

## Review

# Elements of jurisprudence in Archbishop Okeke's 'person-optimism' theory in legal defense of human dignity

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It is in the hermeneutics of theories that the relevant foundations of socio-political and even legal progress may be established. Theories themselves are either directly postulated by their originators, or are espoused from the thoughts of great thinkers as in the present case where we try to read the 'person-optimism' theory into Archbishop Valerian Okeke's thoughts and attitude to the dignities of man. In the life style, speeches, writings and administrative actions of Archbishop Okeke, one is recurrently confronted by a prodigious predilection for the sanctity, capacity, dynamism and dignity of the human person. This rare optimism characterizes the Archbishop's personal approach to the all too commonly disvalued human person, much as it underpins his theoretical conception of the otherwise depraved human nature. In this work, we merely try to outline the profound ethical considerations which inspire Archbishop Okeke's irrevocable optimism in the dignity of man, including the corresponding features of jurisprudence derivable from his general thoughts on the subject. Interestingly, from the rich thought pattern of the Archbishop, one derives a veritable theoretical foundation for positive evaluation of all legal positions and/or defenses arising from the dignity attached thereof to human nature. Accordingly, we read into and designate his ethic of human nature as 'person-optimism' approach to reality and so build it up to a theoretical status through an aggregate of postulates. This work there upon argues that arising from the 'person-optimism' theory of Archbishop Valerian Okeke, existing legal framework for the protection of human dignity and rights could be more positively adjusted. The substance of this work therefore is to make a case for the adoption of the 'person-optimism' theory as a jurisprudential ground for further reviews and postulations of legal defense and/or protection of human dignity and rights especially in the Nigerian Jurisdiction. The Archbishop's 2007 Lenten Pastoral provides the fundamental anchor for this work.

**Key words:** Archbishop Okeke, optimism, 'person-optimism' theory, human dignity.

## INTRODUCTION

Any scholarly engagement on human nature may be profitable through two possible approaches. One approach is from the view point of the apparent depravity of human nature – pessimism; and the other, from the perspective of a redeemed nature, may be considered to be potentially rich with immense possibilities – optimism. Each of these modes of approach has a crop of thinkers who espoused it. Such thinkers as Arthur Schopenhauer (prophet of pessimism), espoused the first approach and ended in awful distrust about man, his nature and

possibilities (Schopenhauer, 1989). Others include Frederick Nietzsche (nihilism), Mark Twain (human tragedy), Jean Paul Sartre (existentialist), Karl Barth (for his strange emphasis on the sinful nature of man), Sigmund Freud, who taught that man is anti-social and that the function of the society is to restrain man's evil nature (<http://www.holisticeducator.com/freud.htm>); and particularly, Thomas Hobbes in his *homo homini lupus*<sup>1</sup>. There are indeed many others who neither found any value in human nature nor ascribed any to it but malice

and caprice. Machiavelli would advise the Prince to follow men with great suspicion of intent at the first meeting.

On the other hand, the second approach has not been less patronized. Notable among world optimists are Plato (Ideal World thesis), St. Augustine (City of God), Leibniz (Best Possible World thesis), William Godwin, Christianity, and John Paul II who in his work *Love and Responsibility*, first published in 1960, proposed what he termed the *personalistic* norm:

This norm in its negative aspect, states that the person is the kind of good which does not admit of use and cannot be treated as an object of use and as such the means to an end. In its positive form the personalistic norm confirms thus: the person is a good towards which the only proper and adequate attitude is love (Wojtyla, 1993).

Archbishop Valerian's "person-optimism" ranks very closely to the *personalism* of John Paul II, though with a unique and differential effect.

