



NEAR EAST UNIVERSITY  
INSTITUTE OF GRADUATE STUDIES  
INTERNATIONAL LAW PROGRAM

**THE UNITED NATIONS HUMAN RIGHTS COMMITTEE ON  
VIOLATION OF HUMAN RIGHTS BY LAW ENFORCEMENT  
OFFICERS AND TO WHAT EXTENT IS HUMAN RIGHTS  
VIOLATION REPRIMANDED? THE NIGERIAN POLICE  
FORCE AS A CASE STUDY.**

FAITH UMENE BANJE

MASTER'S THESIS

NICOSIA

2021

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ASST.PROF.DR. NABI BERKUT

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## **ACCEPTANCE/APPROVAL**

We as the jury members certify the 'The United Nations Human Rights Committee on violation of human rights by law enforcement officers and to what extent is human rights violation reprimanded? The Nigerian Police Force as a case study.' prepared by Faith Umene Banje defended on 29/01/21 has been found satisfactory for the award of degree of Master

## **JURY MEMBERS**

**Assist. Prof. Dr. Nabi Berkut** (Supervisor)

Near East University

Faculty of Law/International Law Department

**Assist. Prof. Dr. Ayten Ordu** (Head of Jury)

Near East University

Faculty of Law/International Law Department

**Assist. Prof. Dr. Resat Gunel Volkan**

Near East University

Faculty of Law/International Law Department

" The thesis was defended online due to Covid-19 pandemic measures and has been found successful by the jury members."

**Prof. Dr. K. Hüsnü Can Başer**

Institute of Graduate Studies

Director

## DECLARATION

I Faith Umene Banje, hereby declare that this dissertation entitled 'THE UNITED NATIONS HUMAN RIGHTS COMMITTEE ON VIOLATION OF HUMAN RIGHTS BY LAW ENFORCEMENT OFFICERS AND TO WHAT EXTENT IS HUMAN RIGHTS VIOLATION REPRIMANDED? THE NIGERIAN POLICE FORCE AS A CASE STUDY.' has been prepared myself under the guidance and supervision of 'Assist. Prof. Dr. Nabi Berkut' in partial fulfilment of the Near East University, Graduate School of Social Sciences regulations and does not to the best of my knowledge breach and Law of Copyrights and has been tested for plagiarism and a copy of the result can be found in the Thesis.

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## **DEDICATION**

Dedicated to my late phenomenal father, extraordinary mother, incredible siblings, amazing closest friends and all those that have suffered some sort of human rights violation by law enforcement officers worldwide especially in Nigeria by the Nigeria Police Force.

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My gratitude goes to God Almighty for his faithfulness and steadfastness throughout this program. My innermost appreciation to my parents, this journey would be impossible without their selfless support. I want love to extend my thankfulness towards my siblings for very immense encouragement throughout the program. Acknowledgement to my closest friends for bracing me through this journey. Gratitude to my supervisor, Mr. Nabi Berkut for all the support in the writing of this thesis. Special thanks to Mrs. Nezihe Tekman for the extensive assistance and guidance in the course of this work.

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## ABSTRACT

### **THE UNITED NATIONS HUMAN RIGHTS COMMITTEE ON VIOLATION OF HUMAN RIGHTS BY LAW ENFORCEMENT OFFICERS AND TO WHAT EXTENT IS HUMAN RIGHTS VIOLATION REPRIMANDED? THE NIGERIAN POLICE FORCE AS A CASE STUDY.**

This research investigates and describes violations of human rights by law enforcement officers in forms of callous violence. This research examines the provisions of the United Nations on standard and acceptable practice of policing. This research is due to the prevalence of police violence in Nigeria and its increase without being sufficiently redressed. Police violence is impermissible and it contravenes the key principles laid down by the UN hence this topic be brought to limelight.

These human rights violations continues to abide and even more leaving countless number of victims. This research will inquire into the numerous violations carried out by law enforcement officers, by reckoning the practices of the Nigerian Police Force and examining Human Rights Committee's prowess in monitoring the implementation of the principles laid down in the ICCPR. The Nigerian Police Force is particularly the law enforcement in question and a case study relating to the subject matter was included in the research to shed more light on the constant violations.

The research concludes with several findings, analysis of the recommendations that suggests strategies and schemes to curtail violation of human right by law enforcement officers and innovative ideas aiming to reprimand human rights violations.

**Keywords:** violation, law enforcement officers, human rights, reprimand, United Nations.

## ÖZ

### THE UNITED NATIONS HUMAN RIGHTS COMMITTEE ON VIOLATION OF HUMAN RIGHTS BY LAW ENFORCEMENT OFFICERS AND TO WHAT EXTENT IS HUMAN RIGHTS VIOLATION REPRIMANDED? THE NIGERIAN POLICE FORCE AS A CASE STUDY.

Bu araştırma, kolluk kuvvetleri tarafından yapılan duyarsız şiddet biçimindeki insan hakları ihlallerini araştırıyor ve açıklıyor. Bu araştırma, Birleşmiş Milletler'in standart ve kabul edilebilir polislik uygulaması hakkındaki hükümlerini incelemektedir. Bu araştırma, Nijerya'daki polis şiddetinin yaygınlığından ve yeterli düzeltme yapılmadan artmasından kaynaklanıyor. Polis şiddeti kabul edilemez ve BM tarafından belirlenen temel ilkelere aykırıdır, bu nedenle bu konu gündeme getirilmelidir.

Bu insan hakları ihlalleri devam ediyor ve daha da fazla sayıda mağdur bırakıyor. Bu araştırma, Nijerya Polis Gücünün uygulamasını dikkate alarak ve İnsan Hakları Komitesinin ICCPR'de belirtilen ilkelerin uygulanmasını izleme cesaretini inceleyerek, kolluk kuvvetleri tarafından işlenen sayısız ihlali araştıracaktır. Nijerya Polis Teşkilatı, özellikle söz konusu kanun uygulayıcı kurumdur ve konuyla ilgili bir vaka çalışması, kalıcı ihlallere daha fazla ışık tutmak için araştırmaya dahil edilmiştir.

Araştırma, çeşitli bulgular, insan hakları ihlallerini azaltmaya yönelik stratejiler ve planlar öneren kolluk kuvvetlerinin önerilerinin analizi ve insan hakları ihlallerini kınamaya yönelik yenilikçi fikirlerle sona eriyor.

**Anahtar Kelimeler:** ihlal, yasa uygulama, insan hakları, kınama, Birleşmiş Milletler.



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## ABBREVIATIONS

BPUFF	Basic Principles for the Use of Force and Firearms by Law Enforcement Officials
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCLEO	Code of Conduct for Law Enforcement Officials
CEDAW	The Convention on the Elimination of all Forms of Discrimination Against Women
CJN	Chief Justice of Nigeria
DCP	Deputy Commissioner of Police
GA	General Assembly
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
IGP	Inspector General of Police
IPSA	International Police Science Association
NHRC	The National Human Rights Commission
NPF	Nigeria Police force
OHCHR	Human Rights Council to the Office of the United Nations High Commissioner for Human Rights
SARS	Special Anti-Robbery Squad
SERAP	Socio-Economic Rights and Accountability Project
SWAT	Special Weapon Tactical Team
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
USD	United States Dollar
WISPI	World Internal Security & Police Index

## INTRODUCTION

Nigeria has ratified a number of human right documents, charter, treaties and convention. Nigeria on 19 December 1966 ratified the ICCPR which the UN General Assembly adopted in line with the proclamation of United Nations Charter. The ICCPR considers respect of freedoms and rights, in addition goes forward to imply the performance of duties on everyone's part and drawing focus to the point that rights which are civil and political must not be disjointed from social, cultural, and economic rights in their universality and definition because the achievement of social, cultural, and economic rights is a guarantee that civil rights and also political rights will be enjoyed. Human rights is inalienable and must be enjoyed by every individual. However, human rights are very often violated in Nigeria on so many different levels in form of torture, arbitrary arrest, brutality, degrading or inhuman treatment, illegal search, and deprivation of life among others. These human rights violation can stem from the government and even government officials meant to enforce the rights. Unfortunately, a good number of human rights violations are carried out by police officers responsible for law enforcement.

## CHAPTER 1

### BACKGROUND

The ICCPR is primarily for acknowledgement of the dignity and of the equality of inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.<sup>1</sup> Therefore, the United Nations Human Rights Committee is charged to ensure and strengthen the functions of the ICCPR. This research is going to examine the prowess of United Nations HRC in dealing with human rights violations in Nigeria. Since Nigeria is a party to the ICCPR, this research is going to analyse what extent human rights violation is reprimanded by the United Nations HRC and also to address the numerous human rights violation that is committed by law enforcement personnel in Nigeria. Accompanied with a case study that is concerned with violation of some core human rights principles, this research brings the topic to limelight and finally offers strategic recommendations that may prove useful if taken into consideration.

Nigeria confronts countless and complicated challenges which includes core violations including torture, arbitrary arrest, wrongful detention and even the illegal use of force. Furthermore, the resource book published by the United Nations as a result of a joint effort of the UNODC<sup>2</sup> and the OHCHR<sup>3</sup> received numerous

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<sup>1</sup> Australian Human Rights Commission, 'What is the Universal Declaration of Human Rights?' <https://humanrights.gov.au/our-work/what-universal-declaration-human-rights#> accessed 5 January 2021

<sup>2</sup> United Nations Office on Drugs and Crime; is a world leader in the fight against international crime and illicit drugs, also a key entity of the UN in providing both technical and legal assistance to curb terrorism.

<sup>3</sup> Office of the United Nations High Commissioner for Human Rights; this is a department of the Secretariat of the United Nations working to protect and enhance that human rights under international law are guaranteed.

contribution from various experts including a deputy Commissioner of Police (DCP) operations, Nigerian Police Force.<sup>4</sup> This book offers guidance on law enforcement utilization of firearms and force. Despite this tremendous contribution by the Nigeria Police Force, policing situations in the country remains in shambles. Human rights violation by law enforcement officers therefore needs to be tackled. More recently there has been an outrage in police violence and brutality in Nigeria. Various protests and rallies are being carried out to alleviate this situation following a recent violation that was committed by the police force which involved numerous killing of young individuals. Awareness is being raised on every platform including social media to reform the police force and put an end to some of its affiliates. This movement is attempting to reach the international space as foreigners have begun to show their support. More than ever cases of human rights violation has been on the rise, hence this callous behaviour of the police force must be tackled by looking on to international law since the national government has left the common man at the mercy of the police force. Hence this research will be conclusive with several recommendations aiming to alleviate the situation if given due consideration.

### **1.1 AIM OF THE RESEARCH**

This research aims to cover the contravention of human rights in Nigeria by executive bodies as it continues to prevail despite the presence of ratified human rights documents. This issue is one that has affected so many peoples' rights and to a large extent there is no redress for these violations by the state hence we must look to international law to get a wider understanding of this rapidly growing human right issue. The aim of this research is to tackle the problem of human rights violation by law enforcement officers. This is a problem because law enforcement officers whose duty is internal defence have on numerous occasions violated the right of the civilian unjustly. The United Nations Charter reaffirmed by the African Charter's preamble reassures principal human rights, 'it recognizes that fundamental human rights stem from the attributes of human beings which justifies their national and international protection and on the other hand that the reality and respect of people's rights should necessarily guarantee human rights'.<sup>5</sup> Unfortunately, this is not so in

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<sup>4</sup> OHCHR & United Nations Office on Drugs and Crime, Resource book on the use of force and firearms in law enforcement (2017)

<<https://www.ohchr.org/documents/professionalinterest/useofforceandfirearms.pdf>>

<sup>5</sup>African Commission on Human and Peoples' Rights, African Charter on Human and Peoples' Rights, <<https://www.achpr.org/legalinstruments/detail?id=49>> accessed 5 January 2020

Nigeria to some extent as the police force continue to act as if they are above the law. To that end, this research will examine the principles laid down by the UN on matters of police violence. It will also scrutinize the prowess of the Human Rights Committee in monitoring and implementing the UN principles in violation cases with a detailed case study expounded upon and analysed to unveil the inconsistencies in the policing of the Nigerian Police Force.

