

Social Movements' Skepticism in the Nigerian Judicial System and the Rise of Mass Protest as a Strategic Alternative to Legal Action

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The Nigerian judiciary is the only formally recognised institution through which aggrieved individuals and groups are expected to seek justice and redress for a perceived wrong. However, social activist groups' growing lack of confidence in the judicial system has precipitated a conspicuous change in their preferred approach for pressing home their demand(s). Regardless of their origin, structure, composition and objective(s), a common denominator among social movements in Nigeria is their preference for mass protest as against exploring legal option. On this basis, this paper discusses the trajectory of social movements' skepticism in the Nigerian judiciary, and the rise of mass protest as a strategic alternative for facilitating social change. The paper identified the major factors underlying social movements' increasing preference for mass protest as including the Nigeria's long military rule legacy, the executive arm of government's penchant disregard for court orders, the ability of mass protest to rapidly attract national and international spotlights, perceived judicial corruption, and the recognition of mass protest as a more result-oriented approach. Despite the increasing popularity of mass protests among social movements in Nigeria, the outcome of this strategy is often fluid and very difficult to predict.

Introduction

§1 Generally, the adoption of mass protest as an instrument for facilitating change in public affairs is among the jointly shared features of social movements worldwide)¹. In Africa, the Arab Spring of 2011 in Egypt, Libya and Tunisia, the food riots in Burkina Faso, the women anti-civil war protests in Sierra Leone, and the anti-slavery movements in Mauritania are among the popular examples where protests were essentially utilised by social movements in recent times². While many of these mass protests staged have not substantially translated into tangible improvements for protesters who have taken to the streets, others have successfully pressured regimes to the point where they acceded to popular demands³.

§2 Historically, mass protests and public demonstrations by civil society organisations and social activist groups have been the hallmarks of Nigeria since it gained independence from the British Colonial master in 1960⁴. Indeed, series of public protests organised and led by labour unions, youth movements and social activist groups have been witnessed⁵. These popular struggles have often been motivated by the exploitative, hegemonic and dominant character of the state, environmental degradation, high rate of unemployment, rampant poverty, corruption, repressive military dictatorship, deprivation, exclusion, marginalisation, denial and suppression of basic rights and freedom⁶.

§3 Over the years, social movements' growing lack of confidence in the Nigerian judicial system has precipitated a conspicuous change in their preferred approach for pressing home their demand(s). Regardless of their origin, structure, composition and objective(s), a common denominator among the contemporary social activist groups in Nigeria is their growing preference for mass protest as against exploring legal option(s) for actualising their objectives. Indeed, the prevailing situation across the nation indicates that both traditional and online social movements are increasingly taking their grievance(s) to the street in form of mass protests, mass demonstrations, solidarity marches, public campaigns and rallies⁷

§4 Despite the fact that social activist groups in Nigeria have always been vocal in matters of public affairs, their activities have become remarkably exponential since the nation's transition to democratic rule in 1999. Indeed, mass protest is fast constituting a permanent feature and everyday reality of the Nigerian's fourth republic as it is increasingly being adopted as a strategic means and result-oriented option by social movements that are becoming less enthusiastic about using the law to press home their demand.

§5 Some of the most prominent popular social movements that have been staging

mass protests in Nigeria to further their interests in recent times include the *'Bring Back Our Girls Movement'* calling for the release of over 276 female students kidnapped by the Boko Haram terrorist group in North Eastern Nigeria in April 2014⁸, the *'Resume or Resign and Our Mumu Don Do Movement'* demanding the return of President Muhammadu Buhari to Nigeria after spending over 3 months in a London hospital where he went to receive medical treatment⁹, *'the Shiite Movement of Nigeria'* protesting the continued incarceration of its leader, Sheik Ibraheem El-Zakzaky by the Nigerian government¹⁰, the *'Indigenous People of Biafra (IPOB) Movement'* pushing for the secession of the South-Eastern States from Nigeria¹¹, *'the End SARS Movement'* campaigning against alleged acts of highhandedness, brutality and extra-judicial killings engaged-in by the Special Anti-Robbery Squad Unit of the Nigeria Police Force (SARS)¹², and the *'Revolution Now Movement'* protesting against bad governance in Nigeria¹³.

