

Review

The justiciability of the human right to adequate housing in Nigeria: the need to move beyond the constitutional silence

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Abstract: Housing is one the basic necessities of life. Housing is a structure that provides a place of living for individuals or groups. It is a home, a residence or a dwelling. Housing is so important to human life that without it, life becomes miserable, undignified and hopeless. It is the *primus inter pares* human right. Unfortunate, as important as the human right to adequate housing is in the global space, the Constitution of the Federal Republic of Nigeria 1999 (as amended) failed to expressly make provision for the human right to adequate housing in Nigeria. What seemed to be provided under the economic, social and cultural rights in the Nigerian Constitution is the directive to the state to work towards ensuring suitable shelter which by its meaning is distinct from housing. In other words, the Constitution of the Federal Republic of Nigeria 1999 (as amended) is silent on the provision of human right to adequate housing. This paper became necessary in order to unearth the irony of human life without right to adequate housing. The paper became imperative because of the importance of the human right to adequate housing in the realization of other human rights. The paper adopted a doctrinal method of research through the review of primary and secondary materials such as the Constitution of the Federal Republic of Nigeria, international and regional instruments on human rights, among others. The paper found that the negative impacts of none inclusion of the human right to adequate housing in Nigerian constitution made access to housing a luxury rather than a necessity. The paper therefore recommended among others, the overhaul of the legal framework on human right in Nigeria for the purpose of the inclusion of the human right to adequate housing in the Constitution of the Federal Republic of Nigeria and other enabling laws. The paper concluded by arguing that the fundamental human right to life and dignity of human person cannot be adequately realized in Nigeria in the absence of right to adequate housing. There is no dignity in a man who does not have a place to sleep during nightfall or a place to run to at a close of work or during rain or sun.

Keywords: Human Right, Housing, Constitution Silence, Nigeria.

1. Introduction

Nigeria It is beyond truism that man's spirit dwells in his place of abode. A man that is disconnected from his home is issued with an invitation to join his ancestors faster than he would be. Housing predates human existence. Theologically, when man was created, God the Almighty recognized the importance of man's dwelling place and provided same to man. The Book of Genesis Chapter recorded that, prior to the creation of man, God Almighty had 'planted a garden in the east, in Eden; and there he put man he had formed' (Genesis 2:8). In the same vein, the book of Isaiah noted that 'my people will live in peaceful dwelling places, in secure homes, in undisturbed places of rest' (Isaiah 32:18). Human right to adequate housing is indispensable right which must be adequate, affordable and protected at all times. Like Isaiah noted, adequate housing must be of a secured tenure without one being in fear of eviction from his house or his house taken away. According to the United Nations Human Rights Office of the High Commissioner, 'housing is the basis of stability and security for individual or family. The centre of our social, emotional and sometimes economic lives,

a home should be a sanctuary- a place to live in peace, security and dignity, (UN Special Rapporteur, 2026).

Despite the importance of human right to adequate housing, the Constitution of the Federal Republic of Nigeria 1999 (as amended) remains silent on the protection and provision of adequate housing for Nigerians. In passive, the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides in Section 16(2)(d) that:

The State shall direct its policy towards ensuring-that suitable and *adequate shelter*, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens. (emphasis mine).

The wordings of Section 16(2)(d) of the Nigerian Constitution do not portray that the human right to adequate housing is provided under the Nigerian Constitution, rather, the constitution encouraged the Nigerian State to direct its policy towards ensuring suitable and adequate *shelter*. In law, the Latin maxim *Expressio Unius Est Exclusio Alterius* means that what is not expressly provided is deemed to be excluded. By implication of the provision of Section 16(2)(d) of the Nigerian Constitution, Nigerian State is to direct its policy towards ensuring suitable and adequate shelter and not suitable and adequate housing.

This paper addresses the need to go beyond the constitutional silence on the justiciability of the human right to adequate housing in Nigeria. In order to properly digest the meat of the paper, the keywords under the topic of discourse shall be examined as well as the legal instruments within the scope of this paper. The paper will also unearth the challenges to the justiciability of the human right to adequate housing in Nigeria and make recommendations towards the realization of human right to adequate housing.