It is significant to address this topic because individuals deserve to live a good life free from infringement of their rights. The charter of the UN, the ICCPR and the UDHR. The three aforementioned documents specifically embody the principles of human right and the latter in article 5 clearly suggests that a person should not be subject of any form of torture or cruel inhuman and degrading treatment and the Nigeria police force has countlessly violated this principle. So in addressing this topic there is the need to keenly analyse what extent human right violation is reprimanded. This will research will be instrumental to international human rights as it emphasizes violations of human rights especially by law enforcement officers and further under the auspices of the UN strengthen the principles of human rights. This research aims to answer the following questions:

- How is the numerous human right violation that is committed by law enforcement officers addressed in Nigeria?
- What is the practice and conduct of the law enforcement officers in Nigeria?
- How do the principles lay down by the United Nations on matters of police violence impact human rights practice in Nigeria?
- How does the UN Human Rights Committee reprimand violations of human rights, especially violations by human rights officers?
- What is the prowess of UN Human Rights Committee in monitoring and implementing principles of human rights in cases of evident violation?

## **1.2 BOUNDARIES OF THE RESEARCH**

The strength of this research might be the direct involvement of the UN Human Rights Committee in this human right related topic rather than the involvement of just human rights documents like the ICCPR, UDHR and so on. The choice of the respective international organization to answer this research questions narrows the research to a more explicit and optimistic approach.

On the contrary, the weakness of this research might be the systematic difficulty in practical implementation of laws in Nigeria. Data on these human rights violations might be limited in Nigeria. The systemic framework of implementation and law enforcement is not professional as it should be. The issue of accountability may arise as human rights topics often prove difficult to this end.

### **1.3 METHODOLOGY**

A qualitative research is employed in this research, used to gather in-depth insights into the problem of this research and generate new ideas to this end. Qualitative research is useful here to collect, organize, describe and interpret textual systematic data useful for this research. In seeking answers to the problem in question, numerous sources will be used, there will be data collection on violations by the police force from relevant previous case laws, data collection from the police data base, there will be review of the state report and concluding observations on this matter submitted to the United Nations by Nigeria, also the UDHR committee and Human Rights Committee respectively.

This methodology follows an extensive study of the human right concept and its violations, also properly looking at the operation and strategy of the Nigerian police force. And more importantly, how the Human Rights Commission deals with violation of human right in this context and to what extent they are reprimanded and accompanied with a relative case study, from a relative previous case precedent. Respective human rights books, journals, articles, case laws, reports, online data bases and other relevant materials correlative to the research topic.



## **CHAPTER 2**

### **VIOLATION OF HUMAN RIGHTS BY LAW ENFORCEMENT OFFICERS**

#### **2.1 MEANING AND CHARACTER OF HUMAN RIGHTS VIOLATION**

Human rights have always been regarded as fundamental under any legal system and even more human rights violation are viewed as defiant to the basic principles of fundamental freedoms. This chapter sets out the meaning and character of human rights violation, also possible causes even forms of such violations. The criteria for human rights violation under international law cannot be understated rather it must be given due consideration. The human rights legal framework in Nigeria is to be divulged in order to understand the importance of this topic, in Nigeria precisely.

The inherent character of human rights is distinctive to every individual irrespective of their race, sex, ethnicity or any other standing. The United Nations sets out specific rights that are internationally applicable which includes economic, political, social, cultural and civil rights. Human rights violation can be perpetrated by persons working for the state, hence violation by them is a violation by the state. Violation in this context can be referred to an injurious incident by a law enforcement officer particularly the police. States are obliged to avert violations of human rights within its jurisdiction. States carry out this obligation via its law enforcement officers. Certain obligations require the police to take active steps in refraining from arrest that is arbitrary, torture and unjust detention among others. <sup>6</sup> Human rights violations are often directly

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<sup>6</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 2(1) opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987)

executed by the state or indirectly when the state does not take active steps to prevent these violations. Certain human rights under no circumstance can be inviolable especially definite political rights and civil freedoms. Right to life and physical safety must be clearly expressed in any given legal system.<sup>7</sup> Any denial of fundamental basic rights of the individual is considered a violation. When a State fails in maintaining human rights meant to be enjoyed by individuals irrespective their status, it often results in one form of violation or another. The ICCPR prohibits arbitrary deprivation of life, torture, degrading treatment or punishment, unlawful arrest or detention, arbitrary interference with privacy and discrimination.<sup>8</sup> Therefore, a law enforcement officer indulging in any of the prohibited acts mentioned is grossly violating human rights.

## 2.2 CAUSES OF HUMAN RIGHTS VIOLATION

Human rights violations by law enforcement officers stems from quite a number of underlying deficiencies. The causes of those violations are predominantly institutional in that it arises from the police force itself and structural in that it comes from the governmental system of conduct and practice.

The most prominent cause of violation by law enforcement officers is corruption, this dishonest behaviour by those in power transcends to its organs. In Nigeria there is ardent corruption on all levels. Members of the police force have been found wanting in numerous embezzlements.<sup>9</sup> On a regular basis, police officers extort money from common man, injured party who come to the police for aid are made to give bribes before their case is looked into. The worst performing country was Nigeria on the

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<sup>7</sup> Michelle Maiese, Beyond intractability, 'Human Rights Violations' (July 2003) <[https://www.beyondintractability.org/essay/human\\_rights\\_violations%20](https://www.beyondintractability.org/essay/human_rights_violations%20)> accessed 9 November 2020

<sup>8</sup> United Nations, Peace, dignity and equality on a healthy planet <<https://www.un.org/en/sections/issues-depth/human-rights/>> accessed 10 November 2020

<sup>9</sup> Marvellous Iheukwumere, Fighting Police Corruption in Nigeria: An Agenda for Comprehensive Reform, (6 September 2016) <<https://globalanticorruptionblog.com/2019/09/06/fighting-police-corruption-in-nigeria-an-agenda-for-comprehensive-reform/>> accessed on 10 November 2020

WISPI<sup>10</sup>, a major serious issue in Nigeria is judicial and police system effectiveness, police officials are prone to use their government positions for personal benefit. Corruption was on the high side as at 2016, 'the WISPI declared Nigeria as the worst performing country, with a score of 0.255', and the Control of Corruption indicator showed 81 percent of Nigerian respondents to the Global Corruption Barometer agreeing to have bribed an officer of the police force.<sup>11</sup> In a survey conducted in 2018 by the Socio-Economic Rights and Accountability Project (SERAP)<sup>12</sup> there was a report gravitating record of the police force in corruption as it was the most corrupt sector in the country.<sup>13</sup> This corruption in the Nigeria Police Force intensifies human rights violations by the police against individuals thus frustrates provisions of human rights in the state.

Insufficient remuneration; law enforcement officers in Nigeria are under paid, a security agency meant to protect citizens is not meant to earn a meagre sum for their services. The average police officer earns around N46,000-N47000 which is approximately around \$120 to \$125 monthly. This has left the police to prey on individuals in order to meet up their financial needs. Extortion and bribery is the order of the day, and most often if an individual attempt to refuse to give in to this extension, the police abuse their power in order to earn the cooperation of that individual. In this process, torture is inflicted on the individual, they may be arrested(arbitrarily), detained unlawfully and in some cases, innocent persons have lost their lives. The listed above is a blatant human rights violation.

Lack of concern on the obligation to prevent human rights violation. This obligation includes preventing human rights violations, especially those being carried out by law enforcement officers. In most cases states lack the consciousness of them being under a responsibility to not violate human rights. This negligence on the part of the

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<sup>10</sup> World Internal Security & Police Index; formed by experts, scholarly researchers worldwide. Made up of indicators designed to be applied on around 127 countries in cooperation with International Police Science Association (IPSA).

<sup>11</sup> International Police Science Association (IPSA), WISPI Report Pdf (Dr Mandooh A. Abdelmottlep 2016) <<http://www.ipsa-police.org/Images/uploaded/Pdf%20file/WISPI%20Report.pdf>> accessed 10 November 2020

<sup>12</sup> Socio-Economic Rights and Accountability Project (SERAP) An organization, non-profit, dedicated to promoting human rights and government responsibility through research and litigation.

<sup>13</sup> Premium Times, Nigeria: Police Most Corrupt Institution in Nigeria – Survey (26 March 2019) <<https://allafrica.com/stories/201903270011.html>> accessed 10 November 2020

Nigerian government leaves the law enforcement officers with leniency in carrying out their duties assigned to them. Also lack of accountability gives room for this leniency and it often leads to numerous violation of human rights, for instance the police officer is at ease to detain a person without cause because the state has not particularly frowned at such an act or there is no penalizing of the police officer at all. The average police officer is not always required or expected to justify his actions, frequently the police officer is always right.

Defective recruitment and training is another cause of human rights violation by law enforcement officers. The Nigerian police force can be said to be lacking professional training, they receive little or no human rights related training, some members of the police force are uneducated, they have minimal principal knowledge of human rights. There is more tactical training than professional training during the recruitment process, unfortunately a large number of police officers do not possess the human resource skills they need to promote human rights. The unavailability of this skill often leads to human rights violations. Poor infrastructures, deficient facilities, living conditions, excessive police interference are additional causes of violation of human rights by law enforcement officer among others.

### **2.3 FORMS OF HUMAN RIGHTS VIOLATION**

Human rights violation by law enforcement officers occurs in different forms, these violations are demeaning and it contravenes the basic fundamental right of the individual. The common forms of human rights by officers are:

Arbitrary deprivation of life; the United Nations spells out this as “foreseeable and intentional actually preventable life threatening injury or harm, effected by an act or omission”.<sup>14</sup> States must regard the right to life refrain from any conduct that leads to unlawful deprivation of

life. The police force of Nigeria is responsible for quite a number of unlawful killings. They carelessly shoot at individuals, including non-criminals due to non-compliance.

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<sup>14</sup> Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, (No. 36, 2017, para. 13.2) <[https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/CCPR\\_C\\_GC\\_36\\_8785\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf) accessed 11 November 2020

There is the excessive use of force when the average police officer carries out his duties. Most of these violation cases go unpunished. This deprivation of life also happens when the police officer immediate medical aid after an injurious incident in their custody, hereby leaving the victim to die. Intentionally, police officers have been seen killing a person if they felt disrespected or threatened by them.

Torture; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was ratified by Nigeria. Torture is any act done with the intent to cause unbearable pain or suffering. In addition, Article 7 of the ICCPR explicitly prohibits cruel or degrading treatment or punishment and torture.<sup>15</sup> Despite this prohibition on torture by various human rights documents, most of which Nigeria is signatory, torture is the order of the day, detainees in police custody are constantly tortured. Torture is prominently used during confession session to extract the truth from the suspect, a gross human rights violation. The National Human Rights Commission (NHRC) construed how torture is applied “as an acceptable method of investigation of crimes” and in “most situation admissible by the court also prosecution by the police based on ‘confessions’ obtained under torture circumstances from persons accused.”<sup>16</sup> Although torture remains illegitimate under the Nigerian Constitution, it is however not illegitimate.<sup>17</sup> Obtrusively, several victims or detainees are tortured to degrading state or even tortured to death.

Unlawful detention or arbitrary arrest is the deprivation of liberty of a person without evidential grounds for a lawful arrest. Article 9 ICCPR demands the victim be informed on the grounds for their arrest, victims are rarely told the reason for arrest, they are usually carted away to the police stations where they are held unlawfully without legal representation. Countless number of victims are abandoned for years without the opportunity to see a lawyer or even trial, some of the victims end up never been trialled, just locked behind bars for no definite reason as the case may be. In Attorney general

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<sup>15</sup> ICCPR, Article 7

<sup>16</sup> NHRC, The State of Human Rights in Nigeria, (2007)

<sup>17</sup> Amnesty International, KILLING AT WILL EXTRAJUDICIAL EXECUTIONS AND OTHER UNLAWFUL KILLINGS BY THE POLICE IN NIGERIA, (First published by Amnesty International Publications 2009) <  
[https://www.justice.gov/sites/default/files/eoir/legacy/2014/05/23/killing\\_at\\_will.pdf](https://www.justice.gov/sites/default/files/eoir/legacy/2014/05/23/killing_at_will.pdf)> accessed 11 November 2020

of Lagos state vs Keita,<sup>18</sup> the police detained the respondent for over 10 years without trial. This is contrary to section 35(4) of the Nigerian Constitution and also against article 10(1) of the ICCPR which encourages respect for human dignity.<sup>19</sup>

Arbitrary interference with privacy is another violation commonly carried out by law enforcement officers. Police force target youths especially in this aspect. There are situations where the police officer demands to see the mobile device of an individual, they step into the personal space of a person due to excessive criminalization and profiling. This profiling is often based on outward appearance together with material possession, the ideology of the police officer is that a young person cannot afford a luxurious lifestyle without being involved in one crime or the other. The police officer goes about their job assuming most youths are criminals. Commonly, they possess no warrant to carry out search, yet they do so, this often leads to invasion of privacy, resulting in human rights violation.