An integrative reading of Archbishop Valerian Okeke's life and thought reflect an uncanny predilection for the personhood of man. He places much capital on the quality of the individual as a unique and desirable creation by God. In his latest Pastoral Letter (2011), he unequivocally enjoins gratitude to "the lower beings... the inanimate things we have around us" (Okeke, 2011), so to show how much more gratitude we owe to every individual person, even for just being there (existing). We recall again that earlier in his 2007 Pastoral Letter, he so admirably personalized government, its agencies and institutions that he appropriates the business of keeping and managing Common Good to them as individuals and not merely as amorphous bodies or faceless establishments.

Thus, he emphasizes the primacy, indeed, the supremacy of the individual's obligation over the more abstract collective responsibility towards common good. That the former gives meaning and/or vent to the latter nay to the benefit of social justice warrants that "each one contributes to the welfare of the society, to further the development of the society and safeguard the common good" (Okeke, 2007). What is immediately clear is the centrality of the dignity which the Archbishop assigns to the human person. It is this his predisposition and perception towards human dignity that this work wishes to explore especially through studying the Archbishop's pastoral letter *You and The Common Good* much as from his life.

Archbishop Valerian Okeke is a harbinger of the gospel of optimism about human nature. He echoes the good news about man, and he announces rather than denounce the human person. What particularly distinguishes his space of optimism is that he is a theistic optimist and a passionate facilitator of the human person project in the world. His life speaks more clearly than any theory fashioned from it can demonstrate. Like Christ, the Archbishop's life is simply didactic. As a matter of fact, his life and teachings start from an assertion of the

goodness of human person,<sup>2</sup> merely recognizes that the deficiency therefore arises by reason of the fall man, but quickly bypasses this obstacle to the full proclamation of the restored goodness of the human person occasioned in the redemption story.

Since, the whole issue of human dignity and rights under the law depends on the theoretical presupposition about man and his nature, a search for a dependable foundation is indispensable. A legal system that adopts punishment, death penalty, imprisonment, and tolerates torture, injustice and discrimination does not affirm the good in man and is less sensitive to human dignity. The point is that an optimistic theory of man is at the basis of a just legal system and could anchor rational postulates for the protection of human dignity and rights. Here Archbishop Valerian's "person-optimism" theory stands unchallenged and pushes to the fore the desirability, indeed, necessity for exhaustive jurisprudential considerations of the status of human nature in law.

## FROM THE COMMON GOOD TO HUMAN DIGNITY

It is a good test of the value placed on man in a society by examining the prevailing attitude to the Common Good discoverable therein. According to the Archbishop in his Pastoral letter, *You and the Common Good*, some factors against common good and therefore against human dignity includes: poor emphasis on education, undue respect for money leading to crimes of all definitions, bribery and corruption to mention a few. He calls attention to the fact that "respect for human dignity calls for respect for the rights of the other, starting from the right to life itself to those things which enhance fulfilled human existence." What is more, renewed sense of service, a true sense of religion and Christianity, right sense of virtue and community are the indices and manifestations of human dignity properly so called. Precisely as antithetical to the human dignity the Archbishop decries Nigerians' attitude to common good – public fund, public offices, public power, common property, common time and public institutions. He defends the people's right to good government, environment, education and economics as enshrined in the chapter two of the 1999 Constitution of the Federal Republic of Nigeria (Okeke, 2007). Indeed for Archbishop Okeke:

The idea of the common good is based on the intrinsic dignity of the human person created in the image of God and the social nature of man who is always part of a society, beginning with the family of birth to the larger society like his neighbourhood, town, state, country and the entire world. The true nature of the human person as a member of a society who builds and expands social organizations, facilities and institutions for the satisfaction and fulfillment of man, imposes an obligation in justice for men to respect the private goods of other individuals and their common good (Okeke, 2007).

## FROM THE HUMAN DIGNITY TO HUMAN RIGHTS

There is without doubt a certain degree of respect, honour and sacredness that attach to man as man precisely because he is a subject of immense dignity.

