was founded by Professor Abdallah Uba Adamu, who from 2016-2020, was the Vice Chancellor of National Open University of Nigeria (NOUN). This Journal is one of the academic publications of the Centre that is deemed crucial to fulfilling the vision of the founder. We should note that global migration and mobility has become part of human history and cannot be divorced from developmental plan, economics, politics, social life, and education of the citizens. Both internal and external migrations have come to influence who we are, what we do, and our future. NOUN's CEMGS is therefore a milestone in the history of the institution. The Centre serves as the fulcrum of research on migrations, both internal and external; and its conceptualisation, contextualisation, and decolonisation as essential to multidisciplinary analyses of global studies.

The International Journal of Migration and Global Studies (IJMGS) is a critical and Afrocentric-centred Journal that engages theories, concepts, and real life narratives on migrations in the locale, national, or global dimension. The Journal articles are policy oriented, adaptable for teaching, and solution driven in analysis; they are useable nationally and globally.

With several factors responsible for internal, intra-regional, continental, and global movement of peoples, the Centre with the birth of its academic Journal, hopes to sustain documentation of experiences through arts methods, science and health methods, other social science methods for use in the classroom, policy making, and for experiential learning.

It is hoped that the articles in this maiden edition, and subsequently, will fulfil the purpose, rationale, and aspiration of the Journal.

**Hakeem I. Tijani**  
**Editor**

## COVID-19 Pandemic, Migration and Human Rights Protection in Nigeria

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### **Abstract**

Migration has characterized societies throughout history and as one of the defining features of the 21st century, has become an integral part of sustainable development contributing significantly to the socio-economic development of countries and improving the general wellbeing of international and internal migrants. Currently, over 251 million people making about 3.5 per cent of world's population, live outside their areas of origin and there are a host of internal migrants living within their countries of origin. In 2016, migrants from developing countries remitted an estimated USD516 billion. Meanwhile, various conventions and protocols at UN, AU and ECOWAS created international obligations requiring member States including Nigeria to protect the rights of migrants. With a population of about 200 million, Nigeria by 2019 had about 1.3million international migrants abroad mainly in the formal sector contributing about US\$25 billion annually (representing 6.1 % of the GDP) to positively impact Nigeria's economy. There is also a huge population of internal migrants mostly in the informal sector (which accounted for 65% of Nigeria's 2017 GDP) who contribute significantly to the socio-economic development of the country. These migrants are great assets to Nigeria and therefore deserve to have their rights protected. The paper finds that despite the efforts of the government towards observance of international conventions and enforcement of regulations, there are prevalent breaches to the political, social, economic and cultural rights due to some legal gaps and inadequate political will to enforce certain rights. Violations of the rights of Nigerian migrants lead ultimately to injustice, undermining of human dignity, living standards and contribution to national development. The COVID-19 has further exacerbated these breaches, impacting economically, educationally and health wise, thereby worsening the plight of many migrants. Thus, it became imperative to x-ray the issues and challenges which militate against the protection of the rights of the migrants. Consequently, the paper recommends the enactment/domestication of the relevant laws and streamlining activities of the ministries, commissions and agencies involved in the management of migration. Other recommendations include compiling comprehensive disaggregated profile of migrants, developing

robust social security scheme for migrants as well as the judiciary going digital whilst incorporating virtual Alternative Dispute Resolution mechanism.

## **Introduction**

Migration has characterized human experiences and societies throughout history as a multidimensional phenomenon dealing with economic, social, and political factors. It can be international involving the movement of people across political boundaries to a different country than one of origin and internal dealing with movement of people within a country.<sup>1</sup> Contemporarily, more people are motivated and easily able to migrate in different ways for a complex combination of reasons including poverty, employment, lack of access to healthcare, education, water, food, housing, and the consequences of environmental degradation and climate change.<sup>2</sup> By 2016, over 251 million people, about 3.5 percent of world's population, live outside their areas of origin.<sup>3</sup> Many more internal migrants live within their countries of origin and are contributing their quota to national development. In 2016, migrants from developing countries remitted an estimated USD516 billion.<sup>4</sup> Meanwhile, all the migrants by virtue of their status have rights which must be protected to enable them live and operate optimally. Generally, migration can be managed to impact positively as a powerful poverty reduction and development tool. For example, the USA attracted and sustained different races around the world who impacted her national development. Similarly, Europe has considerably attracted cheap migrant labour to fill the gap created by its ageing population. Currently, the number of people living outside their country of birth is estimated to be over 200 million or 3 percent of the world population.<sup>5</sup> Consequently, the United Nations Universal Declaration of Human Rights was enacted to give right to freedom of movement for everyone, to seek residence and enjoy asylum in

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<sup>1</sup>YA Mohammed, "Cause and consequence of cross border illegal migration from South Wollo, Ethiopia". *Arts Soc Sci J* 2016; 188:2-20.

<sup>2</sup> C Ozden and M Schiff, *International Migration, Economic Development and Policy*, (New York: World Bank and Palgrave Macmillan 2007), p.1.

<sup>3</sup> United Nation, "Sustainable Development Goals, 17 Goals to Transform Our World", < <http://www.un.org/sustainabledevelopment/blog/2016/01/244-million-international-migrants-living-abroad-worldwide-new-un-statistics-reveal/>>.

<sup>4</sup> Ibid.

<sup>5</sup> Report of the Global Commission on International Migration 2005, "Migration in an Interconnected World: New Directions for Action", p.1.

other countries.<sup>6</sup> This made the international rights of man legally binding as moral principles describing certain standards of human behaviour. Thus, the consciousness for the protection of the rights in various conventions and protocols at UN, AU and ECOWAS obligated member States to protect the rights of migrants. Nigeria as a State party to several international instruments has constitutional provisions on the promotion and protection of human rights. In 1995, Nigeria established the National Human Rights Commission (NHRC), to deal with matters relating to human rights violations. Additionally, there are various other laws, policies and regulations dealing with and promoting the rights of the migrants.

With a population of over 200 million, Nigeria has millions of migrants.<sup>7</sup> By 2019, Nigeria had about 1.3 million international migrants abroad mainly in the formal sector contributing about US\$25 billion annually (representing 6.1% of the GDP) to positively impact Nigeria's economy.<sup>8</sup> There is also a huge population of internal migrants mostly in the informal sector (which according to the IMF accounted for 65% of Nigeria's 2017 GDP) who contribute significantly to the socio-economic development of the country.<sup>9</sup> The informal sector comprises any economic activity or source of income that is not fully regulated by the government.<sup>10</sup> Examples of informal employment include street trading, subsistence farming, small scale manufacturing, services like hairdressing, taxi driving, carpentry etc. According to the 2010 national internal migration survey in Nigeria, the national average of migrant households was 23%.<sup>11</sup> It therefore means that

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<sup>6</sup>United Nation, "Universal Declaration of Human Rights", <<http://www.ohchr.org/EN/UDHR/Documents/UDHRTranslations/eng.pdf> >

<sup>7</sup> Worldometers, "Nigeria Population Live," <https://www.worldometers.info/world-population/nigeria-population/July2020>;

<sup>8</sup>Olufikayo Owoeye, "Nigeria's diaspora remittances to hit \$25.5bn in 2019 - PwC," Business Day, Aug 20, 2019; <https://businessday.ng/checkout/?level=52>.

<sup>9</sup> Bank of Industry, "Economic Development through the Nigerian Informal Sector" ... <[www.boi.ng/wp-content/uploads/2018/05/ROI-Working-Paper...](http://www.boi.ng/wp-content/uploads/2018/05/ROI-Working-Paper...) > Working Paper Series: No. 2, 17<sup>th</sup> May 2018

<sup>10</sup> Ibid.