2. Housing

Housing is ‘a building that serves as a living quarters for one or a few families’ (Merriam-Webster, 2025). Black’s Law Dictionary defines house as ‘A home, dwelling, or residence’ (Garner, 2009). Nigerian National Housing Policy defines housing as ‘the process of providing functional shelter in a proper setting in a neighbourhood supported by sustainable maintenance of the built environment’ (National Housing Policy, 2006). Housing refers to ‘connected and sheltered living spaces and systems resulting from human construction activities and enjoyed with neighbourhood surrounding character’ (Zambia: ‘National Housing Policy 2020-2024’). Adequate housing means that occupied housing unit must have sufficient number of sleeping rooms and living space with due regard to the marital status, sex and ages of the members of the household (Zambia: ‘National Housing Policy 2020-2024’). Housing must be affordable. The cost of housing must not threaten the enjoyment of other rights in the household. Both Nigeria and Zambia National Housing Policy viewed housing as an elaborate shelter. However, in denotative meaning, housing is more than a shelter; it is an accommodation, a tangible asset with essential fixtures, fittings and facilities like doors, windows, toilet, water, electricity, security among others. Shelter according to the Black’s Law Dictionary is ‘A place of refuge providing safety from danger, attack or observation’ (Garner, 2009). From the above definition, shelter is not a house but a survival mechanism in time of danger or crisis. A tree can give shelter but not a house. A rock can provide a shelter but not a house. People living in Internally Displaced camps (IDP) can have shelters but not houses. The World Campaign for Human Rights: Facts Sheet No. 21 noted that human right to adequate housing focuses on security, dignity and access rather than just shelter (World Campaign for Human Rights; Facts Sheet No. 21, 2014). Adequate housing implies a house with adequate privacy, adequate space, adequate security, adequate lighting, adequate ventilation, adequate basic infrastructure and in adequate location with regard to work and other basic facilities.

As argued earlier, Nigerian government carefully avoid the mention of the word ‘house’ in the constitution because it has no intention of providing adequate housing for the citizens. In realizing the dream of not providing suitable and adequate housing to the citizens, Nigeria has been rolling cosmetic policies on National Housing Schemes without stepping-down the policies to benefit the masses. In Nigeria, provision for adequate housing has remained the slogan or a key item on manifesto

for campaign of political parties over the years without adequate means of achieving same. Where an attempt is made to provide housing estate, the lots will be balloted or sold to the political class who in turn rents the houses at exorbitant rate to the other citizens.

3. Legal Instrument on Human Right to Housing

Under the United Nations arrangement, Article 25(1) of the Universal Declaration of Human Rights 1948 proclaimed that, 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services....' Although the Universal Declaration of Human Rights is not a binding document on the State Parties, however, the Universal Declaration of Human Rights later birthed two other important bill of rights that provide for the explicit human rights with the commitment by the State Parties to progressively realize the human rights in the Covenant. The bill of rights is represented in the International Covenant on Civil and Political Rights (ICCPR) 1966 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966. The International Covenant on Economic, Social and Cultural Rights in Article 11 recognizes 'the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.' General Comment No. 4 of the United Nations Committee on Economic, Social and Cultural Rights noted that the right to housing includes security of tenure and access to basic housing (Office of the High Commissioner, 1991).

Some regional instruments on human rights also made provisions for the protection of the human right to housing. Example of such regional instruments is the European Convention on Human Rights 1950. Article 8 of the European Convention provides for the respect to the right for private/family life and the home. Article 31 of the European Social Charter recognizes the respect to the right to housing and the obligations to promote access to housing, reduce homelessness and ensure affordable housing. In the same vein, the Charter of the Organization of American States 1948 provides in Article 31(k) that State Parties are to 'dedicate every effort to achieve adequate housing for all sectors of the population.' Unfortunately, the African Charter on Human and Peoples' Rights did not expressly provide for the right to housing. However, the African Commission on Human and Peoples, Rights expanded the interpretation of Articles 14 and 18 of the African Charter to implicitly include the right to housing which is 'fundamental right essential for human dignity.'

In Nigeria, the right to adequate housing as earlier noted is not explicitly provided in the 1999 Constitution. However, policies on housing have over the years formed part of the campaign manifesto of the political parties. The National Housing Policy by Federal Ministry of Works and Housing Federal Republic of Nigeria 1991 provided that the goal of the policy is to 'ensure that all Nigerians own or have access to decent accommodation at affordable price by the year 2000 A.D' (National Housing Policy, 1991). Year 2000 A.D has since gone without achieving the goal of the 1991 National Housing Policy. Now, the Renewed Hope Housing Scheme (2025-2026) projects that the aim of the Nigeria's National Housing Policy is to 'ensure all citizens have access to decent, affordable housing by 2030.' Government outlined the strategies she intends to embark on in achieving the goal to include land access reform, strengthening the Federal Mortgage Bank of Nigeria and implementation of public-private partnership. Government argued that in order to achieve the goal of the new Nigeria's National Housing Policy, a shift from direct government construction to a facilitator role for private sector participation becomes necessary.