§6 Although there is abundant literature on the emergence, structure, composition and modus operandi of social activist groups and civil society organisations in Nigeria¹⁴, yet, there is paucity of scholarly information on the factors accounting for the increasing preference of social movements for mass protest as against seeking legal redress in law courts. Therefore, this research was conceived with the goal of filling this void. Specifically, the central objective of this paper was to x-ray the trajectory of social movements' skepticism in the Nigerian judiciary, and the rise of mass protest as a strategic alternative for facilitating social change. The remainder of the paper is divided into three major sections: (i) mass protest as a strategic tool in the agenda of social movements (ii) the factors underlying social movements' preference for mass protest in Nigeria; and (iii) the effectiveness of mass protest as an alternative strategy facilitating for social change in Nigeria.

Mass Protest as a Strategic Tool in the Agenda of Social Movements

§7 Globally, mass protest has been recognised to be among the major strategies of social movements¹⁵. To Dalton, Sickle and Weldon¹⁶, available longitudinal evidence indicates that protest levels are increasing, even as nations develop economically and politically. According to them, protest once considered as an unconventional political activity has now become a common part of political repertoire in many nations. Also, King and Soule affirm that protest represents a more radical means of influence available to stakeholders mostly shut out from other institutionalised channels of change¹⁷. Also, Goodfellow mentions that protest in most cases is not only likely to be informed by discontentment with the empty promises of democratisation and limited channels for voice, but also by the presence of a political opposition (no matter how ineffectual) and the growing awareness of the functioning of government that accompanies even partial democratisation¹⁸.

§8 Della Porta and Mosca observe that protest has become a potent tool of public influence over government policy making and implementation¹⁹. Equally, Dalton, Sickle and Weldon contend that political protest has a long history in the repertoire of political action and the course of political development²⁰. Furthermore, Taylor and van Dyke see protests as sites of contestation in which bodies, symbols, identities, practices and discourses are used to pursue or prevent changes in institutionalised power relations²¹. Eberlei argues that protests organised by social movements are often combined with pragmatic systemic interventions²². In the same vein, Della Porta and Mosca articulate that protests such as petitions, demonstrations, and consumer boycott are fairly pervasive and have become increasingly popular in recent decades²³. Additionally, Tilly opines that the modern repertoire which emerged with the French Revolution has not changed much because boycotts, barricades, petitions, and demonstrations are all still present (and indeed probably dominant) in the panorama of protest²⁴. Della Porta and Mosca contend that for a protest to be effective and gain public support, it must be innovative or newsworthy enough to echo in the mass media and, consequently, reach the wider public which social movements (as “active minorities”) are seeking to convince of the justice and urgency of their cause²⁵. Protest action, according to Pizzorno, has an important internal function which essentially involves creating a sense of collective identity which is a condition for action towards a common goal²⁶. Koopmans claims that though protest does not always develop towards violence, nonetheless, its waves of contention might follow different paths²⁷. Similarly, Tarrow asserts that though protest cycles vary in terms of dimension and duration, they have had a number of common characteristics in recent history²⁸. Moreover, King and Soule view protest as a natural environment

for social movements which essentially involves a public action that is primarily aimed at involving various audiences in the change process, while appealing as much to the masses as to the internal decision makers²⁹. However, Earle contends that protest in fragile democracies does not represent a backlash against democracy or even the government in power, but it is rather similar in many regards to the background and motivation of activists in stable democracies³⁰. Therefore, the strategic choices made by social movements have evolved over time, and are the result of interaction between a number of different actors³¹. On his part, Saiegh posits that democratic societies experiencing high waves of social unrest in the form of riots and protests positively correlate with those where either an especially high or especially low proportion of laws proposed by the executive are successfully passed³². Equally, Tripp argues that the coexistence of authoritarian and democratic tendencies often alters the strategic calculus for both governments and protestors³³. More so, Tilly asserts that contemporary progressive social movements continue to diverge on the question of how much effort to invest in engaging the State and changing the terms of its relationships with its citizens, including laws, policies and the provision of basic needs considered as the 'enabling conditions' for rights³⁴.