<sup>11</sup>Clifford O. Odimegwu and Yemi Adewoyin, 'Ethnic fertility behavior and internal

migration in Nigeria: revisiting the migrant fertility hypotheses'  
<https://link.springer.com/article/10.1186/s4118-020-00073-8>.

this segment of the Nigerian population is a great asset and deserves to have their rights protected.

Despite the efforts of government in ratifying some of the international conventions and protocols and enforcement of regulations, there are prevalent breaches to the social, political, economic and cultural rights of the migrants due to some legal gaps and inadequate enforcement of certain rights. During the COVID-19 lockdown between March and April 2020, for instance, over 105 violations in 24 states including the FCT occurred.<sup>12</sup>The thematic areas of violations which also affected migrants included extra-judicial killings, violation of right to freedom of movement, unlawful arrest and detention, sexual and gender based violence, discrimination, torture, extortion, inhumane and degrading treatment. Usually, law enforcement agents are the culprits in sheer display of impunity and reckless disregard for human life.<sup>1</sup> The violation of the rights of Nigerian migrants leads ultimately to injustice, undermining of human dignity, living standards and contribution to national development. Meanwhile, the COVID-19 pandemic has exacerbated these breaches thereby making it imperative to re-appraise the situation. Therefore, the objective of this paper is to x-ray the issues and challenges which militate against the protection of the rights of the migrants amidst COVID-19 pandemic with a view to making recommendations to the government.

The paper commences with conceptual clarification of key words to place the work in proper perspective. This is followed by a discourse on the international and national legal frameworks for the protection of the rights of the migrants to present a broad overview on the subject. Next, the various issues and challenges militating against the efforts to secure the rights of migrants are examined leading to proffering strategies to safeguard the migrants' rights. Lastly, the paper concludes with salient recommendations to enhance the protection of the migrants' human rights. This paper is constrained by the dearth of aggregated data on Nigeria's internal and

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<sup>12</sup>Tony Ojukwu Esq Executive Secretary, NHRC, "National Human Rights Commission Press Release on Incidents of Violation of Human Rights," 15th April, 2020. <https://www.nigeriarights.gov.ng/nhrc-media/press-release/100-national-human-rights>

commission-press-release-on-covid-19-enforcement-so-far-report-on-incidents-of-violation-of-human-rights.html

<sup>13</sup> Ibid.

international migrants. Nevertheless, the analyses have been justified by copious reference to secondary sources whereby relevant literatures were purposefully selected for content analysis.

### **Conceptual Clarifications**

The concepts to be clarified are migration, human rights and COVID-19 pandemic. Thereafter, their relationship will be established to deepen understanding and how each variable influences the other.

### **Migration**

The term migration has been defined by many scholars in different ways to address different perspectives. The National Geographic Society (NGS), for instance, defines migration as "the movement of people from one place to another for the purpose of taking up permanent or semi-permanent residence, usually across a political boundary".<sup>14</sup> This notion of migration is narrow and not appropriate for this work because it may not necessarily be for the purpose of taking permanent or semi-permanent residence. It could be induced and be within a political boundary.

On one hand, Barnett defines migration as the process whereby people live outside their places of habitual residence and often countries of origin, in a place where they might not understand the language and/or culture.<sup>15</sup> They usually lack their familiar or community support mechanisms and can be exposed to racism, xenophobia and discrimination. Barnett actually painted a picture of migration in the mediaeval era when religiously induced movement was triggered by racism, xenophobia and discrimination.<sup>16</sup> Unfortunately in the 21<sup>st</sup> Century, migration is still bedevilled by such primordial cleavages. This definition falls short of categorizing the internal migrants.

On the other hand, migration according to the International Organization for Migration (IOM) is a process of moving, either across an international

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<sup>14</sup>National Geographic Society, "What is Migration?" Expedition Magazine Vol. 3, No 6, 2013, p.4.

<sup>15</sup>J Barnett and M Webber "Accommodating Migration to Promote Adaptation to Climate

Change", Commission on Climate Change and Development (2009).  
[https://www.preventionweb.net/files/11872\\_AccommodatingMigration1.pdf](https://www.preventionweb.net/files/11872_AccommodatingMigration1.pdf)  
<sup>16</sup>Ibid.

border or within a state. It encompasses any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, social and economic migrants.<sup>17</sup> The definition takes into account international migration to foreign countries and migration within a country. The definition also reflects the causes of internal migration which in Nigeria is due mainly to ethnic and religious conflicts, environmental disasters, farmers/herdsmen clashes, civil strife, boundary and land disputes, etc.<sup>18</sup> Poverty drives much of this movement as 40.1 percent of total population which is about 82.9 million Nigerians is classified as poor by national standards.<sup>19</sup> Also it covers the migrant worker engaged in a remunerated activity.<sup>20</sup> In terms of categorization of migrants, the definition is construed broadly to include refugees within its ambit and internal migrants within Nigeria such as IDPs, house helps, domestic workers, shoe shiners, truck pushers, petty traders, hawkers, hairdressers, fashion designers, Almajirai pupils forced into begging;<sup>21</sup> peasant farmers and generally low income earners, mostly in the informal sector of Nigeria's economy.<sup>22</sup> Although data on their actual numbers are not readily available, these internal migrants can be noticed in their millions around households, neighborhoods, construction sites, markets, urban areas, streets, mechanic workshops, industrial parks amongst others across Nigeria. This definition

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<sup>17</sup> International Migration law: A Glossary on Migration, IOM, (Publication of IOM, 2004), p.4.

<sup>18</sup> Ibid

<sup>19</sup> National Bureau of Statistics, "Poverty and Inequality in Nigeria 2019: Executive Summary" [https://nigerianstat.gov.ng/elibrary?queries\[search\]=poverty](https://nigerianstat.gov.ng/elibrary?queries[search]=poverty). The WORLD Bank defines extreme poverty as living on less than \$1.90 international dollars (int.\$). The (Global extreme poverty- Our World in data). <https://ourworldindata.org/happiness-and-lifesatisfaction/>.

<sup>20</sup> UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990: Article 2(1)

<sup>21</sup> Executive Secretary of the National Human Rights Commission (NHRC) noted that the 'Almajirai children are exposed to increased vulnerabilities and risks, including death, ... forced/child marriages.' Almajirai: Commission raises alarm over abuses, challenges northern governors, <https://www.sunnewsonline.com/almajirai-commission-raises-alarm-over-abuses-challenges-northern-governors> The Sun Newspaper 30 May 2020.

<sup>22</sup>Blessing U. Mberu, Roland Pongou; "Nigeria: Multiple Forms of Mobility in Africa's Demographic Giant" 30 June 2010 <https://www.migrationpolicy.org/article/nigeria-multiple-forms-mobility-africas-demographic-giant>.

captures the basic essentials and drivers of international and internal migration in contemporary times and is considered apt for this paper. The focus here is on Nigerian international migrants and the internal migrants in the informal sector who are on the lower class of the socio economic ladder.

### **Human Rights**

Human rights are universal and its concept lacks consensus among scholars, diplomats and jurists, as to its meaning or scope. Eze for example, posits that human rights represent claims, which individuals or groups make on society, some of which are protected by law, while others remain aspirations to be attained in the future.<sup>23</sup> This definition does not emphasize what the claims are and therefore, vague. Maiese defines human rights as the basic rights and freedoms to which all humans are considered entitled; the right to life, liberty, freedom of thought and expression, and equal treatment before the law, among others.<sup>24</sup> This definition covers the essential ingredients of human rights but is not comprehensive enough.