In order to avoid direct provision of housing for workers in Nigeria, the Nigerian government enacted the National Housing Fund Act. The aims and objectives of National Housing Fund Act are to:

- a. facilitate the mobilization of fund for the provision of houses for Nigerians at affordable prices;
- b. ensure the constant supply of loans to Nigerians for the purpose of building, purchasing and improvement of residential houses;
- c. provide incentives for the capital market to invest in property development;
- d. encourage the development of specific programmes that would ensure effective financing of housing development, in particular low cost housing for low income workers;

- e. provide proper policy control over the allocation of resources and funds between the housing sector of the Nigerian economy; and
- f. provide long-term loans to mortgage institutions for on-lending to contributors to the fund.

Section 3 of the Act provides that the resources of the Fund shall consist of: (a) contributions by Nigerians in both public and private sectors (b) investment in the Fund by commercial and merchant banks (c) investment in the Fund by insurance companies registered under the Insurance Act and (d) financial contributions by the Federal Government for long-term housing loans. By Section 4 of the Act, 'A Nigerian worker earning an income of N3, 000 and above per annum in both the public and the private sectors of the economy shall contribute 2.5 per cent of his basic monthly salary to the fund.' The Act requires a Nigerian worker to continue to contribute his monthly salary into the national housing fund even when the worker does not have a roof over his head. It is argued that the provision of the Act should have been for the Nigerian government to provide a house for a worker upon his employment while deductions are gradually made on the worker's monthly salary to off-set the cost of the house and the house becomes the worker's property. Again, the contribution of the worker's salary into the national housing fund should have been on the voluntary basis; in that case, the scheme would have been more effective and competitive to the workers. Despite the above shortfalls, the national housing fund is challenged with systemic inefficiencies, bureaucratic bottlenecks in loan disbursement and improper record keeping. It is never an easy road for a worker to just work into the Federal Mortgage Bank and quickly smile home with the percentage of whatever the worker has contribute into the Fund from his salaries.

4. Human Rights to Adequate Housing in Nigeria

The release by the Office of the Secretary to the Government of the Federation acknowledged that, 'The provision of adequate housing that is safe, secure, accessible, affordable and sanitary is a fundamental human right as enshrined in the United Nations Habitat Agenda.' The release noted that housing has been universally accepted as the second most important human need. Housing is necessary for human survival and an important constituent for the advancement of the right to life and dignity of human person.

Human right to adequate housing is an inalienable right. The World Campaign for Human Rights noted concerning human right to housing thus:

At first glance it might seem unusual that a subject such as housing would constitute an issue of human right. However, a look at national and international laws, as well as the significance of a secure place to live for human dignity, physical and mental health and overall quality of life, it begins to reveal some of the human rights implications of housing

Human right to adequate housing goes beyond provision of right to acquire and own immoveable property in Nigeria. It implied that government should be responsible and held account for failure to provide adequate and affordable housing to individuals as well as families without discrimination on the basis of age, economic status, group or other affiliation or status at a reasonable cost. The inherent dignity of human person cannot be separated from the indispensable right to adequate and affordable housing. There is no dignity in a man who lives in shanty or place best qualified for piggery not of ostensive bred. The United Nations Committee on Economic, Social and Cultural Rights noted that the concept of right to adequate housing implies that a number of factors must take into consideration in determining whether or not the form of housing is adequate. They included:

- a) **Legal security of tenure.** The tenure of adequate housing may vary but it must not deprive any person a degree of security of tenure which guarantees legal protection against force ejection, harassment or threat.
- b) **Availability of services, materials, facilities and infrastructure.** An adequate house must contain certain facilities essential for health, security and comfort which include sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation, washing facilities, means of food storage, refuse disposal, site drainage and emergency service.
- c) **Affordability.** Affordable housing means that the cost of housing should not threaten or compromise the household's enjoyment of other human rights. Personal or household financial

costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.

- d) **Habitability.** Adequate housing must be habitable in terms of providing the habitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.
- e) **Accessibility.** Adequate housing must be accessible to those who are entitled to it. Classes of persons like the age, children, physically challenged and the sick must be considered in the provision of adequate house.