Notice that this dignity is a derivative one. It belongs to man by virtue of his being a unique creature of God, and it is on this dignity that the entire array of rights which are properly called human rights are cast. Hence what in our laws are defined as human rights, are symbols of recognition of the fact that man is created in the image and likeness of God. The investment of rights on man is a remote ascription of honour to God through his image and likeness that is man. Hence:

The dignity of the person is manifested in all its radiance when the person's origin and destiny are considered: created by God in his image and likeness as well as redeemed by the most precious blood of Christ, the person is called to be a 'child in the son' and a living temple of the spirit, destined for eternal life of blessed communion with God. For this reason, every violation of the personal dignity of the human being cries out in vengeance to God and is an offence against the creator of the individual (John Paul II, 1988).

Indeed, if we look upon the dignity of the human person in the light of divinely revealed truth, we cannot help but esteem it far more highly (John XXIII, 1963). It is a transcendent value, always recognized as such by those who sincerely search for the truth. As it were, every person, created in the image and likeness of God, is radically oriented towards the creator, and is constantly in relationship with those possessed of the same dignity. Hence "to promote the good of the individual is thus to serve the common good, which is that point where rights and duties converge and reinforce one another" (John Paul II, 1999).

The human person, being a creature in God's image is a subject of sublime dignity because God has elevated it to a very tall estate as a cultural, working, symbolic, knowing and self-conscious reality. What is more, man is a free subject, a moral subject with great aesthetic blend (Izunwa, 2011).

Boethius highlighting on the dignity of the human person has classically defined a person as "individual substance of a rational nature" (Wallace, 1977). This means a substance that is complete, subsists by itself, separated from others and has capacity for abstract thought. The idea of 'person' is diametrically opposed to that of mere 'thinghood', and this radical difference appears to argue in favour of man's special dignity as a being having dominion over his own activity and has spirituality. Thus:

The human person, precisely as spiritual is free from such relationships imply for a moral and social order (Wallace, 1977).

Aspects of a "person" include intelligence, wholeness and individuality and from individuality flows such

features of personhood as *distinctiveness*, *unrepeatability* and *uniqueness*. In the concrete individual persons are also found elements of *responsibility* and *possession of distinctive rights*.

Note that it is this elevation to the level of "person" that, in the most eminent way, discloses the inner nature of man. He (man) is a person as God, angels and perhaps other spirits are. All the transcendent perspectives to the life and activity of man, namely, all rights and dignity accorded to man are derivations from the reality of his being as "person". In his personhood, man reaches the climax of his distinctiveness from matter and closeness to spirit. Thomas Aquinas clearly demonstrated that the person is the individual concrete man in all his concreteness, uniqueness and unrepeatability.

## HUMAN DIGNITY AND RIGHTS IN NIGERIAN CONSTITUTION: A SUPERSTRUCTURE UPON A FALSE AND UNINSPIRING BASE

There are, available for legislative adoption, various theories of human dignity and rights. Yet it is important to insist on credible inspiration of or influence on the laws. Without doubt, the basic norms undergirding legislations more or less determine the weight of the various laws. But where the norm is inadequate to support the effectiveness of any law, such law, commands little or no obedience. This is the bane of the Nigerian Constitutional provisions relating to the protection of the human dignity and rights.

We may observe that the operative idea of human dignity and rights in the Nigerian Constitution emphasizes more of legal grant than legal recognition. This is critical for jurisprudence. Indeed in *Uwaifo V. Attorney General, Bendel State*<sup>3</sup> rights in the laws of Nigeria were defined in terms of legal limitations of the liberty of one in favour of another. In which case, civil rights strictly speaking becomes the creation of chapter two and four of the Constitution of Federal Republic of Nigeria. Particularly, the court in *Siddle V. Majors*,<sup>4</sup> defined fundamental rights as "those which have their origin in the express terms of the constitution or which are necessary to be implied from those terms." Hence, in this very understanding rights are neither inalienable nor universal.