Amnesty International (AI) sees human rights as basic rights and freedom that all people are entitled to regardless of race, sex, national or ethnic origin, religion, language or other status.<sup>25</sup> This concept is supported by the United Nations to include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination. These rights include civil and political rights as social, cultural as well as economic rights including the right to participate in culture, the right to food, and the right to work and receive an education. This definition recognizes human rights as the absolute moral entitlements attached to all persons equally by virtue of their humanity. It is in consonance with the essence of this paper and therefore applies.

### **Coronavirus Disease (COVID-19) Pandemic**

<sup>23</sup> Eze, Human Rights in Africa: Some selected problems (Lagos: NIIA in cooperation with Macmillan Nigeria Publishers, 1984), p.5

<sup>24</sup> Michelle Maiese, "Human Rights Protection," Beyond Intractability, June

2004;[https://www.beyondintractability.org/essay/human\\_rights\\_protect%20](https://www.beyondintractability.org/essay/human_rights_protect%20)

<sup>25</sup>Amnesty International, "Concept of Human Rights," <http://www.amnestyinternational.org> >.

The coronavirus disease 2019 (COVID-19) is a communicable respiratory disease caused by a new strain of coronavirus, called severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2 that causes illness in humans.<sup>26</sup> It was first reported in Wuhan China, but it has now spread throughout the world from animals to humans. The disease spreads from person to person through infected air droplets that are projected during sneezing or coughing. It can also be transmitted when humans have contact with hands or surfaces that contain the virus and touch their eyes, nose, or mouth with the contaminated hands. Meanwhile, the World Health Organisation (WHO) has declared the COVID-19 a pandemic<sup>27</sup> defined as occurring over a wide geographical area and affecting an exceptionally high proportion of the population.<sup>28</sup> A globally coordinated effort is needed to stop the further spread of the virus which so far has no cure. The pandemic is real and also affects the Nigerian international and internal migrants.

#### The Nexus between Migration, Human Right and Covid-19 Pandemic

This section focuses on the correlation between migration, human rights and Covid-19 pandemic.

Migration involves movement within or across an international border by international and internal migrants to engage most often in legitimate activities to benefit themselves, host country and country of origin as the case may be. Migration is positively correlated with development. People find jobs, settle in and make savings part of which is remitted home to families, communities, and country to contribute to GDP. This reduces poverty and other forms of social inequalities and improves the quality of life. Meanwhile there are several human rights of migrants which are often violated leading to social adverse consequence and poor quality of life particularly amidst COVID-19 pandemic. The corollary is that where the migrants' rights are better protected productivity is enhanced. In 2019, for instance, migrants'

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<sup>26</sup>Africa Centre for Disease Control, "Coronavirus Disease 2019 (COVID-19) Updates," 31 July 2020; < <https://africacdc.org/covid-19/>>

<sup>27</sup>WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020. Available from: <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

<sup>28</sup>Merriam Webster Dictionary. Pandemic. Available from: <https://www.merriam-webster.com/dictionary/pandemic> .

remittances to Nigeria were about US\$25 billion representing 6.1% of the GDP.<sup>29</sup> This impacted positively on the economy. However, due to COVID-19, the diaspora remittances are expected to drop significantly. Thus the need to protect the right of the migrants is at all time high presently because of the COVID-19 pandemic which has even exacerbated the vulnerabilities of the migrants to quality healthcare. There is therefore a direct relationship between migration, human rights and the COVID-19 Pandemic. The next section examines the various international laws that are established to protect the rights of the migrants.

### **International Framework for Regulating/Protecting Migrants' Human Rights**

There are various international frameworks instituted for protecting the rights of migrants. These could be considered broadly as legal and institutional frameworks.

#### **Legal Frameworks**

Some of the international human rights instruments that provide for migration include":

- a. The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 (ICRMW).
- b. The International Convention on Civil and Political Rights and its [First Optional Protocol, 1976](#). (Accession to convention in 1993 but Protocol not signed)
- c. The International Convention on the Elimination of All Forms of Racial Discrimination, 1965. (Accession Oct. 1967)
- d. The Convention on the Elimination of All Forms of Discrimination against Women, 1979 and its Optional Protocol (Convention ratified 1985 but the Protocol not ratified).
- e. The Convention on the Rights of the Child, 1989.
- f. The International Convention on Economic, Social and Cultural Rights, 1976. (Accession 1993)

<sup>29</sup>Olufikayo Owoeye, "Nigeria's diaspora remittances to hit \$25.5bn in 2019 - PwC," Business Day, Aug 20, 2019; <https://businessday.ng/checkout/?level=52>.

<sup>30</sup> Numbers a-1 Nigeria has either ratified or exercised the right of accession with respect to the conventions. For numbers M- U there is neither ratification nor accession.

- g. The 1951 Geneva Convention and its 1967 Protocol on the Status of Refugees. (Ratified and acceded 1988)
- h. The United Nations Convention against Transnational Organised crime (Ratified 2001)
- i. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Human Trafficking and Migrant Smuggling Protocols 2000 both of which supplement the United Nations Convention against Transnational Organised crime.(Ratified 2001)
- J. The 1969 International Health Regulations (IHR).
- k. African [Banjul] Charter on Human and Peoples' Rights (Ratified 1983).
- l. African Charter on the Rights and Welfare of the Child (Ratified 2001).
- m. Two International Labour Organisation (ILO) Labour Migration Conventions of 1949 and 2011; 1975 ILO Domestic Worker convention.
- n. The AU Protocol on the Free Movement of Persons, the Right of Residence and Establishment.<sup>31</sup>
- o. The 1969 OAU Convention on the status of refugees in Africa.
- p. The [Convention on the Rights of Persons with Disabilities, 2006](#).
- q. The African Union Convention for Protection and Assistance of IDPs in Africa, 2009 (known as the Kampala Convention).
- r. The ECOWAS Common Approach on Migration Accord for member states to adhere to the political dialogue between the EU and African, Caribbean and Pacific (ACP) countries as set out in Articles 8 and 13 of the Cotonou Agreement of June 2000.<sup>32</sup>
- s. The ECOWAS General Convention on Social Security.

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<sup>31</sup>Protocol to the Treaty Establishing the African Economic Community Relating to the Free Movement of Persons, Right of Residence and Right of Establishment (AU Free Movement Protocol) adopted in 2018. Article 14 is on free movement of workers without discrimination; Article 1.2 and 2.1 of the ECOWAS Common Approach on Migration.

<sup>32</sup>This is the most comprehensive partnership agreement ever signed between the EU and

the third world countries. The agreement was revised in 2005 and 2010 to give it more focus. It will expire in December 2020.

- t. The ILO Discrimination (Employment and Occupation) Convention (No. 111) of 1958.
- u. The ECOWAS Protocol relating to Free Movement of Persons, Residence and Establishment of 1979.

These conventions and protocols basically seek to promote and protect the rights of the migrant to work in just and favourable conditions, the right to social protection, to an adequate standard of living and to the highest attainable standards of physical and mental well-being. They also cover the right to education and the enjoyment of benefits of cultural freedom and scientific progress. As for the 1951 Geneva Convention, it is the most comprehensive instrument which has been adapted to date on a universal level to safeguard the fundamental rights of refugees and to regulate their status in countries of asylum especially as it relates to areas as diverse as gainful employment, labour legislation, social security, public relief and education. Similarly, the Convention on the Rights of the Child (CRC)<sup>33</sup> has several articles that are useful in protecting migrant children. For example, Article 11 proscribes trafficking of children under 18 years old and Article 19 requires States to protect children from violence, abuse, neglect, exploitation and sexual abuse.<sup>34</sup>

With regards to health, IHR is the legal instrument for implementing constitutional responsibility for controlling the international spread of infectious diseases. Revised in 2005, the objective of the IHR was to prevent, protect against, control and provide a public health response to the international spread of disease.<sup>35</sup> The COVID-19 pandemic falls under this criteria for which the WHO has been coordinating its global response.