Factors Underlying Social Movements' Preference for Mass Protests in Nigeria

§9 The skepticism of social activist groups and civil society organisations in Nigeria towards the utilisation of judicial process for the purpose of actualising their objective(s) and their subsequent increasing preference for mass protest as a strategic alternative can be adduced to multiple factors. These determinants are discussed in this section. One major reason accounting for social activist groups and civil society organisations preference for mass protest is the Nigeria's prolonged military rule legacy. Since her independence from the British colonial master in 1960, Nigeria as a nation has experienced more of military rule than democratic system of government. Indeed, prior to the inception of the current fourth Republic which commenced in 1999, the nation has consistently been under the rule of different military regimes for about 17 years. During this period, the successive military administrations ruled the country by their decrees and martial laws. Generally, the constitution was suspended, there was no recourse to the rule of law, and human rights were routinely violated³⁵. Indeed, the military regimes were not only hostile to dissenting voices, but were also frequently disobedient to the judiciary. According to Onyegbula:

“The years of military rule were characterised by gross human rights abuse and repression of political dissent. The respect for rule of law and due process were abandoned for the naked abuse of power. The press reported several cases of people being harassed, detained without trial, tortured, extra-judicially executed, brazenly murdered, discriminated against and forcibly displaced from their homes...The military regime's arrogation of judicial power and prohibition of court review of its actions significantly impaired the authority and independence of the judiciary”.³⁶

Consequently, the intimidating atmosphere created by the successive military administrations which frequently resulted in blocked access to legitimate avenue for channelling grievances is partly responsible for the adoption of mass protest by social movements in Nigeria as an alternative pathway to pressing home their demand(s). The Human Rights Watch reports that the typical reaction of the Nigerian state to the mass protests organised by social activist groups and civil society organisations is typically characterised by violent repression³⁷. Similarly, Hari points out that the frequent brutality of personnel of the Nigeria Police Force and the Nigerian Army during mass protests often lead to death of protesters, imprisonment of protest leaders, and occasional proscription of labour movements and youth groups³⁸.

§10 Another reason that is responsible for Nigeria's social movements' adoption of mass protests as a strategic alternative for facilitating social change rather than exploring legal option is the frequent disregard for court orders by democratically elected officials. Despite the fact that Nigeria has transitioned from military rule to democracy since 1999, certain actions taken by some of the civilian administrators at different points in time indicate that they are ill-disposed towards the activities of social activist groups and civil society organisations. Nigeria operates a federal system of government with three distinct organs of government made up of the executive, legislature and judiciary. Ideally, these constituents are constitutionally empowered to oversee different clearly defined areas of governance. However, in reality, the executive arm is the most powerful. Hence, its officials are often overbearing and do frequently arm-twist the other two organs of government. Consequently, this illegal asymmetry, but widely accommodated power structure often encourages the executive arm, especially the President and State Governors to disrespect some legislative orders and judicial pronouncements³⁹. This routinely exhibited act of impunity on the part of the executive organ was particularly rampant under the administration of former President Olusegun Obasanjo whose government frequently disobeyed different court rulings between 1999 and 2007⁴⁰. Also, in September 2014, a governor-elect in the south-west Nigeria allegedly supervised the beating and public humiliation of Justice John Adeyeye by his political thugs for allegedly being rude to him⁴¹. Similarly, in May 2018, some armed thugs invaded the Rivers State High Court in a bid to stop it from making a pronouncement on a suit filed by a faction of a political party (the All Progressive Congress) seeking to stop the conduct of local government congresses in the State⁴². Therefore, recognising this challenge confronting the Nigerian judicial system, members of civil societies and social activist groups prefer to take their grievance(s) to the street rather than approaching the court of law for redress. This situation corroborates the assertion of Bardhan that the enforcement of the law in many developing countries is often so weak that 'the importance of the legacy of the formal legal system is moot'⁴³. Additionally, Kitschelt has equally observed that the strategies adopted by social movements are often influenced by the national political culture of the systems in which they develop⁴⁴.

§11 Furthermore, social movements' perceived pervasive judicial corruption in Nigeria is also a major factor influencing their preference for mass protest as a catalyst for facilitating social change. Indeed, the integrity and public image of the Nigerian judiciary is increasingly shrinking owing to the alleged involvement of some judges and other judicial officials in illegal acts bordering on corruption and high-handedness in their handling of some judicial matters. For example, in January 2019, a former Chief Justice of Nigeria, Walter Onnoghen was accused of corruption by the Code of Conduct Tribunal (CCT) and the Economic and Financial Crimes Commission (EFCC)⁴⁵. He was eventually found guilty on all the six-count charge levelled against him; and this outcome pressured him to resign⁴⁶. Also, in October 2016, seven Federal High Court judges were arrested across the country

by the officials of the Department of State Services (DSS) for their alleged involvement in acts of corruption⁴⁷. Similarly, the National Judicial Council of Nigeria (NJC) in July 2016 dismissed three judges for their alleged involvement in acts constituting judicial malpractices⁴⁸. Therefore, realising that they may not likely to get the desired redress by formally instituting legal action in a court of law as a result of a corrupt judge perverting the course of justice, social activist groups and civil society organisations often resort to mass protests and demonstrations to correct their perceived wrong in the society. Dalton, Sickle and Weldon have also rightly articulated that movements may be inspired by past social movements' history or by essentially drawing on their strategies, symbols, political visions and stories⁴⁹.