What is more, the rights as generally provided for in the chapter two of the Constitution of the federal Republic of Nigeria were tagged 'Fundamental Objectives and Directive Principles of State Policy'. In essence, they relate to the ultimate objectives of the nation and paths leading to such objectives. It appears therefore that the general provision for rights in this context is utilitarian in content, as it is relevant in effect. This is because it seeks to define "notions of right solely in terms of tendencies to promote certain specified ends such as common good." The problem with this idea is that "an individual desire for welfare may be sacrificed as long as the aggregate

satisfaction or welfare is increased (Allahmagani, 2005). As it were, the Nigerian idea of Human Rights arguably has a positivist bias. Hence what the law says is correct. Often too, it appears to be merely historical “expressing the inspiration and seeking to remedy ills, of particular places and time” (Kamenka, 1978).

Of course, no jurisprudence could better guide the human right provisions of the Constitution of the Federal Republic of Nigeria than the Natural law school. Any attempt to legislate on rights and human dignity outside the natural law boundaries would end up in the legalization of licentiousness and/or permissiveness. The natural law theory finds in the “rights’ a necessary concomitance of the dignity of the human person and that is where the ‘person-optimism’ theory anchors. It is for this reason that it is said of ‘rights’ that they are inalienable and universal. The CFRN (Constitution of the Federal Republic of Nigeria, 1999) in its Chapter two and four provides for the political, economic, social, environmental and educational rights on the one hand and then the fundamental human rights on the other hand respectively.

In chapter four of the constitution, the following rights were provided with a power to enforce their violation against any person or organization: section 33, Right to life; section 34, Right to dignity of human person; section 35, Right to personal liberty; section 36 Right to fair hearing; section 37, Right to private and family life; section 38, Right to freedom of thought, conscience and religion; section 39, Right to freedom of expression and the press; section 40, Right to peaceful assembly and association; section 41, Right to freedom of movement; section 42, Right to freedom from discrimination; section 43, Right to acquire and own immovable property in Nigeria (Constitution of the Federal Republic of Nigeria, 1999). Particularly, section 34(1) provides that:

Every individual is entitled to be respected for the dignity of his person and accordingly; (a) no person shall be subjected to torture or to inhuman or degrading treatment; (b) no person shall be held in slavery or servitude; and (b) no person shall be required to perform forced or compulsory labour.

This right to dignity is one of the most intrinsic rights of man and can be seen as the determinant of personhood (Mowoe, 2008). The atrocities of the two ravaging world wars and of the many ethnic and religious conflicts have brought to the lime light the need to secure human dignity on very firm foundations. As a matter of urgency the Charter of the United Nations in its preamble reaffirms, among other things, the universal faith “in the dignity and worth of the human person.”

For the protection of the ensemble of these human rights, the constitution further provides that:

Any person who alleges that any of the provisions of this chapter (chapter four, that is, fundamental Human Rights), is being or likely to be contravened in any state

in relation to him may apply to a High Court in that State for redress.<sup>5</sup>

## **HUMAN DIGNITY AND RIGHTS VIOLATION IN NIGERIA**

Notwithstanding the provisions of the fundamental rights in the Constitution of the Federal Republic of Nigeria and the consummate efforts made by the judiciary as well as the executive to enforce human rights, the human rights observance/respect status in Nigeria remains very low. The issue is that Nigeria’s human rights record remains poor and government officials at all levels continue to commit serious abuses (Human Rights Report: Nigeria, 2008). In fact, the most significant human rights problems in Nigeria are: extra judicial killings and use of excessive force by security forces; impunity for abuses by security forces; arbitrary arrests; prolonged pre-trial detention; judicial corruption and executive influence on the judiciary. Other violations of human dignity prevalent in Nigeria include:

...rape, torture and other cruel, inhuman or degrading treatment of prisoners, detainees and suspects; harsh and life-threatening prison and detention center conditions; human trafficking for the purpose of prostitution and forced labour; societal violence and vigilante killings  
(<http://www.state.gov/g/drl/rls/hrrpt/2008/af/119018.htm>).

