

**THE VIOLATION OF HUMAN RIGHTS IN NIGERIA BY THE NIGERIA
POLICE FORCE.**

BY

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DEPARTMENT OF HISTORY AND INTERNATIONAL STUDIES

DECEMBER, 2019

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CERTIFICATION

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DEDICATION

This Project is dedicated to God Almighty, for his love, grace and wisdom.

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CHAPTER ONE

BACKGROUND TO STUDY

Introduction

One of the foundations and fundamentals of every democratic society today is the entrenchment of fundamental human rights in its constitution and the protection of those rights. In fact, without such provision and protection, a state cannot be said to be truly democratic. Human rights in Nigeria are protected under the current constitution of 1999 though it is frequently not given appropriate attention in its defense and application. Countless ordinary Nigerians attempting to make ends meet as taxi drivers, market traders, and shopkeepers are accosted on a daily basis by armed police officers who demand bribes and commit human rights abuses against them as a means of extorting money.¹ Those who fail to pay are frequently threatened with arrest and physical harm. Far too often these threats are carried out. Meanwhile, victims of crime are obliged to pay the police from the moment they enter a police station to file a complaint until the day their case is brought before a court. In the shadows, high-level police officials embezzle staggering sums of public funds meant to address some basic police operations. Senior police officers also enforce a perverse system of “returns” in which rank-and-file officers are compelled to pay up the chain of command a share of the money they extort from the public. Those charged with police oversight, discipline, and reform have for years failed to take effective action, thereby reinforcing impunity for police officers of all ranks who regularly perpetrate crimes against the citizens they are mandated by the

constitution to protect. The Nigeria Police Force, established in 1930 under the colonial period, has a long history of engaging in unprofessional, corrupt, and criminal conduct. Over the years, this unwieldy force which is Africa's largest, has proved difficult to be effectively managed or control and has become largely unaccountable to the citizens it is meant to serve. While the force has recorded some successes in the protection of citizens, many Nigerians still believe that the police force has utterly failed to fulfill its mandate of providing public security.² Indeed, 89 years after its establishment, members of the force are viewed more as predators than protectors, and the Nigeria Police Force has become a symbol in Nigeria of unfettered corruption, mismanagement, and abuse. Extortion, embezzlement, and other corrupt practices by Nigeria's police undermine the fundamental human rights of Nigerians in two key ways. First, the most direct effect of police corruption on ordinary citizens stems from the myriad human rights abuses committed by police officers in the process of extorting money. These abuses range from arbitrary arrest and unlawful detention to threats and acts of violence, including physical and sexual assault, torture, and even extrajudicial killings. The police frequently extort money from the public at taxi stands, in marketplaces, or while going about their daily lives. However, the most common venue for extortion occurs at police roadblocks, ostensibly put in place to combat crime. In practice, these checkpoints have become a lucrative criminal venture for the police who routinely demand bribes from drivers and passengers alike, in some places enforcing a de facto standardized toll. Motorists are frequently detained and endure harassment and threats until they or their family members

negotiate payment for their release.³ Extortion-related confrontations between the police and motorists often escalate into more serious abuses. The police have on numerous occasions severely beaten, sexually assaulted, or shot to death ordinary citizens who failed to pay the bribes demanded. The police commonly round up random citizens in public places, including mass arrests at restaurants, Hotels, Houses, Markets, and bus stops. In some cases of blatant deception, plain clothes police officers simply masquerade as commuter minibus drivers, pick up unsuspecting passengers at bus stops, and take them at gunpoint to nearby police stations where they demand money in return for their release. The police often make little effort to veil their demand for bribes, brazenly doing so in open corridors and rarely bothering to question those in detention about any alleged crime. Those who fail to pay are often threatened and unlawfully detained, and at times sexually assaulted, tortured, or even killed in police custody. Many of these abuses are perpetrated as a means to further extort money from ordinary citizens or from fearful family members trying to secure the freedom of those detained.⁴

Secondly, these criminal acts by the police, coupled with their failure to perform many of their most basic functions, severely undermine the rule of law in Nigeria. The police routinely extort money from victims to investigate a given criminal case, which leaves those who refuse or are unable to pay to gain access to justice. Meanwhile, criminal suspects with money can simply bribe the police to avoid arrest, detention, or prosecution, to influence the outcome of a criminal investigation, or to turn the investigation against the victim. Ordinary Nigerians are further denied equal protection

under the law due to a widespread practice whereby senior police officers sell for their own personal enrichment police protection to Nigeria's wealthy elite.⁵ By the Police's own account, in 2009 at least 100,000 police officers were working as personal guards for the wealthy, at the expense of the majority and this has continued to increase. In addition, the abject failure of the police to provide for the security of ordinary citizens has led some communities to turn for protection to armed vigilante groups who often operate outside the law and commit further abuses. Police corruption affects nearly every Nigerian, especially the poor and defenseless. Those in precarious economic situations, scraping out a living day to day, are more susceptible to police extortion because of the profound effects that unlawful detention, or the mere threat of arbitrary arrest, have on their livelihoods.⁶ The sums regularly demanded by the police also represent a larger portion of the poor's income. Moreover, many Nigerians are simply unable to pay the bribes required for basic police services. Underlying many of these abuses is a cycle of corruption driven by senior police officers who siphon off police funds at the top and enforce a scheme of collecting illicit "returns" from the money extorted by junior officers. High-level embezzlement of public funds destined for the police force indirectly impacts human rights, as senior officials have squandered and stolen vast sums of money that could have gone toward improving the capacity of the police to conduct patrols, respond to emergency calls, or investigate crimes. In the most notorious case, in 2005, the then-Inspector General of Police Tafa Balogun resigned and was charged with embezzlement, bribe-taking, and laundering more than US\$98 million.⁷ In a plea bargain agreement later

that year, he pleaded guilty to failing to declare his assets. The court sentenced him to six months in prison and ordered his assets confiscated. The deficits from massive embezzlement and misappropriation of police funds lead the police to routinely demand bribes from complainants to fund criminal investigations and to use torture as their primary tool for collecting evidence from criminal suspects. Money flows up the chain of command through the informal but widespread system of returns in which subordinates pay their superiors a portion of the money they make from bribes and extortion. Subordinates often pay their superiors to be assigned to positions where they have ample opportunities to extract money from the public. Superior officers frequently set monetary targets for subordinates assigned to these lucrative posts and remove those who fail to meet their targets, as a result the officers go to any length even if it means violating human rights just to meet up with the demand from their superior.⁸ This suggest that there is a blend between corruption in the Nigeria Police Force and the violation of human rights. This corrupt system of returns not only encourages low-level police officers to commit abuses as a means of extorting money, and effectively punishes those who do not, but it also creates a strong disincentive for senior officers who personally benefit from the system of returns to hold their subordinates accountable for extortion and other abuses. The Nigerian government and the police leadership have on multiple occasions acknowledged many of the problems described in this study. In recent years, the government has launched several police reform initiatives, increased funding to the police force, and improved police wages of which the reform of 2018 to 2019 are striking.

Yet the government has generally failed to hold accountable police officers who squander and steal police funds, much less the rank-and-file who commit abuses. Public complaint mechanisms, internal police controls, and civilian oversight remain weak, underfunded, and largely ineffective. The Nigerian government in general and the police leadership in particular have thus far lacked the political will to address these structural problems, Human rights abuses, and ineffective police oversight and accountability.⁹

Aim and Objectives

The aim of this study is to examine the violation of Human Rights in Nigeria by the Nigeria Police Force. The specific objectives are:

1. to explore the knowledge of the origin and establishment of the Police Force
2. to bring to the Public and authorities the gross violation of Human rights carried out by the Nigerian Police Force.
3. provide avenue for addressing the issue of Human right violation in Nigeria, and ensure a better society free of Human Right abuses.
4. enlighten the Public what their rights are as provided in the constitution of the Federal Republic of Nigeria.
5. to ensure a better work system for the Police in relation to the services rendered to the Public

Scope of Study

This study is majorly concerned with the violation of Human Rights by the Nigerian Police force. It covers the citizens, resident in Nigeria and not those outside the

Nigerian Territory. It also provides information on the origin, establishment and operations of the Nigerian Police Force.

Methodology

The methodology adopted for this research work is historical Method of analysis. In the process of research for this work, relevant information were gathered from two main sources which were primary and secondary sources. Primary sources which were use in the time of research for this project were of various categories which include unpublished works, documentary, interviews among other. The secondary sources which were consulted is the university and public libraries within the state including textbooks, journals etc. the vital information obtained from all these sources helped in a great way which helped to guide and supplement the materials obtained from primary sources. All these sources helped to provide data for an historical analysis on the study of violation of Human Rights in Nigeria by the Nigeria Police Force.