### **Institutional framework**

In terms of institutional framework, the ILO collaborates with other relevant institutions such as the IMO and the United Nations High Commission for Human Rights. It also promotes the ratification and effective application of ILO Conventions and Recommendations and policy frameworks relevant

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<sup>33</sup> Adopted 20 November 1989, entered into force 2 September 1990.

<sup>34</sup> Susan Martin.

<sup>35</sup> World Health Organization .International Health Regulations (2005) 2. Switzerland:  
World Health Organization; 2005

to the governance of labour migration and the protection of migrant workers to ensure international labour standards.

The discussion on the legal and institutional frameworks at both international and regional levels has revealed that there is preponderance of regulations in place for the protection of the rights of the migrants. Whereas some of these policies and laws have been ratified in Nigeria some of them are yet to be assimilated into Nigeria's laws and so pose enforcement challenge. Only a few including the CRC and the African Charter on Human and Peoples Right Act have been transmitted into laws in Nigeria. The next section reviews the relevant laws in Nigeria on the protection of the rights of the migrant.

### **Legal Framework for Regulating/Protecting Migrants' Human Rights in Nigeria**

The legal framework for the protection of migrants' rights in Nigerian can be treated in 3 segments, namely, policy, legal and institutional instruments:

#### **Policy**

Nigeria has a couple of migration related policies aside from ECOWAS migration protocols. Some of these are as follows:

- a. In 2014, Nigeria adopted a National Labour Migration Policy (NLMP) to promote good governance of labour migration; protect and promote migrant workers' welfare and optimize the benefits of labour migration on development, while mitigating its adverse impact.
- b. The National Migration Policy (NMP) of 2015 which is relatively new.
- c. The National Health Information System policy which recommends a health data governance structure for Nigeria.
- d. The Draft Policy on Internally Displaced Persons (IDPs) was proposed by the National Commission for Refugees. It has since been revised twice in 2009 and 2012.

The NMP is the umbrella policy on migration while the others (NLMP, NPDM and IDP) are sector specific policies. It was approved for monitoring and regulating internal and international migration, collection, and dissemination of migration data, diaspora mobilization, border management,

and decent treatment of migrants, IDPs, asylum seekers, and the role of civil society in migration management.<sup>36</sup>

### **Legal framework**

- a. The 1999 Constitution of the Federal Republic of Nigeria.
- b. The Child Rights Act (CRA).
- c. The African Charter on Human and Peoples' Rights Act, ss2-24.
- d. The Universal Declaration of Human Rights.
- e. The African Charter on the Rights and Welfare of the Child.
- f. The Convention on the Elimination of All Forms of Discrimination against Women.
- g. The National Health Law (NHA 2014) provides a legal framework for the regulation, development, and management of Nigeria's Health System.
- h. The Immigration Act of 1963 (Chapter 171).

It must be understood that fundamental rights are usually the absolute rights that a citizen of a country possesses that cannot, under the majority of circumstances<sup>37</sup>, be taken from the citizen. The Nigerian Constitution<sup>38</sup> in its Chapter IV provides that the Fundamental Rights are the basic human rights of all citizens, apply irrespective of race, place of birth, religion, creed or gender and are enforceable by the courts, subject to specific restrictions; are inherent and inalienable. Some of the rights under Chapter IV (sections 33-43) are right to life, right to dignity of human person, right to freedom of movement, freedom from discrimination and right to acquire and own property in any part of Nigeria. Whereas these rights are justiciable/enforceable, the rights contained in Chapter II (sections 15-21) which include the right to adequate medical and health facilities, safety and welfare of all persons and right to education are largely seen as not.<sup>39</sup>

The African Charter on Human and Peoples' Rights 2004<sup>40</sup> is an international human rights instrument that promotes and protects human

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<sup>36</sup>The International Organisation for Migration (IOM) Nigeria 2015).

<sup>37</sup>Circumstances under which a citizen can be deprived of such rights include maintain law

and order of the state, and public policy

<sup>38</sup>The Constitution of the Federal Republic of Nigeria, 1999, section 41

<sup>39</sup>This is in spite of several court pronouncements discussed below.

rights and basic freedoms in the African continent.<sup>40</sup> The Act has been transmitted into Nigeria's body of laws and its sections 2-24 provide inter alia for the rights to education, health, shelter, food, social security, safe environment and cultural life. Several African countries including Nigeria implement the Integrated Disease Surveillance and Response (IDSR) strategy to achieve the IHR.<sup>41</sup> The IDSR is a strategy that was first proposed in 1998 by the WHO Regional Office for Africa as a framework for a coordinated and integrated surveillance and response.

### **Institutional framework**

The Migration Governance Framework (MGF) is modeled on the 'Whole of Government Approach' as an institutional structure for the implementation of the NMP. Some of the relevant institutions include the Nigerian Immigration Service, The National Commission for Refugees Migration and Internally Displaced Persons, National Commission for Refugees, National Population Commission, Ministry of Justice, Internal Affairs, Foreign Affairs, Labour and Productivity.

The National Commission for Refugees Migration and Internally Displaced Persons (NCFRMI) is expected to regulate the refugees and IDPs.

The IOM Nigeria 2015 regulates internal and international migration, collection, and dissemination of migration data, diaspora mobilization, border management, and decent treatment of migrants, IDPs, asylum seekers, and the role of civil society in migration management.

The Nigerian Diaspora Commission which the government established to coordinate the activities of the diaspora.

The foregoing has revealed that Nigeria has a fairly robust policy, institutional and legal frameworks for the protection of the rights of the migrants. However, some are still draft policies and cannot be applied.

### **Some Breaches of Migrants' Rights**

Human rights abuses and violations in Nigeria cut across the entire spectrum of rights and could be direct or indirect. Generally, cases of human rights

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<sup>40</sup>African Charter on Human and Peoples' Rights (also known as the Banjul Charter)

[www.achpr.org](http://www.achpr.org) > *legalinstruments* > *detail*

<sup>41</sup>Kasolo F, Yoti Z, Bakyaita N, et al. IDSR as a Platform for Implementing IHR in African Countries. *Biosecurity Bioterrorism Biodefense Strategy Pract Sci.* 2013;11(3):163-169.

violations include the right to life, the right to health, the right to freedom from discrimination, right to the dignity of human person, child abuse, denial of education, domestic violence, means of livelihood and forced eviction.

### **Abuse of right to Life**

This human right is mostly breached in the form of extra-judicial killings and torture by government security operatives. Migrants have been deprived of their fundamental and inalienable right to life. In 2009, Amnesty International documented 39 cases of security force killings and enforced disappearances. In addition, in 2014 Amnesty International reported that over 1,500 deaths occurred in Nigeria.<sup>42</sup> Similarly, between January 2017 and May 2020, there were at least 82 cases of torture, ill treatment and extra-judicial execution by Special Anti-Robbery Squad of the police.<sup>43</sup> In Nigeria, torture is not criminalized but prohibited. Section 34(1) of the 1999 Constitution prohibits practices such as torture, inhumane and degrading punishments. However, unlawful and arbitrary arrests, detention, false imprisonment, harassment and torture are very common."

### **Abuse of Right to Freedom from Discrimination and Racial Inequalities**

This human right violation manifests in lack of equity and equality in the distribution of basic amenities.<sup>45</sup> This imbalance has subjected the migrants to hardship, neglect, economic and political marginalization and denial of rights. For instance, in USA, amidst the COVID-19 pandemic, more Afro-Americans including Nigerians, died than the whites even when the

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<sup>42</sup>Onwuazombe, Ifeanyi I., "Human Rights Abuse and Violations in Nigeria: A Case Study of the Oil Producing Communities in the Niger Delta Region," *Annual Survey of International & Comparative Law*: Vol.22 :Iss.1, Article8, 2017 <<https://digitalcommons.law.ggu.edu/annlsurvey/vol22/iss1/8>>.