Human dignity and rights violations are not restricted to the forms and types already mentioned. There are also the religious perspectives to that. For instance, the Sharia penal code provides harsh sentences for alcohol consumption, infidelity in marriage, and theft. Punishments include amputation, lashing, stoning and long prison terms.<sup>6</sup> It is also on record that even some Christian pastors in Nigeria are involved in torturing and killing of children accused of witchcraft (<http://www.amnestyusa.org/countries/africa/Nigeria>).

In the event that human right status of Nigeria is very poor, the only credible inference is that the perception of the sacredness of the human person and human dignity is correspondingly low. Hence, to ensure a substantial protection of the human rights, a theoretical impetus for the appreciation of human dignity must be advanced for a jurisprudential foundation. A case is hereby made for the ‘person – optimism’ theory of Archbishop Valerian Okeke as the needed desideratum for any future successful construction and protection of human rights in the Nigerian jurisdiction.

## **ON THE FOUNDATIONS OF ‘PERSON OPTIMISM’ THEORY OF ARCHBISHOP VAL OKEKE**

Optimism (from the latin, optimus, best) and pessimism (from the latin, pessimus, worst) are two opposing

world-views or states of mind. The former amounts to an overall positive view of things (like that of a half-glass of water, that it is half-full) while the latter corresponds to a negative view (that the glass is half-empty) (<http://www.newworldencyclopedia.org/entry/pessimism>). Archbishop Okeke's optimism gains the greatest moral relevance in its application to the human nature and/or person. His optimism regarding the basic goodness and disposition of the other is of course without prejudice to his uncensored sense of right and justice and his belief in the possibility of 'bad-will'. Any student or even a casual listener to the Archbishop does not need any rigors to read his emphasis on 'bad-will'. He accepts that despite the fundamental goodness of man, there are cases of willed deviation from the objective truth by option anchored on studied wickedness. Hence, in his ethical teaching, the Archbishop discloses a determination to confront 'bad-will'. Otherwise, once there is 'openness' and 'docility', he does not find in mere human weakness a reason for despair or distrust. He maintains in effect that "human weakness" if anything, "is evidence that man is a project and at once an invitation for attention in love" (Bigard Chapel, 1999).

The essential postulates of Valerian's 'Person-optimism' include but are not limited to: (i) Absolute primacy of the divine; (ii) Priority of persons over things; (iii) Persons as moral subjects of love; (iv) Persons as moral subjects of change; (v) Friendship as moral agency/occasion for change; (vi) Peace as social/political condition for positive change; (vii) Gratitude as the dragnet for latent human potentials; (viii) Common Good as the uncommon test of the value placed on man. An evaluation of these principles demonstrates the fact that the 'person-optimism' theory starts from a theological anthropology and ends in a political/legal sociology.

## **A DISCOURSE OF THE POSTULATES OF 'PERSON-OPTIMISM' THEORY**

### **(i) Absolute primacy of the divine**

Any good reader and/or student of Archbishop would quickly notice that he distances and distinguishes his confidence in man from the doctrines of the secular humanists who believe that man without a transcendent anchorage is the measure of all things, author and finisher of his fortunes. Valerian is avowedly a theistic humanist who believes in a theological anthropology which begins and ends with the absolute primacy of the divine. Hardly would he in his days as a lecturer, conclude any topic in Ethics or Moral Theology, without having to anchor the theme on theistic humanism. The proposition can be put this way, Valerian believes in man, because man is a creature of God. Hence theology is the basis of the anthropology, which inspires his optimism. Little wonder George Adimike in his *Introduction to the*

*Power of Grace* summarizes the entire ideal for which the Archbishop stands as "Witness to Faith, Audacity of Optimism" (Adimike, 2007). His Grace's optimism is really quite audacious.