A state is responsible for these violations as it continues to suppress fundamental civil rights. Commonly individuals who may not share the same political opinions with the government may be arbitrarily detained, tortured, subjected to an unfair trial process or even killed. This was the case in a recent peaceful protest (ENDSARS PROTEST)<sup>20</sup> to end police brutality, many youths are still in detention for this cause, some protesters have been killed as well and some to face trial in due course.

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<sup>18</sup> Attorney General of Lagos State v Keita (CA/L/477/2012) [2016] NGCA 87 (24 March 2016) (CA/L/477/2012) [2016] NGCA 87 (23 March 2016) < <https://nigerialii.org/ng/judgment/court-appeal/2016/87>> accessed 12 November 2020

<sup>19</sup> Article 10(1) International Covenant on Civil and Political Rights; persons denied of liberty to be treated with respect for dignity of that person.

<sup>20</sup> William Ukpe #EndSARS: A day by day timeline of the protest that has brought Nigeria to its knees, (25 October 2020) < <https://nairametrics.com/2020/10/25/endsars-protest-a-timeline-of-all-the-major-events-from-october-3rd/>> accessed 12 November

## 2.4 THE CRITERIA FOR HUMAN RIGHTS VIOLATION UNDER INTERNATIONAL LAW

All states have Human rights law as binding, this extends to its government officials including law enforcement officials. A special representative appointed by the Secretary General of the UN in 2005 made a submission to the United Nations Human Rights Council entailing a structure to handle human rights in business, which included a principle 'duty to protect against human rights abuses by third parties, including business by the state .....'. In other words, states possess absolute obligation to prevent human rights violation by its own government officials or even law enforcement officers.<sup>21</sup>

Law enforcement officers should know the prerequisite for human rights violation under international law. Obligations for the states are laid down by the International human rights. After ratifying international treaties, states accept to protect, fulfil and respect human rights. In respecting, the state to refrain from violation of human rights. In protecting, states are to safeguard individuals from human rights violations. In fulfilling, states are to indulge in active steps to ensure the promotion of fundamental human rights. Treaties on international human rights are supported by soft law documents that gives detailed human rights standards, for example; Code of Conduct for Law Enforcement Officials (CCLEO) and the Basic Principles for the Use of Force and Firearms by Law Enforcement Officials (BPUFF) are regarded soft law sources of great importance to law enforcement. If law enforcement officers, violates its duties under international human rights law, the state will be held accountable at the international level.<sup>22</sup> The Human Rights Council made a request to the Office of the United Nations High Commissioner for Human Rights(OHCHR), brought forth a

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<sup>21</sup> See J. Ruggie, 'Protect, Respect and Remedy: A Framework for Business and Human Rights'. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises presented to the Human Rights Council on 3 June 2008, available < <https://media.business-humanrights.org/media/documents/files/media/bhr/files/Ruggie-Human-Rights-Council-3-Jun-2008.pdf>,> accessed on 9 November 2020

<sup>22</sup> ICRC, INTERNATIONAL RULES AND STANDARDS FOR POLICING (June 2015) < <https://www.icrc.org/en/doc/assets/files/other/icrc-002-0809.pdf>> accessed 11 November 2020

publication; a report on the role of prevention in the human rights promotion.<sup>23</sup> Through ratification of international human rights treaties, states have a responsibility to enact domestic means and legislation in line with treaty and duties and obligation.

## 2.5 LEGAL FRAMEWORK OF HUMAN RIGHTS IN NIGERIA

The Nigerian constitution enacted on 29 May 1999 is the sovereign law of Nigeria and it encompasses human rights including civil and political rights. Fundamental freedoms are enshrined in constitution, precisely in chapter 4. The rights include the rights to fair trial, life, freedom of thought, personal liberty, dignity of the individual, fair hearing, privacy amongst others.<sup>24</sup> This chapter in section 46 provides for persons alleging that any of the stipulations of the chapter might have been, or may be contravened in any manner relatively to them can seek redress by filing an application to the court of law to a High Court .<sup>25</sup> In a constitutional state like Nigeria, there is a governmental responsibility to respect, protect and fulfil those rights, and in cases of violation, government should prosecute offenders.<sup>26</sup>

The UDHR served as a blueprint for the Nigerian constitution and several references were made to the UDHR in the Nigerian constitution of 1998.<sup>27</sup> The UDHR which is highly incorporated into the Nigerian constitution is still regarded as one of the most vital document in history. The UDHR gives hope to victims of violation inn seeking redress, Nigeria being a member state have a duty to promote regard for human rights universally as seen in Article 103.<sup>28</sup> Again, article 60 of the African Charter demands its commission to refer to the UDHR in translating the African Charter.<sup>29</sup> The

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<sup>23</sup> Office of the United Nations High Commissioner for Human Rights 2014; The Office of the United Nations High Commissioner for Human Rights 2015: Among other things, the report seeks to “provide further content to the concept of prevention of human rights violations and highlight the role of international and regional stakeholders.”

<sup>24</sup> Articles 33, 34, 36, 37,38, 39, 40, 41, 42, 46 Constitution of the Federal Republic of Nigeria, Chapter IV Fundamental Rights, (1999)

<sup>25</sup> See Chapter 4 section 46 of the Nigerian Constitution.

<sup>26</sup> Nienke van der Have, *The Prevention of Gross Human Rights Violations Under International Human Rights Law* (T.M.C. Asser Press 2018)

<sup>27</sup> Glendon (n.4) XV. See Glendon for a comprehensive list of countries.

<sup>28</sup> Article 103 United Nations Charter

<sup>29</sup> The African Charter on Human and Peoples’ Rights, Article 60 reads “The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognised by Member States of the Organisation of African Unity, African practices consistent with international norms on Human and



African Charter provides fundamental human rights regionally and internationally, intended to enhance human rights and basic freedoms in the African region. Nigeria a state party to the African Union ratified the African Charter in June 1983 and some of its protocols. Nigeria has impressively ratified around 14 of the numerous UN human rights treaties and some of its optional protocols. In terms of human rights documents, Nigeria has a great number of documents sufficient for it to run its human rights legal system if they are implemented and enforced properly.

## 2.6 SCOPE AND LIMITATIONS

The way a constitution is seen as a self-limitation of those who control power in a given state, so human rights is often perceived to be a self-limitation of powers. Where government are the violators of human rights, there is little or no protection for the individual, the high rate of corruption and malignant bad governance makes it difficult to hold the government accountable. International institutions like the United Nations Human Rights Committee have some ability to enforce human rights protection but however, their authority is limited in actual practice.<sup>30</sup> Most human rights are absolute in nature and there are some human rights that are non- derogatory. The ICCPR permits derogation in a situation of emergency situations that may pose a threat to life of the nation, article 4(1) admonishes each state to take necessary precaution to derogate from the covenant temporarily under some conditions. The Nigerian constitution for example provides such circumstances as permitted by law, of which use of force may be reasonable. Section 33(2a-2d) of the Nigerian constitution put limitations on deprivation of life in certain situations if it is reasonable for example, in order to accomplish a lawful arrest or to stop the escape of a person detained lawfully. Despite the human rights references in the Nigerian constitution, there is still limitations in the constitution, these limitations give room for human rights violation especially by law enforcement. The limitations although not contained in international

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Peoples' Rights, customs generally accepted as law, general principles of law recognised by African States as well as legal precedents and doctrine."

<sup>30</sup> Human Rights Watch, 'What are human rights?' (15 September 2014)

<<https://www.hrw.org/news/2014/09/15/what-are-human-rights>> accessed 9 November 2020

human rights provisions, they are establishment by national and international courts and treaty bodies that apply human rights norms to cases before them.<sup>31</sup>

## **2.7 BACKGROUND INFORMATION ON HUMAN RIGHTS IMPLEMENTATION IN NIGERIA**

Each state has an obligation to ensure protection of rights in its outmost capacity using possible resources and tactics to enforce those rights. Primarily, implementing human rights is seen as a sole the responsibility of the state government, they are to undertake necessary constitutional and institutional reforms to achieve the purpose of human rights. The Nigerian government has three branches of law namely the legislative, the executive and the judiciary. These branches of law are responsible for human rights on different levels. The legislative is charged with enacting laws, amending the constitution to favour human rights, the executive is responsible for enforcing the respective human rights, the executive does this through law enforcement agencies, the police force is to ensure human rights are being adhered to at all levels. The judiciary also implements human rights by providing redress for victims that have been violated and prosecuting the violators of human rights. Specifically, all necessary legislative, executive and judicial measures to be taken to prevent and prohibit those violations.

A few successes have been made in terms of human rights implementation, for example, human rights have been introduced into the school curriculum to create more awareness. However, in spite of Nigeria's massive ratification record of human rights treaties accompanied with vast commitment at both regional and global levels, together with a clear system of enforcement and implementation, there are still loopholes in the implementation of human rights in Nigeria. Excessive and impudent corruption, bad governance, abject poverty, poor economic situation, flawed access to justice and hardship thwart the success and prevail of human rights in Nigeria.

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<sup>31</sup> The Doha Declaration: Promoting a Culture of Lawfulness, Limitations permitted by human rights law, (July 2018) < <https://www.unodc.org/e4j/en/terrorism/module-7/key-issues/limitations-permitted-by-human-rights-law.html#>> (accessed 12 November 2020)

There is the absence of political will in the comprehensive implementation of human rights in Nigeria. Justifiability of the concept of human rights violation is a main component in addressing violations, there is a high level of inefficiency on the part of the executive and judiciary respectively.<sup>32</sup>

## **2.8 COMPARISONS WITH THE INTERNATIONAL LAW AND NIGERIAN DOMESTIC LAW**

The duties of the executive head of a given state should on no account include accepting or approving human rights violation such as torture and wanton killings. This is clearly emphasized in the famous Pinochet case.<sup>33</sup> Human rights violation by law enforcement is both international and national issue. In international law, by violation of human rights by law enforcement officers are usually frowned at and addressed as quickly as possible and in most cases prosecuted. Domestically, law enforcement officers are usually not prosecuted or addressed when they have committed human rights violation. In this aspect, Nigerian domestic laws try to imitate international law, in writing and not in actual practice. International law is more refined in its way of handling human rights case compared to the Nigerian system. Under international law, there is a system of accountability of human rights, domestically there is little or no accountability, this lack of accountability then encourages human rights violations. The standard of human rights protection is very high with international law and quite low under the domestic law of Nigeria.

Conclusively, the violation of human rights is not a new school of thought, rather it is on that has been progressive over the years. More rapidly has been the violation of those human rights by law enforcement officers meant to uphold and safeguard human rights provision. Legal systems must be explored to grasp the concept of those violation to determine where they stem from, how they are perpetrated, effects and authorities that might possess capacity to curb these violations cannot be undermined.

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<sup>32</sup> Routledge, Handbook of International Human Rights Law in Scott Sheeran (ed) and Sir Nigel Rodley (ed) (First published by Routledge 2013)

<sup>33</sup> R v Bow Street Metropolitan Stipendiary Magistrate, ex p Pinochet Ugarte (No.3) [2000] 1 AC 147

## CHAPTER 3

# THE ROLE OF THE NIGERIAN POLICE FORCE IN NIGERIAN LEGAL SYSTEM

### 3.1 WHO ARE THEY?

Every state has laws and those laws are often enforced by law enforcement officers such as the police office. These law enforcement officers play a vital role in the enforcement of rules and regulations in the state. With the power vested in them, they ensure compliance with the law, they are in some cases considered 'watchdogs of the law'. In a functioning legal system there is usually the presence of the police force, members are usually assigned to safeguard lives and properties. They are to prevent any form of violation against the individuals in the state, including violations of human rights. Human rights document have to be implemented into the legal system for the achievement of its purpose and most often it is the police force that aids in the practical implementation of human rights. There is the need for the presence of police officers in any given legal system as they promote security of the law. In Nigeria law enforcement is carried out by the Nigeria Police Force.