Literature Review

The instrumentality of Literature review to every research work cannot be overemphasized, it is for this reason that this segment provides review of relevant literature to this study. These literatures include books, journal, newspapers, etc. there are several available materials and scholarship on the discuss of Human Right, its Violation, and the Nigerian Police force. One notable work on this discus is the article by Peter Naankiel titled *The Nigeria Police Force and Violations of Human Rights*.¹⁰ In this 13 page article, Peter Naakeil noted that the violations of human rights by officers of the

Nigeria Police Force (NPF) especially those that involve torture, extra-judicial killings, extortion and other forms of abuses are no longer uncommon. According to him, these violations have therefore become Nigeria's major problem. The protection of the rights of Nigerians which is supposed to be the major concern and objective of the men and women of the Nigerian Police Force is left uncatered for and neglected. For example, deaths while in detention from excessive torture and extortion of money from motorists at Police checkpoints or what this study would term 'Police business centres' e.t.c. constitute gross violations of human rights. While the whole of this is happening, the authorities especially governments of the day and the Police high command seem to turn a blind eye. It is in view of this that the study decided to undertake a survey on the Nigerian Police Force and their violations of human rights between 1993-2007. His study therefore attempted a critical appraisal and analysis of human rights abuses by the NPF within the period under review. The author also made an attempt to see how the various regimes were able to cope with the challenges of human rights especially in ensuring that Police officers do not continue to violate the rights of Nigerians and how violators of such rights get punished and their victims compensated. In the end, the study contends that there is a clear difference between how military regimes and contemporary democratic dispensations have tackled human rights abuses over the years. Besides, the study suggests the speedy dispensation of all human rights cases before law courts, the need to improve the training of Police Officers to observe human rights and the improvement of the conditions of service of the Nigerian Police Force amongst many others. The writer in the truest sense

carried his research covering the period of 1999 to 2007 stressing the fact that the widespread violations of human rights by the Nigerian Police Force, especially torture, extra-judicial killings, Unlawful arrest and detention, extortion and other forms of abuses by the Nigeria Police Force (NPF) are no longer strange. Peter Naankiel did not end his article without looking at what Human Rights represent in human existence. He noted that Human rights are phenomenon that all societies irrespective of their levels of development are expected to achieve so as to guarantee the rights of all human beings in spite of their status.¹¹ It is in the light of this that the United Nations in 1948 made a declaration on human rights known as the Universal Declaration of Human Rights (UDHR). This declaration enumerates and highlights all rights which are to be enjoyed and asserted by all human beings irrespective of their race, colour, ethnic groups and religious belief. Hence, human rights since 1948 became uniform and universal in nature and characteristic. Rights guaranteed by the 1948 declaration include the right to freedom from discrimination, the right to education and information, the right to family life and the right to human dignity. Others include the right to privacy, right to a standard of living adequate for the health and well-being of a person and his family including food, clothing, housing, medical care and necessary social services (The United Nations Declaration of Human Rights 1948). It would be seen from the list of rights stated above that their nature comprises economic, civil, political and social. Human rights in the real sense of the word covers all aspects of rights that a human being is supposed to enjoy irrespective of his race, colour, or status e.t.c as enunciated by the Universal Declaration of Human Rights 1948

by the United Nations without any discrimination or distinction between the rights. Since the rights complement each other, nation states within the international system are expected to implement and guarantee their enjoyment holistically. It is in light of this that Nigeria domesticated the Universal Declaration of Human Rights (UDHR) in our constitution, specifically in chapters 2 and 4. though the work spoke extensively on human right and its entrenchment in the Nigeria constitution, it did not however suggest measure through which the Nigerian Police Force can refrain from gross abuses of the rights of the citizens in Nigeria. the work also fail to give an extensive history of the origin and structure of the Nigerian police force. This shortage were however covered by another author who tilted his work *Human Rights Violations by the Nigerian Police: The Nigerian Experience in a Democracy*.

Human Rights Violations by the Nigerian Police: The Nigerian Experience in a Democracy authored by Barnabas Suleiman contains so much information about the structure of the Nigeria Police Force. Unlike Peter Naankiel, Barnabas Suleiman did not talk much on the legal foundations of Human Rights and the constitutional dimension of the concept of rights but concentrated more on the obnoxious actions of the Police. His study critically examines the experiences of Nigerians in the hands of the Nigerian police in its current democratic dispensation with regards to the violations of human rights, he provided ample evidence of gross violations of the human rights of her citizen as perpetuated by the police. He also noted that the government's lack of commitment to pursuing democratic ideals of human rights is identified to be a major setback of those

fighting injustice in the nation.¹² The study also found that majority of the victims of human rights violations by the police are innocent of the offences they were accused of committing. He concluded his study by recommending viable ways of significantly reducing the on-going incidences of human rights violations in Nigeria so as to restore the confidence of the citizens in the police force.

Another notable work is that of Barbara A.H. titled *Understanding justice: an introduction to ideas, perspectives and controversies in modern penal theory* published in 2003. In this work the author gave a comprehensive information about the legal dimension of Human right and also spoke on the functions the Police are met to carry out as provided by the constitution. He took out time to present the historical basis of Human right. He stressed that Social theorist, as well as philosophers, have sought to establish a free and fair society where the aspiration of man (spiritual, intellectual, social, economic, etc.) could be achieved without artificial hindrances to them, Hence rights had existed under the auspices of synonyms of “natural right, inalienable rights, inviolable rights, absolute right, and fundamental human rights.¹³ for him, this was the historical basis of Human right. He went further to discuss the contribution of scholars like John Locke, Jean Jacques Rousseau whose writeup contributed to the development and enforcement of human rights.

We must not forget the 22 page term paper work of Osuji, Collins Chukwudi of the University of Nigeria Nsukka which is titled *Nigerian Police: Evaluation of its Efficiency*, This work is important to this segment of my study as it provides information

about the operations of the Nigerian Police Force and the abuses which have characterized the discharge of their duty of which the violation of Human right is prime. His work discusses the origin, structure and function of the Nigerian Police Force noting that historically, the Nigeria police force is a creation of the British colonial administration of 1860's. Presently, two principal laws governs the Nigeria police force, namely, the 1999 constitution of the Federal Republic of Nigeria and the police act section 214 (I) which provides that, "there shall be a police force for Nigeria which shall be known as the Nigeria police force". Moreover, the Nigeria police force is under the federal government of Nigeria. Hence, it is only the federal government as the constitution provides that can make laws affecting the Nigeria police force, and any law made by a state government of the federation which purports to affect the Nigeria police force in any form is null and void for being inconsistent with the provision of the constitution. Equally, the two principles that governs the Nigeria police force also provides that, the Nigeria police force is to be headed by the inspector General (IG), assisted by Deputy-Inspectors General and other officers.¹⁴

Also worthy of mention is the work, *The Nigerian Police and Legitimacy Crises: A focus on Human Rights Abuses and Protection in Contemporary Nigeria*, authored by Oromareghake and Nduka Lucas. In this work they spoke extensively on what the role of the Police are and that anything outside such role is an abuse of power. According to them, the main role of the police is to protect and safeguard the lives and properties of the citizens within the territorial boundaries of a country. This recognition is predicated on

the need to secure, protect and safeguard lives and properties of the citizens that should not be arbitrary and its exercise must be circumscribed by set of rules with respect to its limits that is in tandem with public perception, legitimacy principles and democratic tenet. In doing this, it is deemed useful to involve human rights applicable operational principles, particularly under democratic governance. This operational principle entails that the police must recognize that ultimate authority on key security matters must rest with elected representatives and that security organization operates in accordance with international human rights instruments and constitutional laws. In addition, the security of lives and properties must be managed using disciplinary approach and that civil society must have the means and capacity to monitor security forces and provide constructive input into the political debate on security policy.¹⁵ The author borrowed the words of Peter Naakiel when he noted that human rights are phenomenon that everyone in a society irrespective of their levels of development and status are expected to achieve so as to guarantee the rights of all.¹⁶

Let me also look into one of Nigeria Publication in 2006 titled *National Action Plan for the Promotion & Protection of Human Rights in Nigeria*. This publication gave rich information on the history of Human rights in Nigeria, agreeing to the fact that the existence of human right in the country predates colonial rule.¹⁷ The work also attest to the fact that the government have been making efforts to protect the right of citizens in the country from gross violation. For example, In October 2001, the Federal Ministry of Justice and the National Human Rights Commission with the support of DFID hosted the

first Nigerian Human Rights Summit. Participants at the Summit included Human Rights Defenders, other NGOs, CBOs, professional bodies and other stakeholders in the civil society, Government ministries, parastatals and agencies, military, police, and other law enforcement agencies, the judiciary and parliamentarians. The summit was convened to provide a forum for government and civil society to agree on the content and framework of the National Action Plan (NAP). In October 2002, the Commission, in collaboration with the Senate and House Committees on Human Rights, with the support of MacArthur Foundation, hosted all of the Speakers of the 36 State Houses of Assembly in an interactive session on the draft National Action Plan. The purpose was to incorporate their input into the NAP document.¹⁸