### **(ii) Priority of persons over things**

It is not difficult at all to abstract this principle in the Archbishop's doctrinal dispositions. His emphasis on the priority of persons is shown more in his administrative actions than in his writings. An overall evaluation of Valerian's investment while in any office (parish priest, Rector, Archbishop) discloses more than 80% investment on human resources than material. It is his belief that man's greatest investment would be his neighbor. In one of his Ethics lectures, he argued that:

...all material investments in structures, mortar and cement are only to prepare suitable occasions for human development. Hence, to develop the environment without a prior investment on the human resources is both a logical and economic sabotage.<sup>7</sup>

The education of people, training in skills, observance of health needs of his subjects, are always his primary administrative concerns. While in Bigard Memorial Seminary, students were sent to specialized institutions to train as water chemistry technicians, computer/data processing experts, accounting officers, poultry, livestock experts etc. As a bishop, the further education and health of his priests are on the first list. The summary is that Valerian sees and deals with man as a sacred centre for divine encounter and accordingly draws out the details of that encounter in his respect for and investment on persons. Little wonder he would always insist that "there are no ordinary persons, the rich, the poor, the sick, the old, are all images of divinity in types and forms."<sup>8</sup> Persons are sacred and prior to things. Things are meant for persons and must be used by persons to have value. Persons can never be used by other persons for other persons or for other things.

### **(iii) Persons as moral subjects of love**

Here Archbishop Valerian's understanding of human person and dignity closes rank with the personalistic norm of John Paul II. As an apostle of Love, the Archbishop teaches that the only and proper attitude to man is to love him without measure (Okeke, 2005). He cannot be used as a means precisely because he is an 'end'. In this way the employment of people as political thugs, "religious war heads", suicide bombers and for terrorism in this age, becomes flawed on the ground of "person optimism" criteriology. Bonachristus Umeogu describes the Archbishop's understanding of love in these terms; "equal love for unequal people", "measures

of measureless love”, “apostleship of love”, “silver missions of love” and “full life of love” (Umeogu, 2007).

The heart of Val is a heart of equal love. In the heart and voice of Val, God’s redeeming love is equal for all men and women, the youth and children. Such a prevailing love extends further to tribes, tongues, peoples and nations (Umeogu, 2007).

Archbishop Val’s Feed the Poor Apostolate, Youth Village project, special charity programs are the indices of his belief and teaching that persons are moral subjects of love. Valerian’s belief in persons as moral subjects of love requires that in human relationship all ideas of utilitarianism and satisfactory consequences should be rejected as abnormal. We meet others with a mode, predisposition and schemata of love. We think about others in the categories of love not of use, for, being in love shows a person who he should be (<http://www.quotationspage.com/subjects/love>). Indeed, in loving others, as Val teaches, “we add value to their life and in the experience of that love persons live their normal life.” Life of hate is abnormal.<sup>9</sup>

#### **(iv) Persons as moral subjects for change**

In his homily at the Mass celebrated at St. Cletus Catholic Church Otolu Nnewi for Medical Student’s Association of Nigeria during their 2010 annual conference Archbishop Valerian Okeke observed as follows:

Young people you can become better than you are, you are not yet finished persons, do not be discouraged by your yesterday, look forward to tomorrow. But for the change to come you must desire it, work for it and must subject yourself to the tested instructions of your credible teachers in learning and morals.<sup>10</sup>

The above excerpt sufficiently shows that for the Archbishop, all persons, and not just the youth are indeed moral subjects of change. The life of man opens to grace as it is neither a closed system nor is it hard-cast with an impermeable substance. No, it is malleable under grace to better possibilities in the future. As the Lord says; “Do not cling to events of the past or dwell on what happened long ago. Watch for the new thing I am going to do. It is happening already, you can see it now.”<sup>11</sup>

Thus, the abiding faith the Archbishop has in the positive dynamism and malleability of the stuff of human nature makes him treat erring subjects with consummate caution and patience. Hence, his life and belief testify to the notion that there is sufficient freedom in the realms of the moral nature of man; determinism or fatalism is inapplicable for an explanatory theory of the moral nature of man.