§12 In addition, social activist groups and civil society organisations in Nigeria are increasingly favouring mass protest as a potent vehicle for accelerating their cause(s) because of its embedded unique capability to rapidly attract both national and international spotlights. Unlike the judicial process which may fail to fully bring the activities of social movements into national consciousness, mass protest through its coverage by both electronic and print media, not only has the capacity of drawing people's attention to their activities, but can also earn them public support at both local and international levels. Equally, since the Federal Government is often concerned with its public and international image, therefore the multiplier effects of the resulting accumulated pressures from social movements' sympathisers within and outside Nigeria do occasionally culminate in government's decision to accede to their requests or to at least formally engage them. Therefore, the realisation of the fact that mass protest can be more result-oriented on some matters compared to seeking legal action accounts for Nigeria's social activist groups and civil society organisations' preference for it as a strategic alternative to bringing about a desired change in public affairs. For instance, the *Occupy Nigeria Movement's* protest against the Federal Government's fuel subsidy removal in 2011 and the '*Bring Back Our Girls Movement*' protesting the abduction of 276 secondary school girls in Chibok, Borno State are examples of social movements that have successfully utilised mass protests to gain both national and international attentions. Earle has also observed that social activists and their organisations often link their demands to international policy debates and laws or agreements so as to benefit and gain greater legitimacy⁵⁰. Moreover, large protests also have a greater impact on their targets because of their ability to disrupt their target's routine activities and grab the attention of a wider public audience⁵¹.

The Effectiveness of Mass Protest as an Alternative Strategy for Driving Social Change in Nigeria

§13 Despite the increasing popularity of mass protest as an alternative strategy among social activist groups and civil society organisations in Nigeria, its outcome is often fluid and very difficult to predict – while some mass protests have resulted in the actualisation of their organisers’ objective(s), others have turned out to be failure. Generally, four major factors are often very important in determining the end-product of a mass protest. First, the prevailing national political climate in Nigeria at the time a mass protest is being staged is a strong determinant of its eventual outcome. Although the Nigerian government is usually receptive to non-violent mass protests by social activist groups and civil society organisations. However, public demonstrations and public protests during an election year are often less tolerated. Election periods in Nigeria are often characterised by tension and apprehension⁵². Therefore, the government is often anxious to control any activity considered to have the potential to further ‘heat-up’ the polity. Hence, organisers of social protests at this period are likely to fail to achieve their objective(s). Similarly, police personnel and other law enforcement officials are also important deciders of the success or failure of a mass protest. Since law enforcement officials are primarily charged with the responsibility of maintaining law and order in the society. Therefore, their overall assessment of the potential security implications of a protest will influence their disposition towards it. However, the body language of the Federal Government in relation to a mass protest more often than not usually influence law enforcement agencies’ risk assessment of the situation. Specifically, organisers of a mass protest considered to be ‘inimical’ to the interest of the government are often harassed and/or arrested, while protests considered to be less injurious to government’s interests are often accorded less priority. For instance, about 60 ‘*Revolution Now*’ protesters were forcefully arrested by security operatives in August 2020 during a public demonstration in the Federal Capital Territory (FCT), Abuja⁵³. Similarly, over 42 people were killed during a protest by soldiers during a mass demonstration staged in Abuja by members of the Islamic Movement of Nigeria (IMN) in October 2018⁵⁴. Hari has observed that policing of protests by the State in Nigeria is usually done largely by relying on physical violent control strategy involving the use of direct physical force on protesters, including the utilisation of poisonous canisters, harassment, arrest, detention, torture etc. and non-physical violent control strategy, such as the use of draconian laws, rules and regulations⁵⁵.