Several legal documents are very instrumental to this field of research as they provide legal information on Human right and the role or functions of the Nigeria Police Force. For example *The Nigeria's 6th Periodic Country Report: - 2015- 2016 on the Implementation of the African Charter on Human and Peoples' Rights in Nigeria*, produced in 2017 by the Federal Ministry of Justice, Abuja noted in Part A, Section one of the publication that Nigeria as a member of the African Union was among the first countries to sign (on 31 August 1982), ratify (on 22 June 1983) and domesticated the African Charter on Human and Peoples' Rights as Cap. A9 LFN 2004.¹⁹ The publication of the Joint British-Danish fact-finding mission to Abuja and Lagos in 2004 titled *Report on human rights issues in Nigeria* also provides great insight to this research as it gave a clear explanation of what Human right entails in Nigeria, the publication noted that the

basic human rights freedoms are enshrined in the constitution including the right to life, the right to personal liberty, the right to a fair trial, freedom of expression and of the press, freedom of religion and the right to dignity of the person.²⁰ Another renowned work is the 2015 report and publication on Human right violation in Nigeria. Though this report did not focus on the violation of Human right by the Police Force specifically, it however gave verbose information about the legal framework of Human right in Nigeria, it discussed the domestic and international dimension and support for the provisions of Human rights in the country. The first part of the Report outlines the legal framework governing human rights in Nigeria. International best practices and pronouncements on human rights were also highlighted. The second part outlines the most frequent forms of violence against persons in Nigeria. The last section provides recommendations to government, human rights organizations, civil society organizations and private individuals on how the human rights of persons in Nigeria can be ensured and protected. The report noted that the average citizen of Nigeria finds it very difficult to enjoy the protection of their rights and access to basic social services.²¹

Also worthy of note is the report of 2017, the report stated that the most significant human rights issues included extrajudicial and arbitrary killings; disappearances and arbitrary detentions; torture, particularly in detention facilities, including sexual exploitation and abuse; use of children by some security elements, looting, and destruction of property; civilian detentions in military facilities, often based on flimsy evidence; denial of fair public trial; executive influence on the judiciary;

infringement on citizens' privacy rights; restrictions on freedoms of speech, press, assembly, and movement; official corruption; lack of accountability in cases involving violence against women and children, including female genital mutilation/cutting and sexual exploitation of children; trafficking in persons; early and forced marriages; criminalization of status and same-sex sexual conduct based on sexual orientation and gender identity; and forced and bonded labor.²² The report also made clear the fact that the government is taking steps to ensure these abuses are curtailed. It made it clear that the government took steps to investigate alleged abuses but fewer steps to prosecute officials who committed violations, whether in the security forces or elsewhere in the government. Impunity remained widespread at all levels of government. The government did not adequately investigate or prosecute most of the major outstanding allegations of human rights violations by the security forces or the majority of cases of police or military extortion or other abuse of power.²³

Lastly is the research work conducted and published by the Nigeria Research Network (NRN). The work gave a detailed analysis of the Police force, looking at the structure, function and significance of the Nigerian Police Force. It states that the problems of public security are perhaps the biggest challenges to Nigeria's consolidating democracy. Since 1999, the Nigeria Police Force has been central to managing and responding to those challenges. Without an effective police force, the wider state, society and economy will find it difficult to function effectively and maximally. Today, challenges to policing Nigeria include rapid urbanization, population growth, rising

inequality, unemployment, mass migration, breakdown of older systems of social order, neighboring weak states, and the opening of new economic arenas, which give rise to a huge range of criminal challenges including robbery, kidnap, corruption, fraud, terrorism, sexual assault, domestic violence, communal strife, and criminality in politics. Although specialized bodies exist to deal with some of these, the primary agency in the frontline of these challenges is the Nigeria Police Force.²⁴

Chapterization

This study is divided into five chapters

Chapter One: Background to Study

Introduction

This chapter presents a general background to this research work. It covers the introduction to the work as well as fundamental information about the violation of Human rights in Nigeria by the Police force. It also discusses the scope of study, aim and objectives, methodology, Literature review and chapterization of the work.

Chapter Two: Emergence and Structure of the Nigerian Police Force

This chapter discuss the origin and establishment of the Police force in Nigeria, it covers the structure of the police force, operations of the police force and the mode of recruitment into the Nigeria Police Force

Chapter Three: Understanding the concept of Human Rights in Nigeria

The chapter addresses the definitional concept of Human Right as well as the nature of Human Right in Nigeria. It focuses on constitutional and other legal provisions of Human Right in Nigeria. It also examines the establishment and manifestation of Human right in the Nigerian society.

Chapter Four: Human Rights Violation by the Police Force in Nigeria

This chapter gives an in-depth analysis and information about the ways the Police force violates Human Rights in Nigeria. It highlights and discuss the area of gross violation and the impact such violations have brought to the society.

Chapter Five: Conclusion

This chapter provides the conclusion to the study

Endnotes

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CHAPTER TWO

EMERGENCE AND STRUCTURE OF THE NIGERIAN POLICE FORCE

The word Police generally is derived from the Greek word Polis', meaning "that part of no ecclesiastical administration having to do within the safety, health and order of the state". The Greek Politeria means the art of governing and regulating the welfare, security needs and order of the city-state in the interest of the public.² According to Ehindero, even though Police is derived from Greeks, it was the Romans who perfected the system.³ He further observed that the Roman Politia means the same as the Greek politeira is the symbol of power residing in the central authority. The history of the present Nigeria police dates back to 1861. Before this period, there were some features of police organisation amongst every tribal community in Nigeria.⁴ Traditional rulers, therefore, had able-bodied men attached to them with the aim of guarding them, and in some instances assist in arresting wrong doers. This practice was common amongst the majority of tribes inhabiting the geographical areas now known as Nigeria. It has also been shown that, the traditional law enforcement institutions that were in place in most communities during the precolonial time or period discharged their responsibilities creditably in ensuring the existence of a lawful and orderly society.⁵ As stated earlier, the modern and unified Nigeria Police started in 1861. It started as a consular guard of thirty men in Lagos Colony in 1861, in 1863, the guard became known as the "Hausa Police". The force was later reorganized in 1879 by an Ordinance creating the constabulary of Lagos, which is now chapter 154 of the Laws of the Federation of Nigeria and Lagos

1958.⁶ A similar force for the Niger Coast constabulary was formed in Calabar in 1894 under the newly proclaimed Niger Coast Protectorate in the North, the Royal Niger Company set up the Royal Niger Constabulary in 1888 with headquarters in Lokoja, all these became the forerunner of the Nigeria Police Force which was later formally established in 1930. Therefore, we can hold to the fact that the landmark development in the history of Nigeria police came in 1930, when the northern and southern police were merged to form the Nigeria Police Force with Lagos as the force Headquarters.⁸

The Police is a unit of armed forces established for the maintenance of law and order. It is a branch or department of government which is charged with preservation of public order and tranquility, enforcement of laws, the promotion of public health, safety and morals; the prevention, detection and prosecution of offenders. Upon attainment of independence in 1960, the independent Nigeria re-organized the Nigeria police force as a Federal Force under the 1960 Constitution. The Constitution also set up two bodies, the Police Council and the Police Service Commission.⁹ The Constitution of Nigeria 1963, 1979 and 1999 also empowers the Nigeria police to operate as a single Federal Force.¹⁰ The Constitution of Nigeria 1999, the grundnorm of the existing legal order in Nigeria, clearly stipulates the existence of only one Police Force unless and until it is amended, the agitation for the creation of a state police has not yet been fully achieved.¹¹

The Organisation of the Nigerian Police

The structure of the Police is fashioned along the federal system in such a way that the unit of command at the federal, state and local level is placed under a police officer in

order of seniority. The Inspector General (IGP) being the Head at the Federal level, the Commissioner of Police (CP) at the State level and the Divisional Police Officer (DPO) at the Local level. The Constitution provides that the Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by the Act of the National Assembly in the exercise of the powers vested on it by the Constitution as aforementioned the National Assembly enacted the Police Act.¹² The Police Act clearly provides for the command structure of the force. This is to clearly identify flow of command and channel of discipline in the force. The Police Act creates the office of the Inspector General and that of a number of Deputy Inspector Generals and Assistant Inspector Generals as the Police Council may deem necessary.¹³ The Police Act also vests the Inspector General with enormous powers over the command of the entire Nigeria Police Force.¹⁴ For administrative convenience, the Nigeria Police Command structure is divided into three categories, which are

1. The Command structure at the Force Headquarters
2. The structure at the Zonal Command; and
3. The Structure at the State Command.

As stated earlier, at the helm of affairs, the top rank officer of the police force is the Inspector General of Police who is appointed by the President. Below the Inspector General of Police (IGP) are six specialized offices of the Deputy Inspector Generals (DIG) in charge of different specialized department. DIG “A” Department, is in charge of Finance and Administration of the Force. DIG “B” Department is in charge of operations.

DIG “C” Department is in charge of Logistics and supply. DIG “D” Department is in charge of investigation and intelligence. DIG “F” Department is in charge of research and planning, and an AIG is the Force Secretary who is directly under the office of the IGP vested with the responsibility of attending to matters relating to appointment, promotion, discipline and posting of officers.¹⁵ From the organisation at the Force Headquarters, the Force is further organized into twelve zones with each zone comprising of two to four State Commands under the leadership of AIG who is answerable directly to the IGP.