<sup>43</sup>Yusuf Akinpelu, "Despite violations, Nigeria failed to prosecute any SARS officer in three years -Amnesty," *Premium times*, 27 June 2020; <<https://www.premiumtimesng.com/news/top-news/399892-despite-violations-nigeria-failed-to-prosecute-any-sars-officer-in-three-years-amnesty.html>>

<sup>44</sup>Ibid

<sup>45</sup>Adetoro Rasheed Adenrele & Omiyefa Muraina Olugbenga, "Challenges of Human Rights Abuses in Nigerian Democratic Governance - Which Way Forward ?" *Journal of Social Economics Research*, 2014 Vol.1, No. 5, pp.87-96, 2014

population of the Afro-American migrants is less than 30% partly due to racial justice issue.<sup>46</sup> Implicit biases created differential health care service.<sup>47</sup> It was revealed that 70 percent of African Americans, compared to 36 percent of whites, believe that racial discrimination is a major reason that African Americans have a harder time getting ahead than whites.<sup>48</sup> In South Africa issues of xenophobia is common knowledge against Africans including Nigerians. Similarly, China quarantined many Nigerians and tested them several times in disregard to the Chinese COVID-19 protocol.<sup>49</sup>

Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999, provides for fundamental right to freedom from discrimination. However, migrants are being discriminated against in the distribution of COVID-19 palliatives. In April 2020, the Social and Economic Rights Accountability Project (SERAP) declared that millions of the country's poorest and most vulnerable have not benefited from the announced palliatives/donations, cash payments, cash transfers and other benefits.<sup>50</sup> The CSOs also have expressed dissatisfaction in the distribution of the 3.5 million conditional cash transfer to the vulnerable which is a far cry from the population of the poor.<sup>51</sup> Moreover, in what could be seen as party politics affairs, palliatives

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<sup>46</sup><https://www.apmresearchlab.org/covid/deaths-by-race>

<sup>47</sup>A Baciu & others (Eds.), *The Root Causes of Health Inequity - Communities in Action to Health Equity*. -(2017) <[www.ncbi.nlm.nih.gov/books/NBK425845](http://www.ncbi.nlm.nih.gov/books/NBK425845)>

<sup>48</sup>Pew Research Center. On views of race and inequality, blacks and whites are worlds apart. Pew Research Center; Jun 27, 2016. [October 31, 2016]. <http://www.pewsocialtrends.org/2016/06/27/on-views-of-race-and-inequality-blacks-and-whites-are-worlds-apart>.

<sup>49</sup> Nigeria's Foreign minister, "Unacceptable: Nigeria condemns treatment of citizens in China," <https://www.aljazeera.com/news/2020/04/nigeria-condemns-treatment-citizens-china-200414172052630.html>, 14 April 2020.

<sup>50</sup>Nigeria: Protect Most Vulnerable in COVID-19 Response...<<https://www.hrw.org/news/2020/04/14/nigeria-protect-most-vulnerable-covid-19-response>>; COVID-19: SERAP asks court to order FG, CBN to name ... , <[serap-nigeria.org/covid-19-serap-asks-court-to-order-...](http://serap-nigeria.org/covid-19-serap-asks-court-to-order-...)>

<sup>51</sup>Upright For Nigeria Stand Against Corruption campaign, " Press Release: COVID-19:

Publish list of palliative beneficiaries, anti-corruption groups urge government"; <  
[https://nigeria.actionaid.org/news/2020/press-release-covid-19-publish-list-palliative•  
beneficiaries-anti-corruption-groups-urge](https://nigeria.actionaid.org/news/2020/press-release-covid-19-publish-list-palliative-beneficiaries-anti-corruption-groups-urge) > 24 April 2020

were given to party loyalists at the expense of the poor and vulnerable in the society.<sup>52</sup> This amounts to discrimination against the migrants.

### **Abuse of Political rights**

In some respects in Nigeria, internal migrants are treated like foreigners in their own country. They are frequently excluded from political participation in their places of residence, partly because of strong local identities and partly because the federal government has not sufficiently addressed the important issue of protecting citizenship rights of Nigerians irrespective of being indigenes or settlers in any part of the country.<sup>53</sup> This has subjected the migrants to political marginalization and denial of rights.

### **Child Abuse**

This manifests as right to the dignity of human person and denial of rights. For instance, section 6(a) of the National Human Rights Commission<sup>54</sup> noted that children suffer multiple violations of human rights contrary to the provisions of the 1999 Constitution of Nigeria, the Child Rights Act<sup>55</sup>, the Child Rights Laws (applicable to some states) and other international human rights instruments relating to the protection of the rights of the child. In addition, some of the migrants like house helps, domestic workers and hawkers are still children. Their employment constitutes child labour which is a breach of their rights under the Child Rights Act.

### **Domestic Violence**

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<sup>52</sup>Njoku, L., Ebiri, K. et al, "Why Controversy over FG's COVID-19 Palliatives Persists." *The Guardian*, <<https://guardian.ng/news/why-controversy-over-fgs-covid-19-palliatives-persists/>>

<sup>53</sup> Mberu Blessing U. and Roland Pongou; "Nigeria: Multiple Forms of Mobility in Africa's Demographic Giant" 30 June 2010 < <https://www.migrationpolicy.org/article/nigeria-multiple-forms-mobility-africas-demographic-giant> >.

<sup>54</sup> The National Human Rights Commission of Nigeria (NHRC) was established by virtue

of the National Human Rights Commission Act Cap.61. N46, Laws of the federation of Nigeria, 2004. This Act was further amended by the National Human Rights Commission (Amendment) Act, 2010 and signed into law in 2011.

<sup>55</sup>Child Rights Act [Nigeria] (2016) <[www.girls-voices.org/apps/blog/show/43721457-child-rights-act-nigeria](http://www.girls-voices.org/apps/blog/show/43721457-child-rights-act-nigeria)>

This right to the dignity of human person is violated particularly in the form of abuses against women. Women and girls are known to have been subjected to degrading punishment, torture and their right to the dignity of the human person violated. Cases of domestic violence increased greatly during this Covid -19 pandemic lockdown in Nigeria<sup>56</sup>. In 2015 and 2016, for instance, thousands of women and girls in the IDP camps in Borno state were raped and sexually exploited by military and police officers often in exchange for food and other necessities.<sup>57</sup>

In the three states of Lagos, Kano and Ogun, the number of cases rose from 60 in March to 238 in April, an increase of 297%.<sup>58</sup> By contrast, in Benue, Ebonyi, and Cross River states, which were placed under less stringent lockdowns by their respective local governments, the increase in cases was only 53% between March and April. In fact, in Ebonyi state, where the [governor refused to place the state under total lockdown](#), the number of cases decreased from March to April. Furthermore, with the restriction on movement many survivors are unable to access centres and domestic abuse shelters, having to rely on hotlines to receive any kind of support. Similarly, police officers in the Family and Support Units have been mobilised to support in enforcing the lockdown, leading to shrinking capacity to respond to calls of gender-based violence. Many court proceedings have been postponed, which will limit the system's ability to issue protection and

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<sup>56</sup> Amnesty International 2020, "Nigeria: Authorities Must Uphold Human Rights in Fight to Curb Covid -19" <<https://www.amnesty.org/en/latest/news/2020/04/nigeria-covid-19/>>.

<sup>57</sup> Amnesty International, "Nigeria: Still no accountability for Human Rights Violations Amnesty International Submissions for the UN Universal Periodic Review - 30th Session of the UPR Working Group, November 2018," published March 2018 <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>; accessed 27 July 2020.