5. Challenges to Enforcement of Human Right to Adequate Housing in Nigeria

The first challenge to the realization of the human right to adequate housing in Nigeria rests on the constitutional provision which makes provision for shelter instead of housing. Even the provision for shelter in the Constitution of the Federal Republic of Nigeria 1999 (as amended) falls under Fundamental Objective and Directive Principle of State Policy which by virtue Section 6(6)(c) to the Constitution,

The judicial powers vested in accordance with the foregoing provisions of this section shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution.

From the above constitutional provision, items mentioned in Chapter II of the Nigerian Constitution including the directive on the state to provide adequate shelter is not justiciable. In other words, the power of the courts in Nigeria is not extended to the interpretation or enforcement of the provisions of Chapter II to the Nigerian Constitution.

Second, it is not in doubt that Nigeria is a signatory to many human right treaties including the International Covenant for Economic, Social and Cultural Rights, Convention on Elimination of all forms of Discrimination against Women, Convention on the Right of a Child, African Charter on Human and Peoples' Rights, however by the provision of Section 12(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), these international legal instruments on human rights cannot come into force in Nigeria unless they domesticated by the Act of the National Assembly. For this purpose, Section 12 of the Nigerian Constitution provides that 'No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.' In *Abacha v. Fawehinmi*, the Supreme Court ruled that undomesticated treaties,

...cannot change any aspect of Nigerian Law, even though Nigeria is a party to those treaties. Indeed, unincorporated treaties have no effect upon the rights and duties of citizens at either common law or statute law. They may however indirectly affect the rightful expectation by the citizen that government acts affecting them would observe the terms of the unincorporated treaties (*Abacha v. Fawehinmi*, 2000).

Again, Nigeria places emphasis on rolling housing policies instead of legal framework on housing. This is a big threat to human right to adequate housing in Nigeria. Policies are law and therefore cannot be challenged in court if they are implemented. Policies are just government intention or road map to achieving certain goal. Policies lack continuity because successive government may decide either to follow a policy of the predecessor or abandon it for a new policy. The United Nations Committee on Economic, Social and Cultural Rights lamented in paragraph 4 of its General Comment No. 4 that:

Despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate housing, there remains a disturbingly large gap between the standards set in article 11(1) of the Covenant and the situation prevailing in many parts of the world. While the problems are often particularly acute in some developing countries which confront major resources and other constraint, the Committee observes that significant problems of homelessness and inadequate housing also exist in some of the most economically developed societies.

The challenge to housing in Nigeria is not only limited to lack of adequate legal and policy framework but include high cost of building materials, high rent burden, lack of access to land and limited access to mortgage finance. The gap between the burgers and the proletariats kept on widening in Nigeria. Nigerian economy has allowed the concentration of the means of production and exchange in the hands of few individuals who decide cost every material and who decide when to hoard the materials and when to make them available to Nigerians.

6. Way Forward

The first point to note is that the struggle for the protection of inalienable rights of man has been a tortuous struggle. Like Cartal and Elohim noted 'Nothing Good Comes Easy' (Carter, et al, 2022). The struggle to recognize the Nigerians right to adequate housing is not expected to be an easy struggle. The masses need to be educated to be aware of the provisions of the international legal instruments on human right to adequate housing. Government needs to be held accountable by the people to explain why it has been difficult for the government to implement its policies and programmes on the provision of affordable houses to the masses. The constituents should hold their representatives in the National Assembly responsible for their failure to domesticate important international legal instruments on human rights which by the provision of the Nigerian Constitution cannot become law until the National Assembly domesticates them.

The judicial should move beyond rhetoric and become practical in adjudication of cases that border on the welfare of the Nigerians. Housing is a necessary component of human existence and should be interpreted as such through judicial activism. The Fundamental Rights (Enforcement Procedure) Rules (FREPR) Rules 2009 made by the Chief Justice of Nigeria pursuant to enabling constitutional provisions empowered court in Nigeria to actively interpret municipal, regional and international bills of rights brought to its attention or of which the court is aware in handling human rights cases. This the Nigerian court has once or more done that. Example is the case of *Mobil Producing (Nig) unlimited v. Ajanaku & Anor*, where the Court of Appeal held that,

A person's inalienable fundamental right to life, which is entrenched in Section 33 of the Constitution, as amended, the *fons et origo* of our laws, cannot be properly harnessed in the absence of his rights to hospitable environment, water, air, land, forest and wildlife which are also rights guaranteed under Section 20 of the selfsame Constitution. The two species of rights share symbiotic relationship and, *ipso facto*, should run *pari passu* in enforcement. It is impossible for any person to actualize his right to life when his socio-economic rights have fallen into eclipse (*Mobil Producing (Nig) unlimited v. Ajanaku & Anor*, 2021).