§14 Public ambivalence is another important factor that is crucial to the outcome of mass protests organised by social activist groups. Generally, the end-product of a social protest in Nigeria is often determined by the level of support it enjoys from members of the public. Typically, mass protesters that attract public sympathy often successfully actualise their objectives, while those that do not enjoy public

support normally fizzle out before making any meaningful progress. In fact, organisers of social protests in Nigeria often rely on public support for the successful accomplishment of their objective(s). For example, the success that was recorded during the January 2012 protest staged against the Federal Government over its removal of fuel subsidy by the *Occupy Nigeria Movement* was largely due to the large public support it enjoyed. Conversely, members of a social movement staging an unpopular social protest have occasionally been beaten up by supporters of the government, particularly by people belonging to the same ethnic extraction with the President. A particular example that readily comes to mind in this particular instance was the attack of a popular musician, Charly Boy, who led a social protest calling for the resignation of President Muhammadu Buhari owing to his health challenge in August, 2017⁵⁶. This position corresponds with the submission of Hendrix and Salehyan that the maximal mobilisation potential of the opposition in societies where ethnicity serves as a marker of inclusion or exclusion in networks of political power will likely to be affected by the size of the ethnically excluded population⁵⁷. Moreover, Diani has also opined that it would be hard to form broad-based coalitions and social movements in societies where strong social cleavages are apparent⁵⁸. This situation is particularly true for a multi-ethnic nation like Nigeria.

§15 Similarly, the effectiveness of a mass protest as a driver of social change is frequently influenced by government's perception of the actors behind it and their main intent(s). Typically, the Nigerian government's response to public demonstrations and mass rallies organised by social activist groups and civil society organisations is often strongly influenced by its perception of their organisers, their motives and intents. If the government has any reason to believe that a mass protest is being sponsored by members of the opposition for the purpose of achieving some political gains, the use of force may be deployed to contain it, and this may lead to the end of such a mass action without its organisers achieving their goal. Indeed, in February 2017, a one-day anti-government protest that was proposed to be led by a popular musician, 2face Idibia was eventually cancelled owing to security and safety concerns as it was disclosed by law enforcement agents that some political opponents of the government were allegedly planning to hijack it for selfish gain⁵⁹. Also, in May 2016, many people were killed while scores injured during a government-proscribed mass protest staged by members of the Indigenous Peoples of Biafra (IPOB) and the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB) in some south-eastern states of Nigeria⁶⁰. This observation is in line with the submission of King and Soule that the executive arm of government might interpret protest as the discontent of a radical minority of stakeholders if social movements lack internal influence through legitimate channels of change. Indeed, the level of threat posed by a protest has been shown to affect a number of different movement processes⁶¹.

§16 Furthermore, judicial determination of the status of a mass protest in the eyes of the law often plays an important role in its overall success or failure. Occasionally, the judiciary do get approached by either the Nigerian government or organisers of a protest to determine its legality or otherwise. On the one hand, social activist groups and civil society organisations may file a suit in the court of law to compel the government to allow them embark on a peaceful protest or mass demonstration to enable them exercise their fundamental human rights. On the other hand, the Nigerian government may institute a suit asking the court to declare a proposed mass protest by social activist group(s) null and void. The stance of the court in a situation of this nature often goes a long way in influencing the overall effectiveness of a mass protest. If a court judgement favours the government, such a protest will automatically fizzle out because it would be tagged unlawful and unconstitutional. However, if a judicial pronouncement supports social activist groups, government may be pressured to accommodate their protest. For instance, in June 2014, the High Court of the Federal Capital Territory declared that the Nigeria Police Force had no power under the Nigerian 1999 Constitution to stop any group from staging a peaceful protest/rally over the abduction of over 276 female students from the Girls Government Secondary School, Chibok in Borno State by the Boko Haram terrorist sect⁶².

Conclusion

§17 The central concern of this article bordered on the trajectory of the Nigerian social movements' skepticism in the judiciary, and their adoption of mass protest as a strategic alternative for facilitating social change. The paper identified the major factors underlying the Nigerian social activist groups and civil societies' increasing preference for mass protest to include: the prolonged military rule legacy of the nation; the democratically elected public officials' penchant disregard for the rule of law; perceived pervasive judicial corruption; and the capability of mass protests to rapidly attract both national and international spotlights. However, in spite of the increasing popularity of mass protests as a strategic alternative to social movements in Nigeria, the prevailing national political climate; public ambivalence regarding a protest; government's perception of the actors behind protests and their intent(s); and the status of a mass protest in the eyes of the law are the major determining factors in the final outcome of a mass action.

§18 Although mass protests being organised by social activist groups and members of civil society organisations in Nigeria are potent drivers and mobilisers of change in public affairs, nonetheless they equally constitute important political tools in the hands of some actors for actualising their political interests. Consequently, the recognition of the latent and manifest political powers embedded in mass mobilisations usually generate a wide dissension in the kind of interpretations given to them by their organisers, the government, and the public; and this often has serious implications for their final outcome.

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