<sup>58</sup>The shadow pandemic: Gender-based violence and COVID-19 < [www.theigc.org · blog | the-shadow-pandemic-gender..](http://www.theigc.org/blog/the-shadow-pandemic-gender..)>

restraining orders that would otherwise have an immediate impact on protecting victims.<sup>59</sup>

### **Abuse of Right to Education**

This is covered broadly under violations of the economic, social and cultural rights. The university councils consider some states in Nigeria as educationally less privileged and as such some state-owned universities do not give equal admission opportunities to all Nigerians. Indeed, Nigerian citizens are supposed to have free education as contained in the Fundamental Objectives and Directive Principles of State Policy", but in practice, in some states and federal schools where this has been implemented students still pay fees. Moreover, with about 13.5 million of eligible Nigerian children still out of school,<sup>61</sup> this is tantamount to denial of education rights. Many of the unskilled and semi-skilled workers also do not have access to standard education which affects them adversely in their ability to secure better livelihood and invariably better standard of living.

### **Violations of Right to Standard of Living**

It breaches the right to means of livelihood. The international human rights law requires the Nigerian government to protect people's right to an adequate standard of living, including adequate food/ nutrition, the highest attainable standard of health, clothing and the right to social security. However, there are millions of poverty stricken Nigerians including the internal migrants accounting for over 70 percent of the populace who live below international poverty line of USD\$1.90 a day.<sup>62</sup> However, specifically for Nigeria the poverty calculated for Nigeria by the World Bank using data from the

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<sup>59</sup> Ibid.

<sup>60</sup>Section 18(3) of the Constitution, 1999 (as amended)

<sup>61</sup> Azezat Adedigba, 'Nigeria now has 13.2 million out of school children - UBEC,' October 4, 2018 <https://www.premiumtimesng.com/news/top-news/288344-nigeria-now-has-13-2-million-out-of-school-children-ubec.html> Premiumtime Tuesday June 16, 2020

<sup>62</sup>The World Bank Group sets the International Poverty Line (IPL). The poverty line was

revised in 2015 and since then, persons are considered to be in extreme poverty if they live on less than 1.90 (int.-\$) per day; Poverty Overview - World Bank Group  
< [www.worldbank.org](http://www.worldbank.org) - topic : poverty> overview>

Nigerian Bureau of Statistics puts the poverty line at USD 1.4 capita per day.<sup>63</sup> This is against the backdrop that in 2019, Nigeria surpassed India in terms of the number of people living in abject poverty.<sup>64</sup> This represents a flagrant violation of migrants "right to improved standard of living. More so, in Nigeria there is limited social security for the informal sector of the economy to which the migrants belong.

### **Forced Eviction**

This is under violations of the economic, social and cultural rights. Thousands of people including migrants continue to bear risk of force evictions across the country in breach of their rights. Between 2015 and 2017, the authorities carried out large-scale evictions and demolished the homes of thousands of people in Kaduna, Lagos and Rivers states, without legal and procedural safeguards, adequate notice, provision of adequate compensation and adequate alternative housing.<sup>65</sup> In Lagos alone since 2015, over 40,000 urban dwellers have been forcibly evicted. Many of the victims were migrants and in some instances, the state authorities ignored court orders declaring forced evictions unlawful. It is a similar occurrence in many states as government continues to modernize and reconstruct urban cities.

### **Breaches of Right to Health**

This is breached under violations of the economic, social and cultural rights. The National Health Insurance Scheme is available only to government workers and some company staff covering only about 6 million out of 200

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<sup>63</sup>"Nigeria Economic Report- World Bank Document 2014, <  
<http://documents.albankaldawli.org/curated/ar/37181468100145688/pdf/896300WPONiger0Box0385289BOOPUBLICO.pdf>>

<sup>64</sup>Peterson Ozili 'COVID-19 Pandemic and Economic Crisis: The Nigerian Experience and Structural Causes', Article in SSRN Electronic Journal April 2020  
<<https://www.google.com/search?client=firefox-b-d&q=impact+of+covid+19+on+nigeria+economy>>

65 Amnesty International, "Nigeria: Still no accountability for Human Rights Violations Amnesty International Submissions for the UN Universal Periodic Review - 30th Session of the UPR Working Group, November 2018," published March 2018 <<https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>>.

million Nigerians.<sup>66</sup> This results in many avoidable deaths when poor migrant Nigerians are faced with health crisis for which they are unable to pay out of pocket. The IDPs also suffer similar fate of poor healthcare in the various camps across Nigeria where they live in deplorable sanitary and health conditions and cannot sue to seek redress on their rights. This is in breach of the right to health provided under the several international regulations. The issues and challenges militating against the effective enforcement of the rights of migrants in Nigeria particularly amidst the COVID-19 pandemic are the subject of discussion subsequently.

### Issues, Challenges and Strategies Arising from the Protection of Migrants' Right

This section treats the issues and challenges regarding the protection of the rights of migrants of Nigerian extraction as well as proffers strategies to overcome the problems. Some of these are legal gaps in the law, weak enforcement, poor institutional framework, dearth of data, racial inequity, inadequate social security systems and poor access to justice. In addition, the impacts of COVID-19 on protection of the migrants' rights are also highlighted.

#### Legal Gaps in the Law

The absence of the relevant laws is an issue. This is presently the position in Nigeria where some of the conventions and protocols have not been assimilated into her laws. Some of the laws include the Kampala Convention and the Convention on the Elimination of All Forms of Discrimination against Women (1979). Furthermore, up till date, even the Child Rights Law has not been passed by 11 states in Nigeria.<sup>67</sup> Over the years Nigeria does not see domestication of such laws as a priority. The government must find the political will to quickly domesticate all such ratified laws.

<sup>66</sup>Angela Onwuzuoo, "How High Healthcare Cost pushes Nigerians further into poverty, untimely Death", Punch Newspaper, 26 July 2020, 24.

<sup>67</sup>Nike Adebawale, "Update: eleven states in northern Nigeria yet to pass the Child Rights Law-unicefofficial, May 11, 2019. < premiumtimesng.com>.

### **Weak Enforcement**

Another critical issue has to do with enforcement of the laws as a result of restrictive interpretation by the courts. This is because for internal migrants, where a court adopts an unduly restrictive interpretation of the provisions of an instrument, this serves as a serious impediment to enforcement. For example, the right to health and the right to education in the Nigerian constitution have over the years were accorded very restrictive interpretations as they are not expressly seen as being justiciable.<sup>68</sup> Fortunately, the controversy over the non-justiciability of the economic, social, cultural, educational and environmental objectives due to the provision of section 6(6)(c) of the Constitution has been laid to rest by virtue of the Supreme Court's decision in *Attorney-General of Ondo State v. Attorney-General of the Federation and Ors*<sup>69</sup> and *Chief Adebisi Olafisoye v Federal Republic of Nigeria*<sup>70</sup>. Therefore, a community reading of these inextricable related provisions of the Constitution like s. 6(6)(c), s. 15(5) and item 60(a) of the Exclusive Legislative List of the second Schedule to the Constitution, made Niki Tobi, J.S.C. to conclude that Chapter II is no more a toothless dog which could only bark but cannot bite since it is clearly and obviously justiciable.<sup>71</sup> This bold declaration of the Justice is commendable and worthy of emulation by other members of the Bench<sup>72</sup> and reaffirmed in the case of *Oil Pollution Watch V.NNPC*.<sup>73</sup> However, it is instructive to note that although the twin rights to health<sup>74</sup> and education<sup>75</sup> located in chapter 2 have been made justiciable yet in practical terms it will be difficult for a

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<sup>68</sup>In Orie, E.G. (2014), "Environmental protection and Fundamental Human Right to life: a review of the Nigerian constitutional provision and the judicial posture. *NOUN Current Issues in Nigerian Law* volume 4: 148-196, the author had argued that the right to life should be given very liberal and wide interpretation such that these socio-cultural and environmental rights are interpreted as complimentary right to the right to life.