The Nigeria Police force also known as (NPF) is the primary law enforcing organization in Nigeria with a workforce of about 371,000. In the colonial era, police were synonymous with native authorities, following a merge between the southern and northern regional police forces, the colony's first national police emerged, now known as the Nigeria Police Force. The NPF was first regionalized and nationalized in the 1960s.<sup>34</sup> In a country faced with multifaceted security challenge, the importance of a structured police force must not be undermined. The Nigeria Police Force is currently

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<sup>34</sup> Nigeria Police Force, HISTORY OF THE NIGERIA POLICE FORCE  
<[https://www.npf.gov.ng/aboutus/History\\_Nigeria\\_Police.php](https://www.npf.gov.ng/aboutus/History_Nigeria_Police.php)> accessed 20 November 2020

under the leadership of an Inspector General of Police (IGP) Mohammed Abubakar Adamu <sup>35</sup>. The Nigeria Police force like every other police force is responsible for enforcing laws, promoting security, investigating crimes and preserving human rights. They are part of the executive authority of the government, members of this force are known as police officers.

### **3.2 OBLIGATIONS OF THE POLICE FORCE**

Police Act and regulations<sup>36</sup> in section 4 states the duties of the police force and it includes: crime detection and prevention, apprehension of suspects, preservation of order and law. Protecting property and lives of persons in the state, enforcing relevant laws and directives they are assigned and in some situations performing military functions internal or external to the state if the need arises to do so within the authority of the Police Act or other relevant acts. In the course of carrying out their duties, the police force is to ensure that basic human rights are not violated, they are to grant equal protection of persons under the law. The police force is to aid the judiciary in serving justice by bringing suspected criminals to face prosecution. The police force is responsible for practically implementing the constitution by ensuring individuals do not act contrary to the provisions of the treaties. The police force is meant to play an important role in implementing international treaties and convention by ensuring compliance of persons and preventing acts and practices that contravene the provisions thereof. Various human rights documents have been ratified by Nigeria including the ICCPR which explicitly provides fundamental freedom and rights for individuals. The rights contained in this convention must therefore be implemented and enforced duly by the police in their line of duty.

The NPF has some members working transparently and diligently but on the contrary many Nigerians strongly believe the police force has failed in its obligations of preserving human rights. Most of their practices undermine the basic principles of human rights. Basic human rights are constantly being abused by them in form of torture, arbitrary arrest, unlawful detention, extrajudicial killings among others. Police

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<sup>35</sup> Inspector General of Police also addressed as IGP is a rank for the most senior officer for national police, usually heads the force.

<sup>36</sup> Police Act 1967 Preamble; an act to make provision for the organisation, discipline, powers and duties of the police.

officers commonly extort individuals and failure to compromise will often lead to the violations listed above. The force is linked with a history of human rights violation in the course of carrying out their duties. The special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment of the UN in 2007 pointed out “ill-treatment and torture being commonly practised in custody of the police and integral to the police operations in Nigeria”.<sup>37</sup> The rights mostly violated by the police force includes; the right to life, liberty, dignity of the human person. The Nigerian Constitution in section 14 exclusively states that “welfare and security of persons to be the primary objective of the government”.<sup>38</sup> This will only be achieved by the presence of an efficient police force. Human rights protection is key in policing.

### **3.3 IDEOLOGY OF THE POLICE FORCE**

The constitution of Nigeria recognizes the existence and validity of the NPF. The Nigeria police force is bound by principles that aims to create a safe environment for occupants of the country and promoting economic development. It functions with the idea of ensuring national security is guaranteed, collection of information useful for intelligence and collaborating with other security agencies where necessary to achieve its goals. Criminal investigation is one of most important rationale behind the police force, this entails bringing criminals to justice in a professional way. Enhancing the welfare of its workforce is key as they strive to create a well-trained workforce in order to build a friendly workforce for the people. The police force frequently promotes the idea that ‘the police is your friend’. Creating a gender balance in the force hoping to give women equal opportunity and respect in the force irrespective of religious, social, economic or political background is part of their ideologies.<sup>39</sup>

The police force believes in cooperation with other security agencies, government organizations, doing regular police service evaluation, creating equal opportunities for members of the police force in the area of career evaluation. Providing accessible and

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<sup>37</sup> Manfred Nowak, Report of the UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Mission to Nigeria, (November 2007) p.18  
See also Network on Police Reform in Nigeria and open society Justice Initiative, Criminal Force, pp.65-71

<sup>38</sup> Constitution of the Federal Republic of Nigeria 1999, s (14) (2)(b)

<sup>39</sup> Nigeria Police Force, VISION AND MISSION <  
[https://www.npf.gov.ng/aboutus/vision\\_mission.php](https://www.npf.gov.ng/aboutus/vision_mission.php)> accessed 20 November 2020

quality police service, gaining public trust and most importantly protecting and safeguarding human rights while being impartial in carrying out their obligations.

However, the Nigeria police force to a very large extent lacks expertise, there are numerous inefficiencies in the force, recruiting, training and control is not up to the required standard of policing. Corruption and bribe fuels the operation of the police force. There is more proficiency in paramilitary operations than actual professionalism, in promoting human rights and preventing violations. <sup>40</sup>In one case of a woman not wearing a face mask a police officer was arrested for apprehending and raping the woman in question.<sup>41</sup>

### **3.4 OPERATION AND STRATEGY OF THE FORCE**

The force is being the largest police force in Africa with a workforce at 371,800, it intends to expand to a workforce of 650,000 by recruiting new members. <sup>42</sup> The operation of the Nigeria police is listed in sections 214 and 215 of the Nigerian constitution, defining three visible structures the police force will be operated.<sup>43</sup> The IGP is charged with control and leadership of the Nigeria Police operations. The force operates being divided various administrative departments, further divided into twelve operational zonal commands and thirty-seven state commands. The highest ranking in the police force is the position of IGP and least ranking, the position of a constable. There is a secretariat of the IGP established in 1987 to serve as a centre to attend to issues that demand urgent intervention of the IGP. There is a management team

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<sup>40</sup> Temitayo Isaac Odeyemi and A. Sat Obiyan 'Digital policing technologies and democratic policing: Will the internet, social media and mobile phone enhance police accountability and police–citizen relations in Nigeria?' (March 2018) < <https://journals.sagepub.com/doi/10.1177/1461355718763448>> accessed 20 November 2020

<sup>41</sup> Sahara Reporters, 'Police Arrest Officer Who Raped Woman Apprehended for Not Wearing Face Mask' (July 2020) < <http://saharareporters.com/2020/07/31/police-arrest-officer-who-raped-woman-apprehended-not-wearing-face-mask>> accessed 20 November 2020

<sup>42</sup> Interpol, Member states, < <https://www.interpol.int/Who-we-are/Member-countries>> accessed 20 November 2020

<sup>43</sup> Constitution of the Federal Republic of Nigeria 1999, s 214(2)(a), s 215(2)

headed by IGP and made up of seven departmental heads and the force secretary, with the responsibility of making decisions and impacting police activities.

The code of conduct for the police force is enshrined in the sections 353-368 of the police act; reflecting international conventions for law enforcement officers and other rules for behavioural standards.<sup>44</sup> This code of conduct applies to all members of the police force whether or not they are on or off-duty. Supervision of the force operations is handled by the Nigerian police council, Police Service Commission, and the ministry of interior.<sup>45</sup> To enhance policing, the NPF created a technological platform through a complaint response unit to handle complaints from the general public.<sup>46</sup> This public complaint rapid response unit facilitates communication with police via phone calls, social media sites and even a mobile app. This platform attempts to create a system of accountability and friendly relations between the police and the citizens. Human rights is part of the police training. The Human rights manual handed to police officers aids in effecting this training.

Despite the tactical operation of the police force, there are multiple loopholes in the system of operation in the force. Proper professionalism lacks in the strategy of the police force of Nigeria. In a report published by Amnesty International, it expatiated on the numerous human rights violations being perpetrated by a special unit of the Nigeria police force known as SARS<sup>47</sup>. From subjecting individuals to torture, unlawful detention, and even unlawful killings, the police unit meant to protect the people now pose threat to the nation at large.<sup>48</sup>

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<sup>44</sup> Police Act 1967, s 353-368

<sup>45</sup> Nigeria Police Force, FORCE STRUCTURE <  
[https://www.npf.gov.ng/aboutus/Force\\_Structure.php](https://www.npf.gov.ng/aboutus/Force_Structure.php)> accessed 20 November 2020

<sup>46</sup> Temitayo Isaac Odeyemi and A. Sat Obiyan 'Digital policing technologies and democratic policing: Will the internet, social media and mobile phone enhance police accountability and police-citizen relations in Nigeria?' (March 2018) < <https://journals.sagepub.com/doi/10.1177/1461355718763448>> accessed 20 November 2020

<sup>47</sup> A Nigerian Police Force unit formed in late 1992 to handle crimes connected with motor vehicle theft, kidnapping, robbery, and firearms.

<sup>48</sup> Amnesty International, NIGERIA: 'YOU HAVE SIGNED YOUR DEATH WARRANT' (2016) <[https://www.amnestyusa.org/files/nigeria\\_sars\\_report.pdf](https://www.amnestyusa.org/files/nigeria_sars_report.pdf)> accessed 20 November 2020



### 3.5 LIABILITY OF THE POLICE FORCE

The newly enacted Police Act of 2020 does not include liability of police officers. Provisions for liability does not exist under the Nigerian Law. Police officers may be sanctioned, arrested, suspended, or even fired if they are found wanting by the law, but they are mostly not legally responsible for their unlawful actions. In a speech delivered by a former IGP, he insinuated the NPF will be guided by core international principles of policing. This will then create a responsive and accountable institution for its citizens.<sup>49</sup> If the police force could be more liable for their actions, there will be a reduction in the violations carried out by them. This lack of liability fuels the lack of accountability of the police force.

The Nigeria Police Act of 2020 passed the reform bill for the police in September; it provides for more organization in the force, addresses numerous challenges faced by the police following the involvement of SARS in multiple unlawful arrests and torture, the anti-SARS movement led to SARS being disbanded. After a series of interview conducted by the Human Rights Watch, they call on the government of Nigeria on numerous human rights violations, holding those involved accountable. Several recommendations were made in this regard.<sup>50</sup>

In a functioning legal system, there must be the existence of an efficient police force that enforces the law and facilitate promotion of human rights. The police force plays an important role in Nigerian legal system despite its shortcomings. Unfortunately, human rights protection is constantly downplayed by members of the police force. The legal system is one that is constantly evolving as laws are repealed and amended from time to time, the duties of the police force should be redefined, their ideologies, strategies and operations should be revised accordingly.

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<sup>49</sup> Nigeria Police Force, 'Public Complaint Rapid Response Unit' (2016) <<https://www.npf.gov.ng/complaint22/>> accessed 20 November 2020

<sup>50</sup> Human Rights Watch, "Everyone's in on the Game", 'Corruption and Human Rights Abuses by the Nigeria Police Force' (August 2010) < <https://www.hrw.org/report/2010/08/17/everyones-game/corruption-and-human-rights-abuses-nigeria-police-force>> accessed 20 November 2020

## CHAPTER 4

### THE UN HUMAN RIGHTS COMMITTEE ON HUMAN RIGHTS VIOLATIONS BY LAW ENFORCEMENT OFFICERS

#### 4.1 THE UN HUMAN RIGHTS COMMITTEE

Nigeria has ratified several treaties on human rights both regionally and internationally. Being a member of the United Nations, Nigeria has showed impressively endeavoured to follow the tenets of the UN Charter, especially in the wording of Article 1;

“..... and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;.....<sup>51</sup>

In doing the above, Nigeria has signed, ratified and ascended to almost all the UN human rights treaties, including some of their optional protocols. The ratification of the ICCPR is a major shift in promoting fundamental freedoms for its citizens. However, despite this commendable move made by the Nigerian government, there are countless violations occurring in practice. Since the UN Human Rights Committee monitors the ICCPR, examination of its strategies in combatting human rights violations, especially violations by law enforcement officers should be thoroughly scrutinized.