The Court Appeal acknowledged in that case that fundamental right to life cannot be realized in absence the right to hospitable environment. Hospitable environment cannot be complete without mentioning adequate and affordable housing.

It is therefore the thought of this paper that *fons et origo* of our laws, the *groundnorm*, that is the Constitution of the Federal Republic of Nigeria 1999 (as amended) must be further amended to accommodate the human right to adequate housing without which, the dignity of human person in Nigeria will never be complete. The justiciability of the human right to adequate housing in Nigeria is *sine qua non* to realization of right to life, right to dignity of human person, right to liberty of person among others.

7. Conclusion and Recommendations

What emerged from the discussion in this paper is that the Constitution of the Federal Republic of Nigeria 1999 (as amended) did not make provision for human right to adequate housing. The Constitution in its Section 16(2)(d) under the Fundamental Objectives and Directives Principles of State Policy encouraged states to direct their objective towards the provision of shelter. As noted in the paper, shelter serves as a place of refuge against danger. It does not represent housing envisaged by the international laws on human right. Adequate housing must contain essentials materials, facilities, infrastructure and services. It must be adequate, affordable, hospitable and accessible.

Nigerian government has over the years restored to formulation of policies on housing without implementation. The National Housing Policy of 1991 projected that by the year 2000 A.D Nigerian government should have provided adequate and affordable houses to the Nigerians. By the end of the year 2000, Nigerians were not provided with the affordable houses rather the scarcity of houses increased. In 2024, the Renewed Hope Housing Scheme came on board with the aim of providing adequate and affordable housing to Nigerians by the year 2030 thorough the public private partnership arrangements. Through the National Housing Fund Act, a worker compulsorily contributes 2.5% of his monthly basic salary to the National Housing Fund even when the worker does not have roof over his head. What an irony? Today, the cost of building materials is not affordable to the ordinary Nigerian work. House rent burden becomes worrisome. Securing mortgage finance becomes a hard nut to crack. These have resulted to endless circle of poverty and living in the modern day slavery. As noted by the Office of the Secretary to the Government of the Federation, ‘shortfall in housing provision has been attributed to the inadequacy of the existing national housing policy to meet current challenges and economic trends.’

Nigerian government should take the necessary measures towards achievement of the right to affordable and decent housing for all in line with the United Nations Universal Declaration of Human Rights. On this score, the paper recommends for the introduction of a robust legal framework on housing in Nigeria through the constitutional amendment. At this point, it become germane that Nigeria needs to move beyond good speech on the provision of housing to the masses and take practical step by breaking silence in Constitution of the Federal Republic of Nigeria 1999 through the express provision of the human right to adequate housing as enshrine in various international legal instrument on human rights..

References

- Abacha v. Fawehinmi* [2000] 6NWLR (Pt. 660), 228.
- Africa Charter on Human and Peoples’ Rights, (1981), Articles 14 and 18.
- Carter, F. & Elohim S., (2022). Nothing Good Comes Easy. *Song Lyrics*, February 11.
- CESCR General Comment No. 4, (1991). The Right to Adequate Housing. 114.
- Constitution of the Federal Republic of Nigeria 1999 (as amended), Section 6(6)(c), 16(2)(d), 34.
- Garner, B. A., (2009). Black’s Law Dictionary, Ninth Edn. A Thomson Reuters Business.
- Holy Bible, New International Version, Genesis Chapter 2:8, Isaiah 32:18.
- Mobil Producing (Nig) unlimited v. Ajanaku & Anor* [2021] LCN/14931 (CA).
- National Housing Fund Act, Cap. N.45 Laws of the Federation of Nigeria 2004, Sections 2 and 4.
- Office of the High Commissioner, (1991). CESCR General Comment No. 4: The Right to Adequate Housing, December 13.
- Office of the Secretary of the Federation, (2026). National Policy for Housing. <https://www.osgf.gov.ng/resources> .
- Peter, S. (2025). House Definition & Meaning. Merriam-Webster Dictionary. <https://www.merriam-webster.com>.
- United Nations, (1991). The Human Right to Adequate Housing. *Special Rapporteur on the Right to Adequate Housing*, <https://www.ohchr.org>.
- United Nation Office of the High Commissioner on Human Rights and UN-Habitat, (2009). World Campaign for Human Rights; Facts Sheet No. 21, Right to Adequate Housing.
- United Nations, (1966). International Covenant on Economic, Social and Cultural Rights.
- Zambia: (2020-2024). National Housing Policy, <https://www.policyvault.africa>.