By the new formation a single force was intended, for the country, nonetheless, there were in both the defunct Western and Northern regions several local authority and native authority forces. For instance the Federal Territory of Lagos was policed only by the Nigeria Police Force, the Eastern Region of that time, had neither local nor native authority police though the 1963 Constitution in its section 104(7) permitted the legislature of a region to make provision for the maintenance by any authority or local government authority established for a province or any part of a province a Police Force for employment within the province. Though the provision appear clearly to preclude a Regional Government from organizing a Police Force, on a regional basis. Apart from these few exceptions, section 105 (4) of the constitution expressly forbade the establishment for Nigeria or any part thereof of any Police Force other than the Nigeria Police Force. In line with this provision of the 1963 Constitution, the 1979 Constitution in section 194(1) established for the whole country a single police force, “the Nigeria

Police Force, and specifically prohibited the establishment of any other Police Force in the Federation.¹⁶

Organisation of Zonal Commands

In all the thirty-six states of the federation and the Federal Capital, the Command structure of the force is headed by a Commissioner of Police (CP); followed by a deputy Commission of police who assists the CP in the day to day administration of the command. Like the organisation at the Force Headquarters, the State Command has five Assistant Commissioner of Police (ACP),¹⁷ heading specialized departments of the force and Assistant Commissioner of Police in charge of Area Commands. Assistant Commissioner 'A' Department is in charge of finance and administration; 'B' department in charge of operations, 'C' department in charge of logistics and supply, 'D' department in charge of investigation and intelligence and 'F' department in charge of research and planning with other AIGs in charge of Area Commands.¹⁸

The Functions and Duties of Police Force

Against the backdrop of this research work, it is important for us to know the main function and duties of the police force was established, this will help us to know when the police is acting ultra vires or beyond the powers allotted to it. The Nigeria Police Force is designated by the Constitution of the Federal Republic of Nigeria as the National Police of Nigeria with exclusive jurisdiction throughout the country.¹⁹ Constitutional provisions also exist, however, for the establishment of separate Nigeria Police Force branches forming part of the armed forces of the federation or for the

protection of harbours, waterways, railways and airfields. One of such branch was the Port Security Police. The growth of the country was accompanied with the development of her police force. Historical records, has it that by 1906, the Southern and Northern Protectorates of the force were merged together. That means by 1914 which was the year of amalgamation of the country, the police had already grown towards a central system of control.²⁰ This was put clearly thus: In April 1930, when the Nigeria Police Force was established, the government had encouraged the development of separate police forces in the colony and protectorates under its administrative control. Local conditions and the requirements of the separate administrations dictated the pace of police developments and the nature of their functions in these territories. Being that there must be a “Police System/Force” to keep the administration going, in consonance with this principle, the colonial master of Nigeria, the British Government introduced in this country a system of police force the Police Ordinance that was promulgated made provision for the organisation, discipline, powers and duties of the police. As provided in section 3 of the ordinance, the Force was to be known as the Nigeria Police Force,²¹ section 4 also provides that the Police shall be employed for the preservation of Law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly changed.²² With the centralization of the Nigeria Police Force, its command flow followed the same pattern. The Force consisted of an Inspector General who is in-charge and such other officers of such ranks as may from time to time be approved by the government according to section 5 of the Nigeria Police Ordinance.²³

Functions of the Police Force

The Police Act (which is now an Act of the National Assembly) Cap 359 laws of the Federation of Nigeria provides in section 4 part 11 provides that the primary function of the police is the prevention and detection of crimes, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged and shall perform such other military duties within or without Nigeria as may be required of them under the authority of this or any other Act.²⁴ An authoritative conclusion can be deduced from the provision above, that the prime functions of the police are the protection of lives, and property as well as the preservation of law, peace and order in and outside Nigeria. The functions of the police were first outlined statutorily in the Police Act of 1967. However, corresponding adjustments have been made in the currently amended Act to stipulate police functions as follows

1. The prevention and detection of crime;
2. The protection of lives and property;
3. The preservation of law and order;
4. The due enforcement of law regulations;
5. Apprehension of offender; and

6. The performance of such other military duties within and without Nigeria as may be required of them by or under the authority of any other Act.

Now the relationship between the police and the society as well the system (that is, the law and the constitution) which are parties in this big social contract shall be clearly understood in a sequential elucidation of their functions as stipulated above. This knowledge is very important as it helps us to understand the point of violating human right.

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CHAPTER THREE

UNDERSTANDING HUMAN RIGHTS IN NIGERIA

Introduction

Human Rights has been defined as the “inalienable rights of people”.¹ They are the legal entitlements which every citizen should enjoy without fear of the government or other fellow citizens. They are said to be the rights which cannot be said to have been given to man by man but are earned by man for being a human because they are necessary for his continuous happy existence with himself, his fellow man and for participation in a complex society.²

A Brief Human Rights History in Nigeria

The history of human rights in Nigeria predates the advent of colonial rule. Human rights and fundamental freedoms were recognised in the traditional Nigerian societies. The idea of rights was not however conceived in the modern notion.³ Such values as right to family, kin and clan membership, freedom of thought, speech, belief and association, right to enjoy private property and right to participate in governance in the affairs of the society were jealously guarded. In areas where the Sharia legal system was firmly entrenched, especially in the Northern part of the country, human rights and fundamental freedoms were specifically protected and guaranteed in accordance with the tenets of Islam which hold justice and equity in high esteem. Colonialism largely eroded traditional values and denied Nigerian’s political and economic rights. It was not until 1922 through the Clifford Constitution that limited franchise was introduced for the first

time in Nigeria by the British Colonial government. The struggle for better political participation by early Nigerian nationalists led to enhanced political rights in the pre-independence constitutions culminating in the Lyttleton Constitution of 1954.⁴

The entrenchment of fundamental human rights in Nigeria in the modern sense could however be traced to the 1960 Independence Constitution of Nigeria, and those that followed. The Independence Constitution of 1960 and the Republican Constitution of 1963 have provisions for the protection of fundamental human rights. The 1979 and the 1999 Constitutions went further by providing a bill of rights. Fundamental Objectives and Directive Principles of State Policy in Chapter II also recognized Economic, Social and Cultural Rights. The entrenchment of human rights provisions in our Constitutions was aimed at creating a society which protects political freedom as well as the social and economic well-being of Nigerians.⁵

Some Nigerians are confused as to what rights they are entitled to as citizens and often confuse what their fundamental rights really are. For example, during the 2019 Federal and State election, a lot of Nigerians viewed the activities of the army and police as a total violation of the fundamental rights of the citizen most especially as it was seen that they acted outside their powers. In fact, an oral interview with Mr. Ikechukwu in Benin city revealed that during the 2019 election, the prevention of citizens from voting particularly in the eastern states was a gross violation of human right.⁶ Some years ago, there was a general outcry against the increased subscription rates imposed by MultiChoice Nigeria for their DSTV viewing packages, some aggrieved subscribers went

as far as to say the increase in subscription rates was an abuse of their fundamental rights as citizens of Nigeria. This has also been the case of Power holding companies across the country. In Nigeria, citizens enjoy many rights but the inalienable fundamental rights of citizens are statute-protected by the Constitution of the Federal Republic of Nigeria. Chapter 4 of the Constitution lists out the basic Fundamental Human Rights enjoyed by citizens of the country.⁷ The Right to Watch Satellite Television is, unfortunately, not part of that list. It is the part of this work to educate people on the right they are entitled to so as to know it is been violated particularly by the Police. The Fundamental Rights of Nigerians under Chapter 4 of the Constitution are as follows:

The Right to Life

Under the Constitution, every person has a right to life and no one shall be intentionally deprived of his life. The Constitution, however, provides exceptions where violation of this Right is acceptable: Where the taking of the life is in execution of a sentence of a court in respect of a criminal offence in which the person has been found guilty in Nigeria; Where the loss of life is as a result of the use of such force as is reasonably necessary and in such circumstances as permitted by law; For the defence of any person from unlawful violence or defence of property; In order to make a lawful arrest or prevent the escape of a person lawfully detained; or for the purpose of suppressing a riot, insurrection or mutiny.⁸ Aside from the above circumstances, any violation of a person's right to life is an abuse of that person's fundamental rights and is

usually found in torture and extra-judicial killings. For example, the activities of the terror group, Boko Haram, involving the rootless attacks and murder of civilians.

The Right to Dignity of Human Person

Every person is entitled to respect of his/her dignity. No person shall be subjected to torture or inhuman treatment, be held in slavery or servitude or be required to perform forced or compulsory labour.⁹ Examples of abuse and violation of this right can be found in modern day slavery and torture and brutality by law enforcement officers. An example of an abuse of this right can be found in 2013, when one Lawal Ganiyu, 50 years old, was arrested and tortured by the Police over an alleged fraud. As a result of the brutal treatment, he was comatose in a hospital for over a week. This act was a gross violation of his right to dignity of human person under the Nigerian Constitution.