The UDHR adopted by the UN General Assembly in 1948,<sup>52</sup> recognizes the rights of all persons to political and civil rights. The ICCPR was subsequently adopted to

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<sup>51</sup> The Charter of the United Nations, Art 1

<sup>52</sup> United Nations General Assembly, [December 1948] [General Assembly resolution 217 A]

specifically promote those rights under the watch of the Committee. The ICCPR is a multi-lateral treaty that by the United Nations GA in 1966, with effect from 1976.

This committee is a treaty body that was established to monitor the implementation of the ICCPR in 1976. These rights are inherent for the dignity of the person. The committee derives its mandate from the ICCPR which is the founding treaty of this treaty body. This treaty body fulfils the purpose contained in Article 55 of the UN Charter.<sup>53</sup> The committee can be said to be the international guardian of the ICCPR, fostering the protection of the respective rights therein.

The ICCPR encompasses quite a number of rights including right to life, right to fair trial, right to participate in the political process, fundamental freedoms for example liberty, inhuman treatment, torture, privacy rights, freedom from discrimination, freedom of religion and equal protection under the law.<sup>54</sup> ICCPR rights are very developed to a very high extent as it has legal and historical characteristics. It has legal credibility as it has brought about much jurisprudence under constitutional documents domestically. Many states have ratified the ICCPR including Nigeria.<sup>55</sup> The committee is an expert and independent body established to oversee the implementation of the ICCPR.

Regular reports are submitted to the Committee by states parties on how the ICCPR is being implemented. Submission to me made a year following accession to the Covenant and also at the request of Committee. Examination of the reports is done by the committee and expressing concerns providing its recommendation to the state in question the form of "concluding observations".<sup>56</sup>

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<sup>53</sup> Charter of the United Nations, Article 55(c); universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

<sup>54</sup> ICCPR, part III

See also, Scott Davidson, 'Introduction; in Alex Conte, Scott Davidson and Richard Burchill, *Defining civil and Political Rights: The Jurisprudence of the United Nations Human Rights Committee* (Aldershot: Ashgate, 2004)

<sup>55</sup> As at July 2020, 173 States parties had ratified the ICCPR

<sup>56</sup> United Nations OHCHR, Human Rights Committee, <<https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIntro.aspx> > accessed 27 November 2020

## 4.2 ROLE OF THE UN HUMAN RIGHTS COMMITTEE

The committee affirmed the positive duties of the state in its credo on the ICCPR Article 7.<sup>57</sup> This committee is prominent for prominent legal credibility in upholding human rights principles. Being the first universal body to be able to handle individual complaints, it receives individual petitions of quite a high number. Over many years, this committee has influenced domestic and international institutions with its interpretation of human rights.<sup>58</sup> The committee has greatly influenced the human rights practice in interpreting the ICCPR with their mandate and the use of monitoring tools. This committee is an integral fraction of the UN human rights system. This committee has impacted the practice of other international bodies and regional bodies. Particularly the committee has offered several recommendations to Nigeria regarding the practice of the police force.

## 4.3 AUTHORITY OF THE UN HUMAN RIGHTS COMMITTEE

This Committee holds meetings up to three times in a year at Geneva. The Committee does publication of its interpretation of provisions that are human rights based, which become general comments on human rights matters and its work procedure. The ICCPR rights often subject to complaints from individuals to the committee by virtue of the First Optional Protocol. This committee has decided quite a number of cases and this contributes to the definition of the ICCPR.<sup>59</sup> The ICCPR in article 28 states membership and composition of the committee as to be made up of nationals of the States Parties to the ICCPR, they must be persons of quality character having competence and acknowledgement in human rights. Relevance is given based on the participation of persons who prove their usefulness having commendable experience legally.

This committee is charged with the monitoring and compliance with the ICCPR and the domestic implementation within its powers. Recognized by the ICJ in the Diallo case is this committee, referred as being a “body independent established particularly

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<sup>57</sup> General Comment 20, which replaced General Comment 7, concerning prohibition of torture and cruel treatment or punishment. (Art 7), CCPR/74/CRP.4/Rev.6. (1992) paras. 11 and 13

<sup>58</sup> Gerd Oberleitner, *International Human Rights Institutions, Tribunals, and Courts*, (2008)

<sup>59</sup> Optional Protocol to the ICCPR, adopted by GA Res 2200A (XXI) of 16 November 1966, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976)

to oversee the application ” and to that end the court “to attribute important relevance to the interpretations adopted by this committee”<sup>60</sup> The First Optional Protocol gives this committee authority to oversee an individual complaints system allowing complains to the committee by individuals, complaints of violations of the covenant.<sup>61</sup>

#### **4.4 NIGERIA’S JOURNEY TOWARDS IMPLEMENTING THE ICCPR**

Article 2 states obligations of states under the convention requiring state parties to uphold the provisions therein ensuring they are promoted and protected. Nigeria ratified the ICCPR in July 1993 and it came into force in October 1993. Nigeria has since included the provisions in its constitution.

The ICCPR cannot always be implemented by the state merely refraining from certain conducts, some of the provisions requires states to engage in active steps to ensure that violation of certain provisions is minimalized. For example, putting measures in place to safeguard human rights. However, some human rights explicitly require the state to completely refrain i.e. freedom from torture will require the state to completely avoid any form of torture.<sup>62</sup>

Commendably, Nigeria has taken legislative and institutional steps to promote human rights with the Anti-Torture Act of 2017, violence against persons (prohibition) Act 2015, alongside the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>63</sup> in 2009. This committee regards the National Human Rights Commission of Nigeria in their capacity to strengthen the rights of the ICCPR.

The journey has not been a successful one in terms of implementation as members of the police force carry out human rights violations on a regular basis, frequent cases of degrading cruel treatment, torture and unlawful arrests among others. Human rights

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<sup>60</sup> Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo) [ 2010] ICJ

<sup>61</sup> OP1-ICCPR, Article 1

<sup>62</sup> Mashood A. Baderin and Manisuli Ssenyonjo, International Human Rights Law Six Decades after the UDHR and Beyond (Ashagte eBook 2010)

<sup>63</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984, to make alleviate the struggle against torture and other cruel, inhuman or degrading treatment or punishment globally.

activists are faced with harassment for opposing these violations. The justice system is in shambles; prisons are overly crowded.<sup>64</sup>

#### **4.5 THE VIEW OF THE UN HUMAN RIGHTS COMMITTEE ON VIOLATIONS BY NIGERIA POLICE FORCE**

The view of the committee on violations by the Nigerian police is emphasized in a concluding observation adopted by the committee on 29<sup>th</sup> August 2019. The covenant which was ratified by Nigeria in 1993, since then Nigeria has failed to submit its second periodic report. This committee raised concerns on corruption and its impact in Nigeria. There was a recommendation to combat corruption and promote good governance.

One concern is the excessive force by members of the police force; the Nigerian constitution permits using of force also the Police Order 237 and Administration of Justice Act authorizes use of force in proportionately although setting no proper restriction. For example, excessive use of force against protesters. Another concern of the committee is the frequent use of torture by law enforcement officers in police custody especially by Special Anti-Robbery Squad (SARS) a criminal investigation unit of the Nigeria Police Force. Another concern was on the security and liberty of persons following series of allegations of unlawful arrest by law enforcement officers. This committee is fully aware of the callous operations of the police force and it has raised due concerns to this end.

#### **4.6 PRACTICE OF THE PRINCIPLES OF THE ICCPR IN NIGERIA**

The ICCPR primarily provides rights for individuals. It provides for guarantee of political civil freedoms. The ICCPR has been recognized in multiple domestic constitutions and it contains many of the UDHR's principles. Nigeria duly recognizes the ICCPR in the 1999 Constitution.

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<sup>64</sup> Amnesty International, 'Nigeria Human Rights' < <https://www.amnestyusa.org/countries/nigeria/> > accessed 27 November 2020

Article 50<sup>65</sup> provides that the state will be held accountable for actions of the legislative, executive and judiciary. This obligation encompasses all the divisions of a federal state like Nigeria, this obligation was also established in the Toonen case that was concerned with right to privacy infringement as provided in Article 17 of ICCPR.<sup>66</sup> This Committee was conclusive of the facts available revealed an infringement of article 17 of the Covenant and that the complainant was entitled to a remedy under article 2 of the ICCPR.<sup>67</sup> Thus ICCPR provisions have been incorporated into the Nigerian constitution. Unfortunately, most of the provisions today are not being practically implemented and enforced in the country.

#### **4.7 THE UN HUMAN RIGHTS COMMITTEE ROLE IN REPRIMANDING VIOLATIONS COMMITTED BY THE NIGERIAN POLICE FORCE**

This Committee effects the promotion of political and civil freedoms in Nigeria. This brought about changes in laws and gave rise to find of violations of the ICCPR. This committee provides recommendation for the Nigerian government to take active steps to prevent forms of excessive force that may be used by law enforcement. The committee proposes for efforts to be made in ensuring that SARS operates within the acceptable international standards and proposing investigation of torture, inadmissibility of confessions that involves torture in court proceedings also taking measures to combat acts of torture. There was a recommendation to the government to ensure no one is arbitrarily detained in line with Articles 9 and 14 of the Covenant. Also calling for disciplinary action for officers involved in cases of arbitrary arrest and providing reparations for victims.

The Committee has placed a request for Nigeria to hand in its succeeding periodic report by the year 2025 containing specific updated information on implementation of the recommendations provided by the current concluding observations and those stated by the Covenant in general.<sup>68</sup> Moreover, the Committee paves way for the

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<sup>65</sup> Provisions of this Covenant extends to all parts of federal States with no exceptions or limitations.

<sup>66</sup> Toonen v Australia [1994] CCPR/C/50/D/488/1992

<sup>67</sup> ICCPR Articles 2(3) and 17

<sup>68</sup> Human Rights Committee, 'Concluding observations on Nigeria in the absence of its second periodic report', < <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc> > accessed 28 July 2020

practice and implementation of the ICCPR practically, and imposing this duty on the state. The Committee tries to reprimand these violations through its purpose, functioning and its strategy.

#### **4.8 PROWESS OF THE UN HUMAN RIGHTS COMMITTEE IN HUMAN RIGHTS VIOLATIONS**

By virtue of Article 40 ICCPR, the committee reviews state reports, reviews petition of individuals within the scope of the Optional Protocol. Its pronouncements may not be legally binding rather it is quasi-judicial.<sup>69</sup>

The provisions of the ICCPR are universal in nature. The ICCPR gives room for reservation to state parties to the treaty.<sup>70</sup> Reservations do not often allow the purposes of the treaty to be achieved in the full capacity. Since some states are not willing to enforce certain parts of the treaty, it undermines the power of the committee to stand against violations of those parts of the treaty. Derogation in Article 4 of the ICCPR often permits states to justify illegitimate measures. Although Article 4(2) sets out non- derogatory rights, no derogation is permitted under Articles 6-8, 11,15,16 and 18. This derogation limits the capacity of the committee to confront several violations. Despite the limitation of the powers of the committee, the committee plays a dominant role towards the journey of addressing numerous violations. This Committee is not solely responsible to uphold Covenant's credibility. This is a duty that involves the Committee and the state.

The UN Human Rights Committee plays vital roles in ensuring compliance with the ICCPR and giving recommendations to guide states against violations with their tools, violations should be revised accordingly. The committee although can be limited in its capacity, it still gives hope to victims of violation by way of the individual complaints system.

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<sup>69</sup> General Comment 33 para 11

<sup>70</sup> General Comment 24: Issues Relating to Reservations, CCPR/C/21/Rev.1/Add.13 (26 May 2004), para.14



## **CHAPTER 5**

### **CASE STUDY (DILLY V INSPECTOR GENERAL OF POLICE AND OTHERS (CA/L/12/2013) [2016] NGCA 21)**

#### **5.1 FACTS OF THE CASE**

Human rights cases are usually inevitable in any legal system but the amount of human right cases that are brought up every now and then in Nigeria often questions the legal validity of human rights in Nigeria. This is a human rights case that is concerned with violation of some core human rights principles. With torture, cruel inhuman treatment, unlawful detention and even deprivation of life meted on a person entitled to fundamental freedoms under the law. This case was between the Appellant Mrs Ganiat Amope Dilly and seven Respondents including one Inspector General of the Police Force and other officers. The appellant tendered an application for the right to life of her son seeking enforcement of that right as he lost his life in police custody following arrest by the police. Though this application was dismissed in October 2012 on grounds that the applicant Mrs Dilly could not seek redress for the deprivation of the life of her son who was already deceased. The appellant sought an appeal giving further grounds for plea.