#### **(v) Friendship as moral agency/occasion for change**

Archbishop’s unique idea of friendship is that which

provides an occasion for adding value to the life of another. It is an invitation to inter-subjectivity with a moral teleology. Between true friends, whether of the casual or intimate sort, is opened “a traffic of exchanges which increases more of what they are than what they have.”

Perhaps this accounts for why the Archbishop often does not fail in his public addresses to prescribe pedagogical principles for decent relationships since he believes that in the immediacy of friendship, a community of influence is established for good or for bad. Friendship is an expression of love and the end of love is man and ultimately the possession of God. He admonishes people to love their neighbours without measure, in selfless self donation. In his words:

The person of the other, then, is the climax of an ethical horizon in which everyone remains necessarily involved in a situation of debt, a situation of non-difference which involves service to the other and totally excludes non service (Okeke, 1990).

As it were, Valerian holds that the truth of friendship and love is that “the person of the “other” acts as a measure of the human movements and limits us in freedom, introducing a new order of interdependence as social agents.” The relational horizontality of friendship is oriented to change of both friends; for the care of the other binds man’s ethical conscience. It lies at the base of his proper ethical being and constitutes his real vocation (Okeke, 1990).

#### **(vi) Peace as socio-political condition for positive change**

Given that the Person is a sacred reality, its proper habitation is peace. A conflict situation is an anti-thesis to the decorous character of person. Wars, tribal and ethnic conflicts, including religious and provincial crisis, situates great confrontation to the ‘person’ which is a spiritual reality. Accordingly, in his “*Peace: With Special Reference to Gaudium et Spes*” – A moral approach, Val talks of a new order of peace neither founded on balance of forces and or arms, nor on suppression of the inferior by superior forces but one founded on the dignity of the human person (Okeke, 1990). After the manner of the Council fathers in *Gaudium et Spes*, Valerian argues that with a new humanism where man is defined, before anything else, by his responsibility to his brothers, and by a new social structure based on a theistic anthropology, peace will prevail (Okeke, 1990). He is positive about the capacity of man to achieve such new order of peace.

#### **(vii) Gratitude as the dragnet for latent human potentials**

In his 2011 high impact Pastoral Letter – *Gratitude*, the Archbishop demonstrates the importance of gratitude

both for the 'giver' and the 'subject – receiver' in gratitude man rises to the occasion of his limitations and heralds divine providence through the agency of the other. And by accepting his limitation, man prepares himself to exhaust his possibilities. What is more, the target person for the gratitude is moved, as if by an internal motion, to exhaust himself in self same generosity in future occasions (Okeke, 2011). Gratitude elicits as it were a chain reaction of charity to one another.

#### **(viii) Common Good as the uncommon test of the "Human-Value"**

It is in it's attitude to the common good that a society's regard for the dignity of man can be read: where those things and conditions which allow people to reach their fulfillment more fully<sup>12</sup> are lacking, human dignity is at zero point. Men whether as individuals or set in 'legitimate' groups stand above all things and have rights and duties which are universal and inviolable. Accordingly Archbishop Okeke re-emphasizes that man is the foundation, cause and end of all social institutions and projects. When proper attention is paid to the Common Good of Man, then, the dignity of man is esteemed. This done, humans are very much likely to respond with positive acts of gratitude to fellow men in the society. The principle is: "give and take".

#### **ACHIEVING A NEW JURISPRUDENCE OF HUMAN DIGNITY ON THE PLATFORM OF 'PERSON-OPTIMISM'**

No doubt nothing stands on nothing, and none can give what he does not have. In spite of the existing Laws protecting human dignity and rights, the magnitude of violation of human rights in Nigeria is unimaginable. The reason is that the basis of the existing laws is a philosophy according to which the people have right or dignity because the state through the legislature decides to invest persons with such right(s) and perhaps terms the said right(s) 'fundamental', 'social' or 'economic'. In which case, the state can through a due process of law divest the 'person(s)' of any of such right(s). What is more, the state decides on which right is justiceable and which is not. It can make today's justiceable right unjusticeable tomorrow and vice versa. But if dignity and right and the postulates arising from these are anchored on more or less stable foundation located within the essence of the person than without it, the human dignity and rights would be more impressive to the mind and will command convincing respect than being merely a state investment. All that the laws need to do is to recognize the postulates necessarily arising from the essential dignity of man and legislate the same.