Right to Personal Liberty

Under the Constitution, every person shall be entitled to his personal liberty and no person shall be deprived of this right except in special circumstances and in accordance with a procedure permitted by law. It is the right not to be subjected to imprisonment, arrest and other physical coercion in any manner that does not have legal justification. The right is the freedom to live as one chooses without too many restrictions or constraints from the government or its agencies. It also assures a person of the freedom to stay or move about at his own will, direction and time.¹⁰ This right has also been defined as freedom from bodily restraint and the right of the person to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry to establish a

home and bring up children, to worship God according to the dictates of his own conscience and generally enjoy those privileges recognized as being essential to the orderly pursuit of happiness. Example of violation of this right can be found in cases of unlawful arrest and detention by Nigeria's law enforcement agencies. The National Human Rights Commission's Prison Audit for the year 2012 released in May 2013, showed that out of 173 prisons audited in Nigeria, the number of Awaiting Trial Inmates stood at 35,889. One of the factors that result in the large number of Awaiting Trial Inmates in Nigerian Prisons is the practice of "Holding Charge" where the police charge an accused person usually before a magistrate who does not have jurisdiction to hear and determine the charge against the accused. The Magistrate makes an order for the accused person to be detained in a prison and for the case file to be transferred to the Director of Public Prosecution for advice. The police may fail to transfer the file to the DPP. If the file is transferred, the DPP may fail to proffer advice and formally charge the accused to the court that has jurisdiction or recommend his release. There have even been cases where the case file goes missing. All the while, the accused person is sitting in prison without formally being charged for any offence.

The Nigerian Supreme Court has held that Holding Charge is unknown to Nigerian law and an accused person detained under it is entitled to be released on bail within a reasonable time before trial especially in non-capital offences. Unfortunately, despite this, the practice has persisted and there are currently people who have been in prison for months and even years for offences they have yet to be formally charged with. A

restriction to the Right of Personal Liberty supported by law can be found in the Same Sex Marriage Prohibition Act of 2013, which prohibits marriage or civil unions between people of the same sex.

Right to Fair Hearing

The Constitution of the Federal Republic of Nigeria guarantees a person the right to fair hearing within a reasonable time by a court or other tribunal established by law in determination of his/her civil rights and obligations including a question or determination by or against any government or authority. The Constitution also provides that the court or tribunal shall be constituted in a manner as to secure its independence and impartiality in determining the said civil rights and obligations.

The law goes on to provide that civil proceedings of the court or tribunal shall be held in public and where a person is charged with a criminal offence, he/she shall, unless the charge is withdrawn, also be entitled to fair hearing in public within a reasonable time by the court or tribunal and be presumed innocent until proven guilty.¹¹ The Right to Fair Hearing is the cornerstone of justice.

Right to Private and Family Life

This guarantees and protects the right to the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications.¹² This right has been described as recognition of the saying that “a man’s home is his castle”. The right guarantees that security agencies should not tap ones phone lines or subject ones house to unwarranted searches or seizure of one’s property. However, there have been

instances of violation of this right, particularly cases of police entering people's homes in the course of arrest of a suspected criminal or investigation of criminal matters without obtaining the proper search warrants.

Right to Freedom of Thought, Conscience and Religion

The Constitution provides for secularity in Nigeria, guaranteeing the peoples entitlement to religious freedom including freedom to change religion or belief and manifest and propagate ones religion or belief in worship, teaching, practice and observance. The law also provides that no person attending any place of education shall be required to receive religious instruction or to take part in any religious ceremony relating to a religion not his own. No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination. Nothing in the provision of the Constitution shall entitle any person to form, take part in the activity or be a member of secret society.¹³ Despite the constitutional provision, however, there have been frequent reports of human rights abuses among cleric fundamentalists. Nigeria has witnessed many clashes between Christian and Muslim adherents over the years.

Right to Freedom of Expression at the Press

Every person shall be entitled to freedom of expression including freedom to hold opinions and to receive and impart ideas and information without interference.¹⁴ This right, unfortunately, has been used by some people to violate other people's rights. It

brings to mind the words of a great thinker: “Under tyranny, people seek liberty; under liberty, people seek tyranny.” Examples are cases of libel and slander, which is rampant in social media. Soft-sell magazines are also guilty of this violation as some magazines print rumours and invalidated gossip about celebrities.

Right to Peaceful Assembly and Association

Every person shall be entitled to assemble freely and associate with other persons and form or belong to any political party, trade union or any other association for the protection of his interest.¹⁵ Disruption of peaceful anti-government rallies by police is a violation of this right to peaceful assembly. The violent disruption of the Occupy Nigeria mass protests against the removal of fuel subsidy in January 2012 by the police and armed personnel is an example of the violation and infringement of the right to peaceful assembly. It should be noted, however, that to hold a peaceful assembly, one must obtain the appropriate permit. The law on public meetings, the Public Order Act, vests the power to regulate public meetings, processions and rallies in any part of Nigeria in the governors of the respective states of the Federation. By virtue of the Act, the police cannot issue a license or permit any meeting or rally without the consent of the governor of the state. They also have no power to cancel any such public meeting or rally without the governor’s consent.

Right to Freedom of Movement

Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof and no citizen of Nigeria shall be expelled from Nigeria or refused entry

or exit. The Constitution provides exceptions for the violation of this right: Any law imposing restrictions on the residence or movement of any person who has committed a criminal offence in order to prevent him from leaving the country.¹⁶ Any law providing for the removal of any person from Nigeria to another country to be tried outside Nigeria for any criminal offence or to undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence he has been found guilty of provided that there is a reciprocal agreement between Nigeria and the other country. Another exception to this right are the environmental sanitation laws which restricts the movement of people before a certain time during the monthly environmental sanitation exercises. Apart from the above exceptions, any restriction on the movement of a person, such as kidnapping, is a violation of that person's right.

Right to Freedom from Discrimination

Every citizen shall not be subjected to any form of discrimination, disability or deprivation by reason of to his/her community, ethnic group, place of origin, circumstances of birth, sex, religion or political opinion.¹⁷

Right to Acquire and Own Immovable Property anywhere in Nigeria

Every citizen of Nige/ria shall have the right to acquire and own immovable property anywhere in Nigeria.¹⁸ Apart from the above listed Fundamental Rights, there many other rights that citizens are entitled to. But it must be stressed that although these rights are there to protect a person's interest, they should not be used to violate other people's rights.¹⁹

In the understanding of these rights, citizens should note that all these rights have their restrictions or duties attached to them. In the defense of public interest, some of the rights may be denied. The right to alter some of these rights resides in the court. To buttress this point, Section 45(1) – Nothing in Sections 37, 38, 39, 40 and 41 of this constitution shall invalidate any law that is reasonably justifiable in a democratic society. Paragraph A, added thus: in the interest of defense, public safety, public morality or public health; or (b) for the purpose of protecting the rights and freedom of other persons. These are the conditions under which rights could be denied. The fact remains that when citizens are fully abreast of their rights as enshrined in the constitution, they will know how to defend such rights or ask for a redress.

Endnotes

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CHAPTER FOUR

POLICE VIOLATION OF HUMAN RIGHT

Introduction

Human Rights are ontological, inherent and intrinsic to all human beings in as much as they are human, irrespective of nationality, sex, ethnicity, origin, colour or any other status. These rights can be protected in a functional democratic setting that anchors its foundation in the rule of law. In democracy, the rule of law protects the rights of individuals, preserves order, and limits powers of government. In Nigeria's democracy, the reverse seems to be the case. Human rights are not respected. Extra-judicial killing, unlawful detention, and other series of human rights abuses are still prevalent in Nigeria democracy.¹ However, despite the guarantee of fundamental rights and liberties in the Nigerian Constitutions since 1960, the country has had the misfortune of military interruptions. This had profound and far-reaching effects on the promotion and protection of democratic values and fundamental freedoms among Nigerians. Before the new dawn of democracy in Nigeria in 1999, successive military regimes systematically violated the rights of Nigerians with impunity. This large-scale denial of human rights in Nigeria reached its peak between November 1994 and June 1998. The abysmal situation of human rights under this regime resulted in Nigeria becoming a pariah state at the international arena and the country was put on the agenda of the United Nations Commission on Human Rights for five consecutive years. Nigerians led by human rights civil society groups and professional bodies engaged the military in the struggle for a

better society governed by Constitutionalism, the Rule of Law, Social Justice and respect for Human Rights. This finally resulted in the Constitution of the Federal Republic of Nigeria, 1999 and the emergence of democracy and democratic institutions in 1999. Though the birth of democratic institution fully manifested in Nigeria in 1999, it did not really change the corrupt practices of the Nigerian Police Force and its violation of Human Rights.²