<sup>69</sup>(2002) 9 NWLR (Pt. 772) 222

<sup>70</sup>(2004) 4 NWLR (Pt. 864) 580.

<sup>71</sup>See p. 665.

<sup>72</sup>This is similar to what obtains in climes like India with similar constitutional provisions (Francis Coralie v. Union Territory of Delhi (1981) 1 SCC 608); (Charan Lal Sahu v. Union of India). Sections 48A and 51 of the Constitution of India are similar to Nigeria's and have been interpreted liberally to mean a complementary component of the right to life.

<sup>73</sup>Centre For Oil Pollution Watch V. NNPC [2019] 5 NWLR (Pt.1666) 518

<sup>74</sup> Section 17(3)© and (d)

<sup>75</sup>Section (18)

litigant to succeed in court because the right is subject to the proviso in section 18(3) which is to the effect that the government shall provide such education 'as and when practicable.' This term is subjective and very difficult to determine consistently. The proviso should be removed through constitutional amendment to make the right fully justiciable.<sup>76</sup>

The right to health is guaranteed by municipal laws and many international instruments. Article 25 of the UDHR and articles 11 and 12 of the International Convention on Economic Social and Cultural Rights (ICESCR) provide for health. The ACHPR provides for the right to health, and mandates the States Parties to protect the health of their citizens. The Constitution of WHO equally provides for health and other rights that relate to conditions necessary for health. These rights have been repeatedly declared to be "universal, indivisible, and interdependent and interrelated."<sup>77</sup> Thus, the paper is of the view that the right to health and education are inseparable components of the right to quality life and should be made justiciable in Nigeria without any proviso. This could be achieved by constitutional amendments.

### **Institutional Framework**

There are multiplicities of institutions at both international and national levels for the protection of the migrants. The issue is that there is function overlap, agency rivalry and poor coordination in dealing with matters affecting migrants. In Nigeria, for example, the NIS and the National NCFRMI usually contest the position of lead agency which often results in duplication of efforts. For the international migrants there is also the struggle for dominance between organisations like IOM and UNHCR. The challenge sometimes is that the migrant gets confused as to which ministry/agency should address a particular matter and is often discouraged to seek redress in cases of breaches. By way of strategy, the Orasanya Report to be

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<sup>76</sup> One must however concede that the Constitution drafting committee in inserting the phrase must have considered the economic implications of making these rights fully justiciable.

<sup>77</sup>Vienna Declaration and Programme of Action UNGAROR World Conference on Human

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Rights 4gth Session 22nd Plenary Meeting Pt. J art. 5 UN DOC. A/Conf. 157/24 (1993)  
Reprinted (1993)321 LM 1661; The African Charter on Human and Peoples Rights  
(Ratification and Enforcement) Act.

implemented by the Federal government is a good starting point to harmonise the activities of these agencies. In addition, the Nigerian embassies abroad should always be proactive in dealing with relevant international organisations to protect the rights of Nigerian migrants abroad.

### **Availability of Data**

The issue here is that dearth of data makes it difficult for proper planning towards the welfare of the migrants. Specifically for Nigeria, there is no current demography for the profiling of the internal migrants. The challenge is that there has been a general disinterest by the federal and state governments to build such a reliable and standardised data base,<sup>78</sup> without which the migrant is vulnerable, unplanned for and largely unprotected in the scheme of things albeit it is, socially, economically, educationally and health-wise. The other challenges include the fact that data are generally neither reliable nor comparable across States (especially when it is expert judgment) may not always produce a reliable indication of migrant rights and sometimes differences in definitions of what constitute a 'migrant' make cross-national comparison difficult. However, the ILO continues to work on standards with States to collect and disseminate internationally comparable disaggregated data on labour migration, among others. It behoves Nigeria to leverage the existing National ID Card programme, Bank Verification Number programme and the National census data to develop comprehensive disaggregated profile of migrants across the country.

### **Racial Inequity**

For the international migrant the issue here is that there is discrimination, lack of fairness and justice in accessing health care system<sup>79</sup> leading to breaches of the rights protected under the various conventions and protocols. Racism remains a big issue abroad and must be confronted through diplomatic and international protocols. It is expected that the Federal government through its Diaspora Commission and Ministry of Foreign

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<sup>78</sup> Some of the different types of data include events-based data, data based on expert judgments, survey-based data and official statistics.

<sup>79</sup>Health inequities are systematic differences in the opportunities groups have to achieve optimal health, leading to unfair and avoidable differences in health outcomes (Braveman, 2006; [WHO, 2011](#))

Affairs should always be proactive to protect the international migrants as was done during the recent xenophobic attack of Nigerians in South Africa.

### **Social protection**systems

Unlike international migrant workers who are included in the social security system in some of host countries where such system operates in line with conventions and protocols, the internal migrants in Nigeria are left to fend for themselves. There is need to urgently develop a plan to deliver social and economic assistance to the tens of millions of people who will lose income due to COVID-19, particularly informal workers who lack adequate social safety net. Their exclusion from social protections violates the migrant's right to social security enshrined in the international human rights law. This plan should be developed in consultation with community-based organizations, traditional rulers and local government authorities who are in a better position to identify people living in poverty.

### **Access to Justice**

With respect to international migrants although there is access to justice, it is fraught with systemic discrimination and racism which most times occasion injustice. Victims usually seek redress in court as appropriate. However, in Nigeria most migrants do not have access to justice for several reasons like prohibitive cost of legal services, poor infrastructure and lack of quick dispensation of justice. The challenge is that the country is grappling with an archaic justice system. The way forward is to modernize the justice system through reforms and digitalization. Meanwhile amidst the COVID-19 pandemic, some courts have introduced digitalized processes including virtual sessions. There is need to extend same to all courts in the country as well as incorporate virtual Alternative Dispute Resolution mechanism (e•ADR).

### **Impact of COVID-19 on Protection of Migrants' Rights**

Nigeria is awakening to a new economic and social reality as a result of the COVID-19 crisis. The impact is particularly debilitating for the migrants in terms of economic, health and education sectors.

### **Economic Impact**

Due to the escalating global economic impact of the pandemic, many economies around the globe including Nigeria have witnessed reduced economic activities, Industrial activities, aviation, tourism, road transportation, stock market and the hospitality sectors amongst others have been adversely affected. Crude oil prices at some point dropped from nearly US\$60 per barrel to below US\$22 per barrel, the lowest since 2003 due to the escalating global economic impact of the COVID-19 pandemic.<sup>80</sup> During the pandemic, Nigeria was severely affected with shortage of crucial supplies like pharmaceutical supplies, spare parts, and finished goods from China. This is against the backdrop that in 2019, Nigeria surpassed India in terms of the number of people living in abject poverty. With recession looming, the migrants are worse off. For instance, unemployment rose exponentially during the lockdown when the Lagos State government banned the use of tricycles and bikes rendering about 14,000 bike-hailing employees and about 50,000 tricycles and informal motorcycle riders jobless.<sup>82</sup> Moreover, about 42% of workers lost their jobs during the COVID-19 lockdown.<sup>83</sup> Similar fate confronted migrants across the country thereby putting a further strain on incomes. In addition, the consequence of not having a national social welfare program became evident amidst COVID-19 when people had little to rely on, the migrants did not have welfare relief that could help them cope with the economic hardship. Although palliatives were distributed, most of the population could not benefit. For the international