Therefore, upon the base of the 'person optimism'

theory, and upon its attendant principles and/or postulates of the sacredness and priority of persons over things, a new jurisprudence of human dignity is possible. This jurisprudence roots human dignity and rights on the primacy of God over creation and among creatures. It further roots it on the priority of 'persons' over things. What is more where the 'person' is conceived as a moral subject for love, human dignity and rights are respected not from motives of compulsion but from the teleology of the will and intellect. And in such a society where the dignity and right of man are appreciated, the laws have more or less to do but to give statutory flavor to convinced acts of the peoples. Beyond this the government and its people will forge into a moral agency for perfecting the human person not by force of arms or law but by accessory inputs and values provided by structural, infrastructural, moral alternatives and/or options.

Finally in an atmosphere of peace which is the proper matrix for the survival and activity of the human person, the human dignity is protected. Thus wars and conflicts leading to torture and pain are obviated. Punishment will be minimized while rehabilitation alternatives will be sought. Criminals will be handled as sacred subjects and with great optimism for their change; and what is more, death penalty will no longer have a place. What the 'person-optimism' theory calls for is a new humanism in a new human family with a new legal framework.

#### **CONCLUSION**

In the new theoretical framework of 'person optimism' theory a philosophical foundation of human dignity is provided. It first criticizes the existing legal provisions on human dignity and rights as anchoring on nothing deep and constant in man and secondly leads gradually through eight related postulates to an abiding ground for man's dignity hidden in the depth of his person. What arises from this is a possible new jurisprudence demanding a paradigm-shift from the old idea of rights as state donation and investment to an inference from what is constant and inspiring in the nature of man. The most obvious victim of this new possibility in jurisprudence of human dignity is death penalty which is a symbol of lack of confidence for any positive change. Another issue will be the decreasing emphasis on imprisonment with hard labour and increasing emphasis on good prison conditions for rehabilitation. Yet a further theme that deserves considerable attention is the status of human dignity in Nigerian law. Particularly, this work makes a case for a review of discriminatory laws and possible re-orientation of the law enforcement agents like the police with regard to respectful and prudential procedures of arrest and investigation. This is what this paper thinks Archbishop Valerian Okeke has contributed to the new legal community through his 'person-optimism' theory.

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## ENDNOTES

<sup>1</sup> Man is a wolf to man in a brutish and short life.

<sup>2</sup> What God made, all He has made, they are good.

<sup>3</sup> (1983) 54NCLR, ISCN.

<sup>4</sup> 264 ind. 206, 341 N.E. 2d 763, 769.

<sup>5</sup> 26<sup>th</sup> June 1945, CNUOI, vol. 15, p. 365., Section 46 (1). See also, Fundamental Rights (Enforcement Procedure) Rules 2009.

<sup>6</sup> Sub-Shaharan Africa, Nigeria. Travel advice by country. United Kingdom, Foreign and Commonwealth office 24/06/2011.

<sup>7</sup> Bigard Memorial Seminary, 1995.

<sup>8</sup> Common saying of Archbishop Val. Okeke.

<sup>9</sup> Rector's Conference, Bigard Memorial Seminary, Enugu 20/06/2000.

<sup>10</sup> Homily at Mass, at the Occasion of the 2010 Annual Conference of the Medical Students Association of Nigeria at St. Cletus Catholic Church, Otolu Nnewi.

<sup>11</sup> Isaiah Chapter 43 vs. 18-19.

<sup>12</sup> Gaudium et Spes (GS), no. 26.