The Nigerian Police and Human Right Violation

The Nigeria Police Force, has a long history of engaging in unprofessional, corrupt, and criminal conduct. Over the years, this unwieldy force which is Africa's largest has proved difficult to effectively manage and control and has become largely unaccountable to the citizens it is meant to serve. Many Nigerian police officers conduct themselves in an exemplary manner, working in difficult and often dangerous conditions for example some 250 policemen and women were shot and killed in the line of duty in 2009, however, for many Nigerians the police force has utterly failed to fulfill its mandate of providing public security. Indeed, 89 years after its birth, members of the force are viewed more as tormentors and predators than protectors, and the Nigeria Police Force has become a symbol in Nigeria of unfettered corruption, mismanagement, and abuse. This is grossly manifested in the area of Bribery, Extortion, embezzlement, and other corrupt practices by Nigeria's police which undermine the fundamental human rights of Nigerians in two key ways. First, the most direct effect of police corruption on ordinary citizens stems from the myriad human rights abuses committed by police

officers in the process of extorting money.³ These abuses range from arbitrary arrest and unlawful detention to threats and acts of violence, including physical and sexual assault, torture, and even extrajudicial killings. The police commonly round up random citizens in public places, including mass arrests at restaurants, markets, and bus stops. In some cases of blatant deception, plainclothes police officers simply masquerade as commuter minibus drivers, pick up unsuspecting passengers at bus stops, and take them at gunpoint to nearby police stations where they demand money in return for their release. The police often make little effort to veil their demand for bribes, brazenly doing so in open corridors and rarely bothering to question those in detention about any alleged crime. Those who fail to pay are often threatened and unlawfully detained, and at times sexually assaulted, tortured, or even killed in police custody. Many of these abuses are perpetrated as a means to further extort money from ordinary citizens or from fearful family members trying to secure the freedom of those detained.⁴

Second, these criminal acts by the police, coupled with their failure to perform many of their most basic functions, severely undermine the rule of law in Nigeria. The police routinely extort money from victims to investigate a given criminal case, which leaves those who refuse or are unable to pay without access to justice. Meanwhile, criminal suspects with money can simply bribe the police to avoid arrest, detention, or prosecution, to influence the outcome of a criminal investigation, or to turn the investigation against the victim. Ordinary Nigerians are further denied equal protection under the law due to a widespread practice whereby senior police officers sell for their

own personal enrichment police protection to Nigeria's wealthy elite and ignore their duty of protecting the poor and common man in Nigeria. By the inspector general of police's own account, in 2009 at least 100,000 police officers were working as personal guards for the wealthy, at the expense of the majority. In addition, the abject failure of the police to provide for the security of ordinary citizens has led some communities to turn for protection to armed vigilante groups who often operate outside the law and commit further abuses. Even the police leadership has on multiple occasions acknowledged the human rights violations committed by members of the force as well as the poor management and corruption that underlie police misconduct.⁵ In an address to senior police officials in September 2009, the then Inspector General of Police Ogbonna Onovo identified some of these problems when he stated "it is apparent that indiscipline, unprofessionalism and widespread corruption have been the bane of the Nigeria Police over the years, a situation that has greatly hampered the quality of service delivery. Our image has been battered time and again, leading to a loss of confidence by members of the public".⁶

It is so clear that the Nigeria police cannot deny the accusation of human right violation usually levelled against them because there are usually substantial evidences to prove such allegation, for example, Human Rights Watch conducted some field research in Nigeria in August and November 2008; April, May, July, and December 2009; and June and July 2010 in three states as case studies: Lagos, Anambra, and Kaduna, representing three of the six geopolitical zones in Nigeria; as well as in the capital, Abuja,

and telephone interviews in Rivers State and Ebonyi State. The reports showed that the levels of police corruption and abuse in some of these states are among Nigeria's worst.⁷ The Human Rights Watch conducted more than 145 interviews with victims and witnesses of police extortion and corruption-related abuse including market traders, commercial bus drivers and passengers, okada (commercial motorcycle) drivers, sex workers, criminal suspects, and victims of common crimes and with rank-and-file and senior police officers, federal government and anti-corruption officials, judges, prosecutors, lawyers, religious and civil society leaders, journalists, diplomats, and members of an armed vigilante group. Most of the interviews revealed that the Nigeria Police Force cannot be exonerated of the Human Right abuses levied against them.⁸

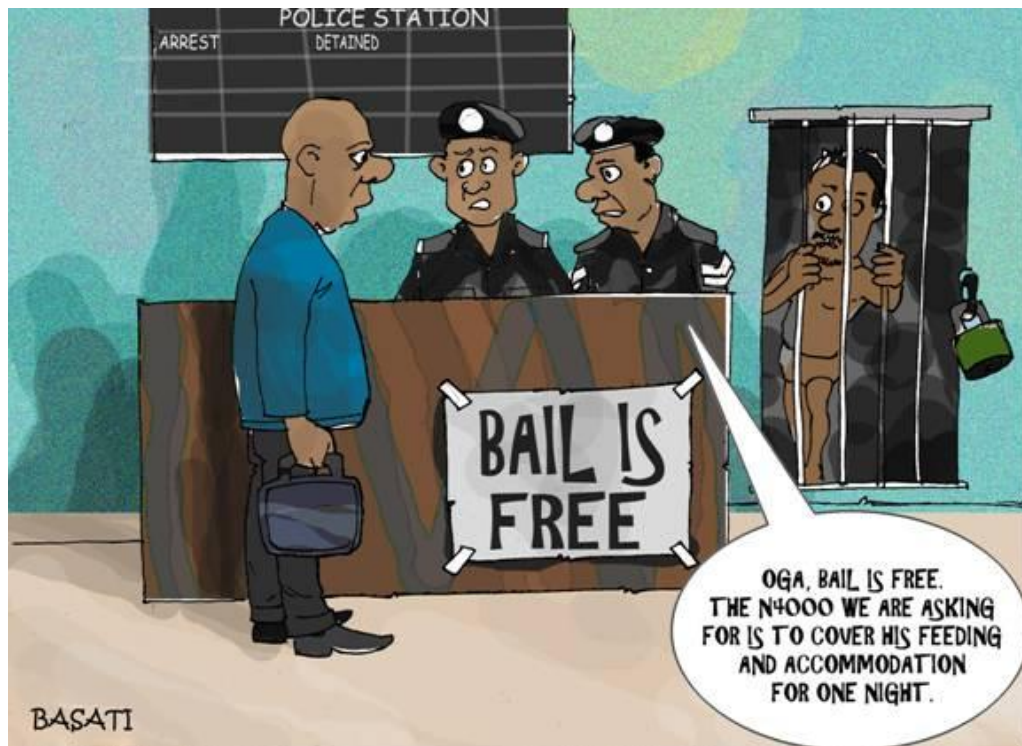
Cases of Human Right Violation

Several Interviews conducted in the course of this research shows that there are numerous occurrence of human right violation by the Nigeria Police Force. In an interview with Mr. Collins Ajaze, father of a 16-year-old boy arrested in Onitsha, Anambra State. The father describe the arrest of his son in 19th April, 2009 as a clear example of police misconduct and human right violation. He noted

“The police told me they had arrested my son in a robber, They beat him up too much. He had wounds on his back and on his body. My son told me they put a stick between his arms and legs and suspended him. If I did not pay, they would have killed him. He is the only

son I have. After I paid the money they released the boy to me. No bail bond, no statement, nothing”.⁹

This statement by Mr. Collins Ajaze goes a long way to show the misconduct of the police and their grave disrespect for the rule of law. Almost every police station has in their office “Police is your Friend” and Bail is Free”, but these inscriptions are never practiced and adhere to.



Source: BASATI/Human Rights Watch, 2010

Mr. Collins added that ordinary Nigerians traveling on the country’s roadways, buying or selling at markets, running daily errands, or working within their offices are routinely subjected to police extortion. Those who resist and fail to pay the bribes

demanding are often threatened and unlawfully detained, and at times physically and sexually assaulted, tortured, or even killed by the police. Many of these abuses are perpetrated as a means to further extort money from ordinary citizens. The police officers make little attempt to hide the collection of money, exposing the near total lack of political will on the part of Nigerian authorities to hold police officers accountable for their actions. The frequency of such acts has led many Nigerians to become complacent about most common forms of police corruption as they are distrustful of the police. Indeed, police corruption has largely become accepted as an inevitable fact of everyday life. As a senior official in the Police Service Commission explained, “People just want to pay and go their way.” The threats and abuses committed by members of the police force have left many Nigerians fearful of their supposed protectors as police brandishing firearms routinely demand that market traders, couriers, and drivers hand over money and other valuables, or face arrest, beatings, detention, or other abuses.¹⁰

An interview with a trader in Lagos described to Human Rights Watch a common perception of the police and their role: She said “When you have a problem, you should expect the police to help you, to safeguard life and property but instead, they go the other way.” She illustrated her opinion:

In October 2008 I was going to the market to buy my jewelry. I saw one policeman harassing people on the road, and then three of them stopped the vehicle I was travelling in. I said to myself, “What kind of country is this?” The policemen said they were on

“stop-and-search.” One of them had a gun. They told all 18 of us to get down and line up along the road. They said they were searching for anything illegal and threatened that if they found anything, we would have to settle it there and then or be taken to the station. The one with the gun pushed people around, saying, “You will all pay us something or we will take you to the station and you will have to pay even more to bail yourself out, so pay up now.” We understood. We asked how much, and they said ₦2,000. We started grumbling and eventually said, ok, whatever. Some people gave them ₦1,000, others ₦1,200. I had only made ₦700 that day, and another lady did not have anything. They told us to look for more. Eventually, they let the others go and took the two of us who could not pay the ₦2,000. As traders we are harassed a lot. When we put our goods on the ground to sell, the police say it is not allowed, that we have to pay them money to sell there. Other times they take our goods and ask us to pay to bail them out. This happens every day.... The police will chase you away until you pay them something. The police are not protecting us; they are fetching money for their own pockets.¹¹