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<sup>80</sup> Peterson Ozili 'COVID-19 Pandemic and Economic Crisis: The Nigerian Experience and Structural Causes', Article in SSRN Electronic Journal April 2020, <https://www.google.com/search?client=firefox-b-d&q=impact+of+covid+19+on+Nigeria+economy>

<sup>81</sup> Peterson Ozili 'COVID-19 Pandemic and Economic Crisis: The Nigerian Experience and Structural Causes', Article in SSRN Electronic Journal April 2020 <<https://www.google.com/search?client=firefox-b-d&q=impact+of+covid+19+on+nigeria+economy>

<sup>82</sup> Tobiloba Ogunpolu, 'From pandemic to poverty: Nigeria's future with COVID-19', <https://nairametrics.com/2020/05/17/from-pandemic-to-poverty-nigerias-future-with>

covid-19/

<sup>83</sup> Chris Agabi, "42% Employed Nigerians lost Jobs during COVID-19 Lockdown", Daily Trust Newspaper, 17 July 2020,17.

migrants, remittances to about 5.7 percent of households in Nigeria declined significantly.<sup>84</sup>

### **Educational Impact**

Outside Nigeria, digital technology is providing the new normal to support the educational sector overcome the effect of COVID-19 outbreak. This is not the case with Nigeria that has a weak and under developed digital economy. Most universities and schools could not offer a full educational curriculum online or use virtual/video conferencing applications and so are unable to put course work online for students quarantined at home to access. The situation is even worse for migrants' children who mostly cannot afford the opportunity for online learning but have the bulk of the 13.5 million out of school Nigerian children.<sup>85</sup> With migrants' children unable to get quality education and dropping out of school, their future is bleak with the prospect of perpetuating a vicious cycle of poverty in the lineage of migrants.

### **Health Impact**

With over 45,000 recorded cases and over 900 COVID-19 related deaths, Nigeria has been adversely affected by COVID-19 pandemic and the poor and vulnerable are hardest hit.<sup>86</sup> With reduced access to sanitation, Nigeria's poor are at greater risk of contracting the disease. In many developing communities, traditional medicine remains the only available and affordable health service for the majority of the population.<sup>87</sup> For instance, a study in Enugu state showed that 67.7% of the populace preferred traditional medicine because it was cheaper, available and appealed more to people with low education.<sup>88</sup> Similarly in Osun state, a higher proportion of low income

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<sup>84</sup>Elizabeth Adegbesan, "5.7% of Nigerian households receive remittances from abroad - NBS", Vanguard Newspaper July 9, 2020. <https://www.vanguardngr.com/2020/075-7-of-nigerian-households-receive-remittances-from-abroad-nbs/>

<sup>85</sup>Azeezat Adedigba, 'Nigeria now has 13.2 million out of school children - UBEC,' October 4, 2018 <https://www.premiumtimesng.com/news/top-news/288344-nigeria-now-has-13-2-million-out-of-school-children-ubec.html> Premiumtimes Tue Jun 16, 2020

<sup>86</sup>< <https://ncdc.gov.ng/> >

<sup>87</sup>Stella Usifoh and Anthony Waka Udezi, 'Social and economic factors influencing the

patronage and use of complementary and alternative medicine in Enugu' :  
<https://www.researchgate.net/publication/35627467>, November2013.

<sup>88</sup> Ibid.

class patronized the indigenous herb sellers more than those on high income class.<sup>89</sup> By extension, this is the experience across Nigeria for without standard social security, no health insurance policy and with weak health infrastructure in the informal sector, many of the migrants resort to cheaper herbal medicine.

Nigeria has a drug market that is almost unregulated accounting for more than 70% of the pharmaceutical market that comprise substandard and fake drugs. Despite the introduction of the NHIS in 2004, the population covered by health insurance in 2019 was about 5% of the total population.<sup>90</sup> Poverty continues to push the migrants into patronizing cheaper fake drugs and alternative traditional herbal medicine with their attendant adverse consequences.<sup>91</sup> These migrants have the potential to further spread the virus as they move about daily in search of livelihood because the pandemic has entered community transmission phase. Thus, the COVID-19 pandemic overwhelmed the poor public health infrastructure in Nigeria and exacerbated the migrants' poor health status whereas the right to health should be guaranteed.

### **Conclusion**

The paper x-rayed the issues and challenges which militate against the protection of the rights of the migrants amidst the COVID-19 pandemic and proffered legal remedies to address the phenomena based on global best practices. Notwithstanding the positive impact of the migrants in the country of origin and host country, human rights violations against migrants comprise but are not limited to a denial of civil and political rights such as

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<sup>89</sup> Opatola Mustapha Olayiwola and Kolawole Taiwo Olabode, 'Factors Affecting the Level of Patronage of Traditional Herb Sellers in Osun State, Nigeria,' *International Journal of Sociology and Anthropology*, Vol.6(4)pp.130-135, April 2014; <http://www.academicjournals.org/IJSA>.

<sup>90</sup> Peterson Ozili, 'COVID-19 Pandemic and Economic Crisis: The Nigerian Experience and Structural Causes', Article in SSRN Electronic Journal, April 2020 <<https://www.google.com/search?client=firefox-b-d&q=impact+of+covid+19+on+nigeria+economy>>

<sup>91</sup> Stella Usifoh and Anthony Waka Udezi, 'Social and economic factors influencing the patronage and use of complementary and alternative medicine in Enugu'

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[:<https://www.researchgate.net/publication/315627467>](https://www.researchgate.net/publication/315627467)

arbitrary detention, freedom of movement, as well as economic, social and cultural rights like the rights to health, education and good standard of living.

The nexus between migration, human rights and covid-19 was established such that where the rights of migrants are better protected it creates the enabling environment for the migrant to contribute positively to the socio economic development of Nigeria. Conversely, inadequate protection of such rights undermines the status of the migrant to survive and function optimally. The COVID-19 exacerbated the already dire circumstances of the migrant bringing about more economic retrogression, fuelling unemployment and poverty during lockdowns, as well as making the migrant susceptible to poor healthcare, education and undermining their general wellbeing.

The submissions established that Nigeria has a fairly robust policy and legal framework for the protection of the migrants' rights. However, due to some gaps in legal and institutional frameworks, dearth of data, racial inequity, inadequate social security systems and poor access to justice, the rights of the international and internal Nigerian migrants are continually trampled upon. Furthermore, the COVID-19 pandemic impacted adversely on the migrants in the economic and social sectors whereby they are further impoverished while education and healthcare remain unaffordable. Therefore, amidst scarcity of palliatives, lack of social welfare schemes and inadequate health insurance, the protection of the migrants' rights was compromised.

The paper therefore made salient recommendations to hold government accountable for protection of the rights of the migrants. The Nigerian government must find the political will and as a matter of national policy transmit all ratified regulations into its body of laws to enable application in Nigeria and also leverage the existing National ID Card programme, Bank Verification Number programme and national census data to develop comprehensive disaggregated profile of migrants across the country. While the courts should give the right to health and education liberal interpretation to make them justiciable in Nigeria as complementary to the right to life in line with best practices, the National Assembly should amend section 18 of

the Constitution of the Federal Republic of Nigeria specifically to remove the words "as and when practicable". Furthermore, the judiciary should

extend the digitalization process of the courts including virtual sessions to cover all courts in the country as well as incorporate virtual Alternative Dispute Resolution mechanism (e-ADR). It was further recommended that the Federal government should rationalize, harmonise and streamline all the ministries, commissions and agencies involved in the management of migration issues to enhance coordination and forestall rivalry and duplication of efforts. Lastly, the federal and state governments should develop a robust social security scheme for the migrants. These measures if implemented will guarantee the protection of the human rights of Nigerian international and internal migrants amid COVID-19 pandemic whilst the government is held accountable.