Under the Fundamental Rights Procedure of 2009,<sup>71</sup> the appellant demanded compensation for her son who was arrested by police officers and denied bail as she

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<sup>71</sup> Fundamental Rights (Enforcement Procedure) Rules, 2009; came into force in 2009 in November, collated by Justice Idris Legbo Kutigi who was a former Chief Justice of Nigeria (CJN), it took effect

was unable to pay the bail money. In attempt to raise the sum of N50,000.00 (around 318USD at that time) as required for bail, she received a call from one of the police officers who informed her that her son was dead. The corpse of the deceased was later found at a hospital (Badagry General Hospital) after it was initially at another hospital. The corpse was found registered as an unidentified corpse to construe that the corpse was that of an unidentified person.

Mrs Dilly proposed that her late son Akindele was thoroughly beaten to death but on the contrary, the autopsy report stated cardiac arrest and hypertension to be the cause of death. Mrs Dilly attested to her son having a good health record indicating no history of hypertension. The respondents tried to persuade the applicant to forfeit the claims, two respondents disappeared following the death of Akindele Dilly and also a community leader attempted to insinuate peaceful resolution of the case. Following a dismissal of an application, Mrs Dilly brought further claims before the court of appeal to obtain an appeal.<sup>72</sup>

## 5.2 LEGAL PRINCIPLES OF THIS CASE

Locus Standi (right to be heard)<sup>73</sup> has been interpreted in different ways, this has made locus standi to be viewed peculiarly in different cases. Various methods have been followed in regard to locus standi in recent times, following the traditional approach only the party who has suffered direct loss can claim for damages. The case of Airtel established that 'it can be said that a party to a case has locus standi if they can show enough interest in the case. Also such a party's right or obligation must have been tampered with or be at risk of infringement'.<sup>74</sup> A party can only be heard if the court is satisfied that they have suffered sufficient damage. On the contrary, the liberal approach grants locus standi to any person may bring forth a claim provided it is constitutionally inclined. Challenge to an infringement on fundamental human rights may be made in this manner.

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immediately. It provides human rights enforcement action. These rules were enacted in accordance with the Nigerian Constitution; Section 46(3).

<sup>72</sup> Dilly v Inspector General of Police and Others (2016), CA/L/12/2013, (June 2016)

NGCA 21 < <https://nigerialii.org/ng/judgment/court-appeal/2016/21>> accessed 5 January, 2021

<sup>73</sup> The capacity to or appear in a court or present an action is referred to as; Locus Standi

<sup>74</sup> Airtel Networks Ltd v George & ORS (2014) CA JELR 36606

The Appellant will be said to possess locus standi to catalyse action based on the tenets of locus standi rules as cited in order 1 of the Fundamental Rights rules,<sup>75</sup> provides that “ a party who puts in a request or on whose behalf a request is filed under the respective rules will be regarded as an ‘applicant’. Therefore, an ‘application’ refers to a request brought in consonance with the rules stated therein either directly or indirectly by a party seeking reinforcement of their rights” The 1999 Constitution in Section 46 allows this.<sup>76</sup> The Appellant in this case banked on the case of Ehuwa in this regard.<sup>77</sup> The appellant insisted that the constitution be followed in its literal interpretation and not be construed in a way that it trounces the intended purpose, she relied on the Uwagba case.<sup>78</sup> Following the liberal approach, Mrs Dilly submitted that an injured party or even organizations who may have an interest may seek redress on a human rights infringement, thereby urging the court to take this into consideration.

The appellant proposed the trial court was incorrect to establish that she could not get redress under the Fundamental Rights rules for the right to life of her now deceased son. Mrs Dilly also sought a mandatory injunction for damages to be paid for the infringement of her son’s right.

### 5.3 RULE(S) OF LAW

The judge did not give effect to the intention and purpose of the Fundamental Rights Enforcement Procedure Rules. Human rights usually are distinctive in nature but in enforcement, representative action should be allowed so the trial judge has misjudged in this context.

The claims brought forth by Mrs Dilly is not contrary to the constitutional provisions that guarantees human rights as in the wordings of section 6, judicial jurisdiction

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<sup>75</sup> Fundamental Rights (Enforcement Procedure) Rules, (2009) Order 1(2);

<sup>76</sup> Constitution of the Federal Republic of Nigeria (1999) s 46(1) ‘Any person who alleges that any of the provisions of this chapter has been, 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>77</sup> Ehuwa v. O.S.I.E.C. (2006) 10 NWLR (PT.1012) 544 (2006) 11-12 S.C. 102 (2006) 11-12 S.C. 102 <<https://www.judiciary.gov.ng/cases/ehuwa-v-ondo-state-independent-electoral-commission-ors-supreme-2006>> accessed 5 January, 2021

See also A.-G., Lagos State v. Eko Hotels Ltd. (2006) 18 NWLR (PT. 1011) 378 <<https://www.judiciary.gov.ng/cases/ag-lagos-state-v-eko-hotels-ltd-anor-supreme-2006>> accessed 5 January, 2021

<sup>78</sup> Uwagba v FRN (2009) 15 NWLR (PT 1163) 91 < <https://www.judiciary.gov.ng/cases/uwagba-v-frn-supreme-2009>> accessed 5 January, 2021 See also Nafiu Rabi v The State (1981) 2 NCLR 293

extends, 'to those proceedings between governmental authorities and between persons within Nigeria, also extensive to relative actions in answering questions relating to the obligations and civil rights of such a person;'. The UDHR, the African Charter, as well as the ICCPR provisions are vocal on the aforementioned. Ranging from personal claims or claims brought on behalf of a person, human rights related claims should not be treated leniency. Human rights jurisprudence with a retrogressive nature should not be a practice of courts.

The proper procedure in a given claim to enforce fundamental human rights includes ascertaining the reliefs that may be sought, together with the basis for seeking that relief and facts depended on. In cases the facts depended on reveals the grounds of the claim as an infringement of fundamental rights of the applicant, as it was in this case, remedy is to be provided under the Fundamental rights Rules.<sup>79</sup>

Mrs Dilly the appellant declared that the arrest of her son by the respective respondent was contrary to sections 33, 34, 35, 36, 39 and 41 of the Nigerian constitution.<sup>80</sup> She claimed the unlawful detention of her son without medical attention for around three days. Torture accompanied by no medical care leading to the deprivation of life of the applicant's son in police custody violates core principles of fundamental freedoms.

#### **5.4 REASONING & ANALYSIS**

Right to fair trial has to be accessed in this case being that the appellant brought it up as a claim. The judgment of the trial court and the dismissal of the application on grounds of absence of the applicant's locus standi accompanied with the reason that her now deceased is no other longer a person under the law is insubstantial. The claim was not scrutinized on its merits rather counter affidavits were relied on by the trial court to discharge the claims made by the applicant. The arrest of the now deceased victim might have been lawful but the sequence of events that followed proved to be illegitimate.

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<sup>79</sup> See *Amale v. Sokoto Local Govt.* (2012) 5 NWLR (PT. 1292) 181  
<https://www.judicial.gov.ng/case/amale-v-sokoto-local-government-ors-supreme-2012> accessed 5 January, 2021

<sup>80</sup> The Constitution of the Federal Republic of Nigeria 1999 s 33, 34, 35, 36, 39 and 41

The Nigerian constitution in section 36 incorporates right to fair trial by guaranteeing that persons be entitled to a receive fair hearing within an appropriate stipulated period by a tribunal or court that has been set up by law.<sup>81</sup> Adequate time alongside facilities for the suspect until his defence is mentioned in this section of the constitution, but in this case the victim was not provided with medical facility. Due to harsh policing conditions the now deceased victim was not opportune to reach the trial process as his life was cut short by the police force. The ICCPR goes on to expatiate on this right to fair trial, demanding trial be conducted by an “....independent, impartial and competent tribunal of the law.”<sup>82</sup> There was a high level of incompetence on the part of the tribunal in this case as the judge failed to give effect to the preamble and objectives of the Fundamental Rights Rules and dismissal of the case for want of Locus Standi. This defeats the purpose of enforcement of human rights, human rights related cases, especially those that involves violations should be handled with exceptional competence and good reason. The trial was not given within a reasonable time because by the facts, in the time period the mother of the deceased tried to put together the bail charge, she was informed her son was already dead. This is one of the many cases that violation of the right to fair trial has emerged, most commonly in a good number of judicial system in Nigeria, trial is not available for a very long time and in some cases there is no trial at all for the suspect, hence such suspects remain imprisoned irrespective of if they are guilty or not. In the Keita case, the respondent was held in prison for over ten years without trial.<sup>83</sup>

Unlawful detention which involves keeping a person in police custody arbitrarily is a very familiar practice of the Nigerian police force. The ICCPR encourages fair treatment of persons having no respect for the dignity of the person or even liberty and humanity therein.<sup>84</sup> Detention centres are often characterized by lack of proper policing practices. A person arrested is vulnerable to cruel treatment while in detention coupled with no trial at a reasonable time. Some suspects end up spending years

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<sup>81</sup> Constitution of the Federal Republic of Nigeria (1999) s 36

<sup>82</sup> ICCPR (1976), art 14

<sup>83</sup> Attorney General of Lagos State v Keita [2016] CA/L/477/2012, [2016] NGCA 87 < <https://nigerialii.org/ng/judgment/court-appeal/2016/87>> accessed 5 January, 2021

<sup>84</sup> ICCPR (1976), art 10(1)

unlawfully for a crime they did not commit and in other cases suspects lose their life in the detention process. The constitution provides for personal liberty of the person.<sup>85</sup>

Torture is evident in this case although the respondents may have denied beating and torturing the deceased, this denial is very feeble considering the persistent record of brutality and torture within the practice of the police force. Denying the deceased bail and deprivation of access to a fair trial within the required period as provided by the constitution is a breach of core human rights standard. The circumstances surrounding the death of the victim portrays ardent lack of professionalism on the part of the police officers who are the respondents here. Torture is prohibited by core human rights documents. The Nigerian constitution in section 34 affirms that “individuals are entitled to respect for their dignity therefore no one shall be subjected to any form of torture, degrading or cruel inhuman treatment;”. To support the constitutional provision for the right against torture, Anti-Torture Act 2017 was promulgated to sanction practices of torture, cruel treatments and degrading punishment thereby prescribing penalties in that regard.<sup>86</sup> This Act imposes obligation on government to ensure persons are not exposed to certain physical harm or brutality that might be a menace to them especially in police custody. The government to “comprehend with principles that procure total prohibition of torture such as those set out in the Constitution of the Federal Republic of Nigeria and other international provisions binding on Nigeria.”<sup>87</sup> The Anti-torture Act in its’ definition includes physical torture that could be in form of cruel or degrading treatment which causes pain and exhaustion,<sup>88</sup> which might have been the instance in this case because the victim was left without medical aid and that is absolutely cruel to leave a person unattended when it is evident they require medical aid. And in accordance with the Act the respondents should face the respective penalties since the Act also regards torture resulting in death as murder demands trial and punishment under the relevant laws.<sup>89</sup>

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<sup>85</sup> Constitution of the Federal Republic of Nigeria (1999), s35

<sup>86</sup> Anti-Torture Act (2017); provides standards to penalise acts of torture, inhuman and degrading treatment and cruel punishment, also it suggests sanctions where the mentioned acts are perpetrated.

<sup>87</sup> Anti-Torture Act (2017), s 1(b)

<sup>88</sup> Anti-Torture Act (2017), s 2(2)(a) s 2(2)(a)(I)

<sup>89</sup> Anti-Torture Act (2017) s 9(2) see also s 9(1) conviction to imprisonment for around 25 years applicable to a person who commits torture as stated by the Act.

The Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment has since been ratified by Nigeria<sup>90</sup> The provisions therein are primarily concerned with standing in opposition to acts of torture and cruel inhuman treatments universally. This convention gives in-depth insight into the stance against torture and imposes the obligation on state parties to actively take establish measures useful in counteracting torture within their jurisdiction and territory.

Torture has long been a tool for the Nigerian police force is obtaining confession and getting supposedly useful information from suspects that are in police custody. This case is not an exception judging with the sequence of events. The UDHR in article 5 goes against subjecting any person to any form of degrading treatment torture.<sup>91</sup> The ICCPR upholds this right.<sup>92</sup> More specifically, the autopsy report inferred the cause of death as hypertension which led to a cardiac arrest. The assertion of registering the deceased corpse as an unidentified person without attempting to reach out family or acquaintances of the deceased leaves gives room to infer that he was beaten and tortured in a cruel and inhuman way causing the police officers to register the corpse as an unidentified person at the medical centre. This was an alleged suspect in police custody with an identity based on the facts of the case where it was revealed that the police requested a sum for bail.

The right to life of which the appellant sought damages for the violation is particularly important in analysing this case. The respondents contributed to the deprivation of life of the said victim given the surrounding conditions that led to loss of life of the applicant's son. In other words, there was a violation of the victim's right to life by the inflicted torture even prior to his demise. Holding suspects in police custody without granting them bail should include access to adequate medical care to injured suspects. The provisions contained in the ICCPR dictates clearly that a person possesses inherent right to life and it is to be safeguarded by law to that end. Persons not to be contrarily deprived this right to life.<sup>93</sup> To contravene the article is to deny a person of his basic right to life. Like in this case, the Appellant's son lost his life in police custody,

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<sup>90</sup> Signed 28 Jul 1988, ratified 28 Jun 2001

<sup>91</sup> UDHR, (1948) Art 5

<sup>92</sup> ICCPR, (1976) Art 7

<sup>93</sup> ICCPR, (1976) art 6

the law that is meant to ensure his life is preserved allegedly contributed to his life being brought to an end by cruel treatment in detention.

The Nigerian constitution states thus in section 33 “persons have the right to life, and none should be arbitrarily deprived of his life, exception in the execution of a sentence by the court in regard to a crime which they have been charged guilty for within Nigeria”. Analysing from the wording of this section, the now deceased victim was not attended to medically, of which can lead a person to end up losing their life. It is not sure whether it was an intentional act to result in his death but at the same time, this is not a new practice in police custody in Nigeria accompanied with the facts that two of the respondents disappeared from the community after the victim died. There have been multiple complaints of suspects being beaten to the point of death by police officers while they are in custody. This section infers death sentence when a person is found guilty, but in this case the victim had not been tried in court.<sup>94</sup> Going by the provisions of the law, despite him being a suspect he is still regarded as innocent of the said crime.<sup>95</sup> Damages are meant to be provided for the claim of violation brought by Mrs Dilly for arbitrary deprivation of her son’s life. So the applicant is entitled to a remedy, as every case deserves a remedy, the court within its powers to provide the relief sought.

## 5.5 JUDGEMENT

The lower court dismissed Mrs Dilly’s claim stating that a dead person cannot seek redress for violation of his fundamental rights as they are no longer entitled to those rights and that under the law, a dead person is no longer regarded as a person. The court held that the application filed to enforce the rights of the deceased is not a personal application of the applicant hence it cannot be effected in the court of law. The judge was of the view that the rights provided constitutionally by sections 33-36

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<sup>94</sup>OHCHR ‘UN Treaty Body Database’

<[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=127&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=127&Lang=EN)> accessed 7 December 2020. Nigeria is yet to ratify the Second Optional Protocol to the ICCPR that aims to the abolish death penalty.

<sup>95</sup> ICCPR (1976), art 14(2); ‘persons charged with a criminal offence retain the right to be presumed innocent until proved guilty under law.’

See also Constitution of the Federal Republic of Nigeria, s 36(1) (5)



and 41 are peculiar to each individual and claims of such rights cannot be brought by another individual.

This judgement follows a retrograde system of law, despite the significant claims brought by the appellant Mrs Dilly. The bone of contention should not be whether the appellant can bring claims on behalf of her deceased son, rather the numerous violations should be adjudicated. The judgement is one that portrays in equitability, could it be that the law is trying to protect the respondents since they are members of the police force? One may suggest this taking into consideration that the trial judge failed to give effect to the Fundamental Rights Rules under which the appellant brought forth claims.

Following her appeal, the Court of Appeal passed a judgement indicating Mrs Dilly was entitled to receive damages for the contravention of her son's right to life. Mrs Dilly later received a remedy for the deprivation of the right to life of her son. The appeal was in her favour as it turned out to be successful.

However, this case is just one out of numerous human rights cases, not many of them concludes with judgement favourable to the victim or the applicant. In some cases, it favours the respondents especially if the respondents are police officers because of inconsistencies within the police force and in the legal system at large. This case exposes the callous and multiple human rights violations that persons often go through under the watch of the police force. This case study gives insight to how police constantly violates human rights under multiple human rights provisions. The Police force repeatedly perpetuates human rights violations. Unfortunately, not all victims get the justice they deserve or even remedy for a claim brought before the court as it was in this case. This is why there needs to be an evident change in the practice and execution of duties by the police force.

## **CHAPTER 6**

### **FINDINGS & ANALYSIS**

This chapter contains wholesome discovery of constant human rights violation by law enforcement officers and unmask the inefficiencies in the Nigerian Police Force. From the case study in the preceding chapter, violation of human rights by police officers is highly defined in extra judicial killing of persons, especially young individuals. Unlawful arrest, arbitrary detention, torture, cruel inhuman treatment, use of excessive force against a person and other abuses is the order of the day.

The aforementioned suggest the lack of deliberate effort to assume responsibility for violations committed by the police force. The capacity of the United Nations Human Rights committee in reprimanding those human rights violation is also addressed. This chapter offers several recommendations that may prove successful if taken into consideration and practice.

#### **6.1 FINDING & ANALYSIS**

From this research, is it evident that the violation human rights by law enforcement officers is not a contemporary issue rather it has been lingering for quite a prolonged time. The findings of this research reveal that human rights violations by the law enforcement officers continues to exist as the Nigerian government remains adamant in strictly preserving the basic principles of human rights through its respective organs. In the course of this research, the numerous human rights violation by law

enforcement officers particularly Nigeria revealed soaring inconsistencies in the Nigerian legal system. Ranging from the system being overwhelmed with corruption, to in accountability of both the police force and state authorities. These violations have become a norm leaving citizens at the mercy of the police with minimal or no justice at all. The findings also divulged the loss of trust in the police force. A popular saying by police officers in Nigeria is that “police is your friend”. This is rather far from the truth because more commonly, the police officer poses as an enemy. Young individuals are particularly afraid of the police officer based on previous harrowing experiences they might have encountered with the police or sometimes the experiences of others alter the confidence of the common person.

This is horrendous considering the number of human rights provision available for utilization. This includes a Federal Constitution, numerous legislative acts prohibiting human rights violation and also international treaties and convention. Nigeria is a party to several core human rights treaties and conventions, with the ICCPR explicitly providing guidance on civil and political rights. An examination into the Nigeria Police Force divulge the deficiencies in the force. The method of policing is characterized by unprofessionalism when compared with some other policing systems around the world. For instance, the confidence in the police is somewhat minimal as a result of the preceding failure of the police in upholding the fundamental principles of human rights. In some cases, the police may request bribes before they offer assistance to a person. There is often little or no trust in the police following numerous records of dishonesty and deception members of the force exhibit in the course of carrying out their duties. The case study sheds light on this issue as the police officers in this case allegedly tortured the appellant’s son to death and instead claimed the deceased had died due to a cardiac arrest.

Police civility is another defect in the policing practice of the Nigerian Police Force, police officers are not trained to treat citizens with politeness and courtesy when carrying out their duties. Rather, police officers often treat common people inhumanely, they harass young individuals especially, some members of the police force in carrying out their duties act as if they are above the law themselves. In one case two police men beat up a pregnant woman for refusing to give in to their demands. These aggressive policing continues to gravitate towards countless human rights violation.

Despite being a party to one of the core human rights provision, the ICCPR in actual practice is highly contravened by the police force in the course of their duties. Although the provisions of the ICCPR has been very much incorporated into the Federal Constitution of Nigeria, these violations still occur frequently. The United Nations Human Rights Committee being the treaty body established to monitor the implementation of the ICCPR, provides hope to victims of human rights violations. Although on the contrary they lack the required capacity to reprimand these violations. They do not possess the power to adjudicate on human rights violation cases, they try to curb these violations through the reporting procedure. Nigeria submitted its periodic report in 2019, of which it was handed in later than required. The report revealed a lot of human right concerns with most of these concerns relating to the conduct of the police force. From the time period the last periodic report was submitted up until now, human rights violations by law enforcement officers particularly has aggravated. The findings show that citizens are aware of their rights to some extent but they would rather not seek redress because they may lack the means and capacity to do so, and the issue of whether such claims would be successful would make a person refrain. Most citizens have normalised the violations of their fundamental human rights by the police.<sup>96</sup> Although the First Optional Protocol to the ICCPR allows individuals from state parties that are party to both the ICCPR and the protocol, to bring forth claim their rights under the ICCPR. In relation to violations that have occurred, individual complaints are welcome if victims have exhausted all domestic remedies and submissions made to the UN Human Rights Committee.<sup>97</sup> Nigeria has not accepted to be bound by this Optional Protocol, so it leaves a lacuna with regard to access to justice for the victim under the treaty.

In the past there has been numerous protests and rallies by citizens to put an end to the callous practice and conduct of the Nigeria Police Force. Most recently, on October 8 2020, nationwide protests began summoning the respective authorities to put an end to a gruesome division of the police force known as the Special Anti-

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<sup>96</sup> Barnabas Suleiman, 'Human Rights Violations by the Nigerian Police: The Nigerian Experience in a Democracy' (2014) <[https://www.researchgate.net/publication/268213712\\_HUMAN\\_RIGHTS\\_VIOLATIONS\\_BY\\_THE\\_NIGERIAN\\_POLICE\\_THE\\_NIGERIAN\\_EXPERIENCE\\_IN\\_A\\_DEMOCRACY](https://www.researchgate.net/publication/268213712_HUMAN_RIGHTS_VIOLATIONS_BY_THE_NIGERIAN_POLICE_THE_NIGERIAN_EXPERIENCE_IN_A_DEMOCRACY)> accessed 21 December, 2020

<sup>97</sup> UN WOMEN, Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) 'Why an Optional Protocol?' <<https://www.un.org/womenwatch/daw/cedaw/protocol/why.htm#:~:text=>> accessed 21 December, 2020

Robbery Squad (SARS).<sup>98</sup> Established in the year 1992 this division have reportedly been involved in multiple violations of human rights especially unlawful killings, arbitrary arrests, torture, arbitrary detention, and even extortion. The operation of the unit appears to specifically target and profile young people, especially those good looking, those in possession of luxurious gadgets such as quality phones and laptop and even worse based on their physical appearance, for example if they have tattoos, dreadlocks, piercings. National authorities over the years, have repeatedly pledged ensure accountability for abuses police officers and reform SARS, however there has been minimal success rate.

On the 3<sup>rd</sup> of October 2020, a video surfaced the internet containing a SARS officer in Delta state shooting at a man in sparked outrage. An uproar sprung on various social media platforms particularly twitter, with a globally trending hashtag #EndSARS that brought about engagement of celebrities and renowned persons around the world. It was followed by a series of protests across nearly the whole of Nigeria and internationally.<sup>99</sup> In a statement issued by Anietie Ewang, who is a researcher at Human Rights Watch, she stated “Persons exercising their applying their right to protest peacefully and voicing about police brutality are subject to such violence from law enforcement officers meant to protect them,”. In the course of the protest, many innocent persons were deprived of their right to life including a man named Jimoh Isiaka was arbitrarily deprived of his right to life on the 10<sup>th</sup> of October after the police in dispersing protesters, shot him dead in Oyo state.<sup>100</sup>This is just one example out of hundreds of deaths that were recorded at the conclusion of the protest that lasted for two weeks. The final straw was the massacre of hundreds of peaceful protesters on the 20<sup>th</sup> of October. The Nigerian army was implicated and held responsible for using excessive force on peaceful protesters.