Transport workers are also often targeted by the police for extortion. In an interview with a local ward chairman of a transport union in Lagos, it was gathered how police extort money from him on a daily basis: the chairman noted

Five or six sets of police come each day to the minibus terminal to ask for money. If we do not pay, they will block the road. Monthly, for all the police who come to our place, we pay ₦40,000. Sometimes if I cannot pay they will hold me and take me in their vehicle. I will start negotiating, but if I talk too much they say they will beat me. If I do not pay them there,

they take me to the station and I will pay double. Two weeks ago, the police in *mufti* [civilian clothes] came into the garage and asked for the chairman. They did not find me and then started arresting the drivers. They took four of them to Pedro police station. The drivers negotiated for themselves and each paid ₦1,000 and were released. Two months ago, four or five police in *mufti* asked for me and I had to dodge them because I did not have money. I recognized their faces as police. When I came back they spoiled [slashed the nozzles on] the tires of three or four vehicles. As chairman, I complain to my branch office. The union leaders will go to the DPO [divisional police officer] and the police will stop for two weeks or a month and then it will start again.¹²

The Several legal documents governing Nigeria reveal that any form of extortion is a criminal act and a violation of human right. The Police Force is gravely involved in the act of daily extortion from the Nigerian citizen. The most common venue for police extortion in Nigeria occurs at police roadblocks and checkpoints. On a daily basis throughout Nigeria, drivers of taxis, minibuses, and motorcycles, as well as private motorists are subjected to routine extortion under threat of arrest, detention, and physical injury after being obliged to stop at official or semi-official police roadblocks. These checkpoints, ostensibly put in place to combat rampant and rising crime, have in practice become a lucrative criminal venture for the police. One civil society group in Anambra State estimated that in 2008 the police collected approximately ₦540 million in illegal “tolls” from some 70 police checkpoints along Anambra State’s roadways. In an interview with 12 commercial drivers and passengers who had money extorted from them,

or witnessed money extorted, by armed police officers at roadblocks, it was gathered from them that the amount paid to or taken by the police ranged from ₦20 to ₦20,000. Commercial minibus drivers often pay a fixed amount ranging from ₦20 to ₦100, depending on the location to the first police officer they encounter at the roadblock and then are usually waived through without incident. If the driver fails to pay, however, their vehicle is “parked.” Police officers then order the passengers to get out of the vehicle and demand money from each passenger or negotiate payment directly with the driver to allow them to leave.¹³

In the area of arbitrary arrests and detention, Numerous police officers, legal professionals, and civil society leaders characterized the problem of unlawful detention of citizens by Nigerian police officers with the apparent motivation to extort money as a widespread and growing problem throughout Nigeria. They described how the police use specific incidents of crime, and the high levels of crime in general, as a pretext to randomly arrest and detain individuals and groups of citizens. Once a person is arrested by the police and refuses, or is unable, to pay the money demanded, they are often detained until they negotiate an amount for their release, this is against the law of Habeas corpus. In many cases, this unlawful detention may last for days or even weeks. Those who do not pay face threats, beatings, sexual assault, torture, or even death. Extended periods of detention leave victims and their friends and family vulnerable to repeated threats and demands for bribes. Using police terminology, a civil society leader in Lagos explained that the police “tend to cast the net very wide so they can arrest as many

suspects as possible. This affords them more chances for extortion and corruption.”. According to the report from Human Rights Watch interview of 30 persons in Lagos, Anambra, and Kaduna states who had personally paid or witnessed someone pay the police to be released, or to have someone else released from police detention, in the vast majority of cases, the person detained was never officially accused of a crime nor formally charged, much less interrogated. The bribes paid to or extorted by the police ranged from ₦800 to ₦398,000. The average (median) amount paid was ₦3,500. The police never signed a receipt, nor, except in a few rare instances where lawyers or human rights activists were able to intervene on their behalf, did they return the money.¹⁴

In Lagos State, a police constable who drives a police van during surveillance patrols described to Human Rights Watch how his team randomly arrested people for the purpose of extorting money from them. He stated;

When we would go to their areas, if they were not smoking or fighting, we would pick people for no reason to get money.... We would put them in the van and take them to the station and have their family come to “bail” them ₦2,500, ₦3,000, a negotiable price.... The ones we don’t take to the station, we search them and take money from them and let them go down from the van.¹⁵

Similarly, a police corporal in Lagos explained to Human Rights Watch how his team randomly arrested people when their team did not have enough money to make their weekly “returns” to their superior: he explained;

“If we don’t have money at the end of the week, we will get money. We will pick someone and arrest them.”¹⁶

When asked what he would do with the people he detained, he responded, “We would tell them to bring ₦5,000 and let them go; or we take ₦2,000 or ₦3,000 and then tell them to go.” In Kaduna, transport union leaders interviewed by Human Rights Watch explained that payment to the police is “compulsory” to “remove someone from the cell.”. One of them recounted:

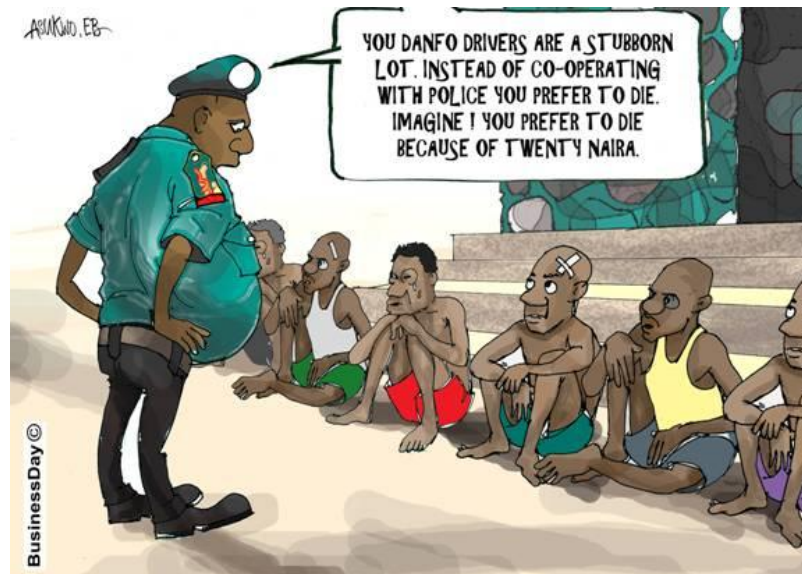
In the past month we have “bailed out” more than 10 cases [where drivers have been detained by the police]. In every case we have to pay. The minimum is ₦3,000; the most is ₦20,000. In all of the police stations in Kaduna we have to pay. It is 100 percent.¹⁷

The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment found in 2007 that “torture and ill-treatment are widely practiced in police custody” and are “an intrinsic part of the functioning of the police in Nigeria.” Numerous victims of extortion by the police described having been threatened with or subjected to torture as a means of extracting money from them. Family members of other persons held in police custody described being coerced by police officers who threatened to torture or kill the person detained. The police in turn profit from their brutal reputation as fearful family members will pay large sums of money to free their loved

one. The police sometimes use the threat of rape and other forms of sexual assault as a means to extort money from women stopped at checkpoints, accosted by the police in public places, or detained in police custody.¹⁸ In some cases, women are told they have the “option” of providing sex in lieu of payment. In a number of cases documented by Human Rights Watch and Nigerian human rights groups, police officers carried out their threats and subjected their victims to rape and other forms sexual assault, particularly when women who had been detained refused to pay all or part of the demanded sum. Although human rights groups have documented numerous cases of sexual assault, the police officers who commit these crimes are rarely held accountable. A 20-year-old university student described how in October 2008 police officers approached her at a taxi stand in Lagos, sexually assaulted her by touching her breasts and buttocks, and then demanded that she hand over money and her mobile phone. The policemen threatened to rape her if she did not comply with their demands. She said that one of the policemen justified the extortion by saying, “We’ have not eaten yet; this is the only way to put money in our pockets.” The woman paid ₦10,000, gave the police her mobile phone and, after being held against her will for two hours in an empty lot, was eventually released.¹⁹

The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions found in 2006 that police “checkpoints provide the occasion for a large number of extrajudicial executions by police.” The vast network of checkpoints that exists in Nigeria leads into numerous confrontations between the police and motorists who refuse to pay

the bribes demanded. All too often these confrontations escalate into fatal shootings by the police.²⁰