The government responded partially to the demands of the protesters assuring that the SARS unit would be disbanded. However SARS members will be integrated into

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<sup>98</sup> SARS; Special Anti-Robbery Squad, established 1992 is a Nigeria Police Force to deal with armed robbery and other serious crimes.

<sup>99</sup> Human Rights Watch, Nigeria: Crackdown on Police Brutality Protests (2020), <<https://www.hrw.org/news/2020/10/16/nigeria-crackdown-police-brutality-protests>> accessed 21 December, 2020

<sup>100</sup> Nehru Odeh, P.M. News, ‘#EndSARS: How Jimoh Isiqa was killed’ (2020) <<https://www.pmnewsnigeria.com/2020/10/11/endsars-how-jimoh-isiqa-was-killed/>> accessed 21 December, 2020

other police units subsequently with a Special Weapons and Tactical Team replacing SARS.<sup>101</sup> Whether active steps have been taken to hold SARS officers to account for past abuses, or to investigate and prosecute those responsible for the recent repression of peaceful protesters. The Nigerian constitution and international human rights law enshrines the right to a peaceful protest. Protesters should instead be protected by the authorities instead of unlawful use of force to disperse protesters.

The findings reveal that members of the police force may not be fully aware of the fundamental human right of the people as stated in the Nigerian constitution since their training process is more tactical based than human rights based. From the tradition of exerting violence on persons, members of the police force have metamorphosed into operating by the precept of brutality and the used of cruel means to achieve policing success. The failure of the police officers to obey the principles of human rights set down in both the constitution and the international treaties extends to various factors, including psychological, political and socio-economic factors.<sup>102</sup>

## 6.2 RECOMMENDATIONS

The 10 Basic Human Rights Standards for Good Conduct by Law Enforcement Officials should be wholly assimilated into the rules and practice of the Nigerian Police Force should be incorporated as part of police reform.<sup>103</sup> The standards which stem from the UN law enforcement, human rights standards and also criminal justice aims to serve as a swift guide on how to apply human rights principles to law enforcement internationally. The goal is ensuring the police force uses this documentation as guidance for co-ordinating and conducting members of the police force. It is also the

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<sup>101</sup> Timileyin Omilana, 'The Guardian Nigeria,' IGP announces new squad "SWAT" to replace SARS' (2020) < <https://guardian.ng/news/igp-announces-new-squad-swat-to-replace-sars/>> accessed 21 December, 2020

<sup>102</sup> Barnabas Suleiman, 'Human Rights Violations by the Nigerian Police: The Nigerian Experience in a Democracy' (2014) <[https://www.researchgate.net/publication/268213712\\_HUMAN\\_RIGHTS\\_VIOLATIONS\\_BY\\_THE\\_NIGERIAN\\_POLICE\\_THE\\_NIGERIAN\\_EXPERIENCE\\_IN\\_A\\_DEMOCRACY](https://www.researchgate.net/publication/268213712_HUMAN_RIGHTS_VIOLATIONS_BY_THE_NIGERIAN_POLICE_THE_NIGERIAN_EXPERIENCE_IN_A_DEMOCRACY)> accessed 21 December, 2020

<sup>103</sup> . The 10 Basic Human Rights Standards for Good Conduct by Law Enforcement Officials was assembled by Amnesty International together experts and police officials from various nations around the world.

obligation of every member of the police force to serve as a watchdog to other members in the course of carrying out their duties. In this approach, there is high accountability in the force.

The rules uphold equal protection of the law for every person, with no form of discrimination, particularly violence or threat. The police to safeguard those vulnerable and tending to crime victims with empathy and outmost dignity while protecting their safety and privacy. Force to not be used by police officers unless in exceptional situations that necessitate the use of force and such force is to be applied minimally and not in excess. For example, suspects are shot to death in a police pursuit. For the fact that the suspect is not a terrorist, open fire should not be used, often stray bullet has killed many innocent persons in the course of a police pursuit and some persons have been hit by a stray bullet in the comfort of their homes. The use of force to be avoided at all cost when policing unlawful but non-violent assemblies. This was the case in the EndSars protest, where peaceful protesters were attacked viciously. In dispersing violent assemblies, force used should be applied on minimally if necessary. Lethal force should only be applied in inevitable situations to shield the police officer or to safeguard the life of other persons. Since unlawful detention swamp the police force, no one should be arrested unless there are legitimate reasons to do so. Such an arrest is to be done in following lawful arrest guidelines available. Ensuring those in police custody enjoy immediate legal representation, granting detainees access to their families and provision of medical assistance if necessary. Detainees to be treated humanely. Torture and other cruel degrading treatment to be firmly prohibited to detainees in police custody. Extrajudicial executions or disappearances should not be ordered or covered up in any case, the police to assume full responsibility for detainees in their custody. Reports should be made to the senior officers as well as to the office of the public prosecutor if there is are breaches of those Basic Standards. More importantly appropriate measures should be taken to investigate and sanction these breaches. <sup>104</sup>

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<sup>104</sup> Amnesty International (1998) '10 Basic Human Rights Standards for Law Enforcement Officials' <<https://www.amnesty.org/download/Documents/156000/pol300041998en.pdf>> accessed 21 December, 2020

Establishment of a human rights based Public Complaints Unit to attend to complaints. The unit should include a human rights administrator to be in charge of complaints. The duty of this unit would include receiving and investigating charges against members of the police that have been filed by victims or other persons. This unit should be charged with supervising the procedures and treatment of detainees in police custody. Advocating for prosecution of police crimes that includes police abuse, police fraudulence, unlawful police behaviour and police violation of human rights. The Human Rights Watch of the UN called on Nigerian authorities to indulge in active initiatives to enhance clarity when it comes to finances in the police force and to properly investigate and reprimand police officers involved in corrupt practices.<sup>105</sup> Protecting victims or complainant who may file a complaint against the police is key, this protection is crucial because it will prevent further harm from coming to such complainants and gaining the trust of the police force by citizens. Measures to be put in place to enable whistle-blowers report to the relevant authority incidents of police embezzlement, police extortion, or any other practices which may be corrupt in an anonymous manner. Protecting members of the police that serve as whistle-blowers against any form of reprisal or adverse repercussion. Ensuring the Public Complaints Unit functions operatively in the course of the police force discharging their duties. The Public Complaints Unit is to be equipped with proper human rights training, together with adequate financing to meet the demands of the victim. For accountability purposes, the unit should keep record and statistics of complaints they may receive for future reference.

Thorough Investigation of police officers should be carried out. Those involved in siphoning and embezzling delegated police funds or fraudulently acquiring monetary benefits should be brought to book and made to face the sanctions under the relevant laws. Other police officers especially the lower ranked officers that are usually involved in extorting money from members of the public, alleged suspects, victims and even complainants should be scrutinized and punished accordingly. Following the investigations, defaulters, those involved in corruption and other violations should be arrested and handed over for prosecution. It is feasible that human rights violations by

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<sup>105</sup> Human Rights Watch, Nigeria: Corruption Fuelling Police Abuses, 'Government Should Rein In Extortion, Embezzlement, and Related Abuses'(2010) <<https://www.hrw.org/news/2010/08/17/nigeria-corruption-fueling-police-abuses>> accessed 21 December,2020



law enforcement is occurs frivolously due to fact perpetrators are not brought to justice. Disciplinary measures in Nigeria Police Force should be strengthened so that members of the force are aware of the disciplinary actions that might be taken against them if they are found culpable. An independent disciplinary committee should be established to handle cases where disciplinary matters may arise.<sup>106</sup>

Clear guidelines should be developed concerning the proportionate use of force by the Nigeria Police Force inclusive of how arms should be applied in cases of demonstrations, in accordance with acceptable international standards. Additionally, adoptable and practical procedures should be put in place.<sup>107</sup>

Remuneration reform should be carried out, salaries of police officers are meagre and this practically leads many police officers to engage in corrupt practices to maintain a living. There should be an increase in police salaries. Though have been an active move lately as the president of the Federation approved a new salary structure, this is relatively positive but the details are not yet public.<sup>108</sup>

Additionally, the establishment of an International Human Rights Court to receive and adjudicate on claims that have been brought forward concerning human rights violations, especially violations under the ICCPR. As opposed to the individual complaints procedure, the presence of an international human rights will allow individuals to bring forth human rights claims and get access to justice in the prosecution of those crimes. Taking these considerations into account and putting them into practice may curb these excessive human rights violation by law enforcement officers.

For quite a number of years Human Rights Watch has made tremendous moves which includes documenting violation of human rights by the Nigeria police force. In 2010, a report by the Watch warned about the implications of prolonged inability of some relevant authority to look into police violation of rights brings about more

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<sup>106</sup> Human Rights Watch, (2010), "Everyone's in on the Game", Corruption and Human Rights Abuses by the Nigeria Police Force < <https://www.hrw.org/report/2010/08/17/everyones-game/corruption-and-human-rights-abuses-nigeria-police-force>> accessed 21 December 2020

<sup>107</sup> Nils Muižnieks, Council of Europe, Commissioner for Human Rights, (2014) 'Police abuse – a serious threat to the rule of law' < <https://www.coe.int/en/web/commissioner/-/police-abuse-a-serious-threat-to-the-rule-of-l-1>> accessed 21 December, 2020

<sup>108</sup> Marvellous Iheukwumere, The Global Anticorruption Blog, 'Fighting Police Corruption in Nigeria: An Agenda for Comprehensive Reform' <https://globalanticorruptionblog.com/2019/09/06/fighting-police-corruption-in-nigeria-an-agenda-for-comprehensive-reform/> accessed 21 December, 2020

systemic violations and indemnity. In a statement by Ewang, it was mentioned “relevant authorities in Nigeria cannot continue to overlook necessity of accountability coupled with stringent reform in system of policing”. “Acting beyond mere words and effect changes by carrying out proper investigation on attacks that was carried out against peaceful protesters while indulging in practical initiatives to hold officers responsible and answerable.”<sup>109</sup>

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<sup>109</sup> Human Rights Watch, Nigeria: Crackdown on Police Brutality Protests (2020), <<https://www.hrw.org/news/2020/10/16/nigeria-crackdown-police-brutality-protests>> accessed 21 December, 2020

## CONCLUSION

It is nearly impossible to exhaustively talk about human rights violation, especially when some sort of authority is involved in the perpetuating of such act. However, due to the incessant human rights violation being carried out by persons who are to enforce the law, there is the need to mandatorily comment on the topic. Provisions that cover human rights must be taken into consideration to get a clearer knowledge on what a violation might be, the relevance of the respective authorities charged with implementing such provisions cannot be undermined.

Hence, this research explores human rights violation, particularly human rights violation by law enforcement officers. In a more narrowed approach, Nigeria is the focal point here. This violation by law enforcement officers is elaborated in general and then tapered to the Nigerian Police Force who constitute the primary law enforcement body in Nigeria. Their role in the Nigerian legal system is pondered upon given the importance of the police force in any given legal system. This research has examined the system of the United Human Rights Committee in handling human right violation cases especially those that have been committed by law enforcement officers taking the Nigerian police force as a case study. A case precedent correlative to the subject matter is incorporated in this research and this case in particular involving violations of core human rights principles, also the case unlocks the shortcomings and deficiencies of the police force in enforcing human rights. The United Nations Human Rights Committee needs to do more in promoting the values enshrined in the ICCPR and setting a standard for member states and serve justice for victims that have suffered the havoc of violation of their right especially where the state leaves a lacuna. Following the findings and analysis of this research, several practical and useful recommendations that may prove effective if reviewed and given necessary consideration.

Conclusively, this research is bound to have different implications; the political implication of this research is that it could have as a wakeup call for various political systems especially the Nigerian legal system to correct the deficiencies in law enforcement and human rights violation related matters. The social and cultural implication is that the society could be more willing to stand up against these violations

by seeking appropriate redress. There will be a potential change in what individuals know about their right and possible violations of those rights even by the executives. Based on the recommendations offered by this research, it proffers change that may prove substantial in this field of study. This research will go a long way to contribute to the body of legal knowledge in the field of human rights.

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