Source: 2010 BusinessDay

Public Response to Human Right Violation

The Nigerian government and the police leadership have acknowledged many of the problems in the Nigeria Police Force but have failed to enact meaningful reform. The Public in particular has not taken the violation of human rights in Nigeria with levity. There have been several outcry and campaign against the act of human rights violation. Organizations like Nigerian civil society organizations, most notably the CLEEN Foundation and the Network on Police Reform in Nigeria (NOPRIN), have actively campaigned over the last decade for security sector reform in Nigeria, conducting extensive research into police abuses, advocating for legislative reform, and working to

build the capacity of police personnel. The public has also frowned against human right violation particularly in the case of Extrajudicial killing.²¹ Extrajudicial killing/murder is the act of arbitrarily taking someone's life, denying or violating a person's right to life without recourse to the due process of the law. Generally, in Nigeria today, the sanctity and sacredness of human life have almost lost its real meaning. This act has been grossly practicable in the Niger-Delta region especially in the era of militancy. In this oil-producing region, several thousands of the inhabitants have been deprived of their fundamental, and inalienable right to life outside the prescription of the supreme law of the land and other applicable international instruments. As a response, In 2009, Amnesty International published an article entitled, Killings at Will: Extra-judicial Executions and other Unlawful Killings by the Police in Nigeria, which documented 39 cases of security force killings and enforced disappearances based on interviews and research conducted between July 2007 and July 2009. According to this report, "the national police conducted hundreds of extrajudicial executions, other unlawful killings and enforced disappearances each year. The police usually claim that the victims were armed robbers killed in an exchange of gun fire or that the suspects were trying to escape."²²

Hundreds of thousands of people have been extra-judicially murdered in the Niger Delta under similar circumstances by the security agents stationed in the area. One of such incidents of police extrajudicial murder is the case of Mr. Victor Emmanuel. On October 16, 2011, in Bayelsa State (Niger Delta region), "following his criticism of the police for extorting money from motorists on the road to his church, Mr. Victor

Emmanuel was shot dead in the presence of his mother who pleaded for his son's life to be spared to no avail." After he was killed in cold blood, the police removed the Bible he was holding in his hand and planted a pair of scissors in his hand to incriminate the deceased. The above incident is not an outlier, but a typically recurring event in the Niger Delta communities. In response to this ugly trend of extrajudicial killing, and the growing concern of the international community, "the UN Special Rapporteur on extrajudicial, summary or arbitrary executions on March 27, 2008 stated at the Human Rights Council that Nigeria must end extrajudicial executions by the police".²³ This among many others have been the response of the public both as individuals or as organization to the violation of Human rights in Nigeria by the police force.

Government Response to Human Right Violation

Thought the response of government towards human right violation in Nigeria have not properly meet up with the challenge, we cannot deny the fact the government has put in effort in responding to the menace of human right violation. One of such response has been through the enactment of legal rules seek to protect the rights of the citizens as contained in the Nigerian constitution. The Nigerian Constitution, common law, Criminal Code and the Penal Code have elaborate provisions for rights, remedies, sanctions, fines and other punishments for different crimes. Chapter IV of the 1999 Constitution made elaborate provisions for fundamental human rights and in Chapter II, the fundamental objectives and the directive principles of state policies covered mainly

the socio-economic and cultural rights. The Fundamental Rights Enforcement Procedure Rules 2008 forms part of the Nigerian Constitution and provides guidelines for the enforcement of rights under the Constitution and remedies for human rights violation. Nigerian law provides for punishment and remedies for crimes, it prohibits the fouling or corruption of water at any source be it spring, well, tank, stream or reservoir, and all forms of air pollution likely to injure the health of persons within the neighborhood is prohibited as well, violators are liable to six-month jail term. Generally, remedies for violation of human rights are in form of common law and civil remedies of compensation, damages (nominal and exemplary damages) and apology. The Fundamental Rights (Enforcement Procedure) Rules 2008 provides for remedies for human rights violations. Several other laws in Nigeria have provisions for remedies for human rights abuse and violations, and environmental pollution, such as the NESREA, the Police Act, Cap 359 LFN 1990, the Public Health Act 1917, and the Petroleum (Drilling and Production) Act of 1969. Victims of rights violation in Nigeria can invoke the relevant provisions of the Nigerian Constitution and other relevant instruments in seeking redress in the municipal or sub-regional courts as the case may be. Nigeria is a signatory to all the major international human rights instruments and as such is obligated to guarantee rights covered in the said instruments to individuals and groups and give effect to their provisions within its jurisdiction. The nation's foreign policy objectives in Section 19 of the Constitution is very elaborate.²⁴ The government has also taken steps to punish those officials who are caught in the web of violating human rights.

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CHAPTER FIVE

CONCLUSION

This work discussed the violation of human rights by the Nigeria Police force. The fact presented in this work reveals that despite the laudable and inspiring constitutional provisions for the protection of the Nigerian citizen, there are varying degrees of human rights violations in the nation orchestrated by the police force, and governance is characterized by acute disregard for, and sadistic undermining of these basic rights and fundamental freedoms. Even with the laws in place for the promotion and protection of human rights, human rights violations have been on the increase. The police that perpetrate crimes like extrajudicial murder, rape, torture or degrading punishment, and human rights violation are not held accountable as they are neither investigated nor brought to justice by the state. It is observed that though Nigeria as a nation has subscribed to major international human rights instruments in addition to her local rights instruments abuse and violations of rights continues to occur with disturbing frequency and regularity.”. Lack of equity, freedom, and equality is apparent in the nation’s landscape as it is reflected in the distribution of oil wealth and basic amenities. This imbalance has subjected the minority groups to hardship, domination, neglect, economic and political marginalization and denial of rights. Ultimately, the defective legal and institutional frameworks in the country aids, encourage, and help to sustain gross human rights violation in the country and particularly as carried out by the police force.

The Nigeria Police, which is charged with enormous responsibilities in the geopolitical entity called “Nigeria”, has been under intense public criticism in the last three decades over its apparent inability to effectively alienate itself from human rights abuses and violations. In the words of Dambazau so many factors have been attributed to this failed situation. Firstly, there is the issue of lack of professionalism, generally attributed to recruitment policy, which has effect on the quality of manpower; the problem of poor training and general atmosphere of indiscipline. Secondly, corruption in the Nigeria Police is said to be endemic, and has eaten deep into the very fabric of the system. It is observed that, many Nigerians see the policeman as a “lazy, corrupt, inefficient, bribe-taking, money-extorting officer”. Whatever the perceived inadequacies in the police system are, the Nigeria Police Force still remains the biggest, most viable and important sub-sector of the criminal justice system. The police present the entry point into the criminal justice system either through reports from the public or its own discovery. The average citizen has contact with the police more, than with any other organ or agency for administration of criminal justice. The police, therefore, may form the basis for the evaluation of the entire criminal justice system. This therefore, makes the operational policies and procedures of the police very crucial to the image of the entire criminal justice system.

The importance of the police may however be the reason behind the police being the “bashing child” whenever a crime is committed against the citizen, notwithstanding

the fact that the citizen may have contributed to his misfortune. This may be why Kuteyi and Ogunfola have the same reasoning when they said:

The Police Force everywhere are saddled with thankless jobs. Citizens take their security for granted until it is violated, they blame the police for ineffectiveness. The core problem of the police force is that they are expected to eliminate or cure a problem that can neither be cured nor eliminated.

However, Human Rights Watch calls on the Nigerian government to immediately and effectively address the dynamics that have given rise to and sustain endemic police corruption and its related abuses, and ensure that those who perpetrate these crimes are held accountable. There are possible steps that can be taken by the Nigerian government to remedy the situation if Human right violation in the country. First, the government should establish an independent commission of inquiry with subpoena power to conduct a transparent, comprehensive, and impartial investigation into systemic corruption within the Nigeria Police Force. The commission should focus its investigation on determining the extent of the embezzlement and misappropriation of public funds by senior police officials and its impact on police conduct and services; the extent to which senior police officials sell for personal profit the services of junior-level officers to private individuals and companies and its impact on police conduct and services; and the extent to which monetary “returns” are passed up to the senior leadership of the Nigeria Police Force and the impact of this system of returns on police conduct and services. Secondly, the government should also prosecute without delay and according to international fair trial

standards any police officer implicated in corruption and other serious abuses. Thirdly, the government should improve financial oversight of the Nigeria Police Force by requiring the Nigeria Police Force to publish quarterly financial reports of total fines collected for vehicular and traffic violations, revenue received from state and local government allocations, and any funding received from private sources, require the Nigeria Police Force to publish quarterly budget execution reports including detailed expenditure reports from each state command, make public the auditor general's financial audit reports of the Nigeria Police Force for each of the past 10 years, order an independent financial audit of the Nigeria Police Force by a qualified auditing company that conforms to international standards for auditing public sector entities. Ensure that the audit report is made public. the government should also reduce political manipulation of the police by setting the term of the inspector general of police to one five-year term, and subjecting the confirmation of appointment as well as removal to a two-thirds majority vote in the Senate, as recommended by the 2008 Presidential Committee on the Reform of the Nigeria Police Force. Propose a constitutional amendment to enshrine these provisions in the Nigerian Constitution, and also implement without delay the core recommendations of the 2008 Presidential Committee on the Reform of the Nigeria Police Force and prioritize measures addressing financial transparency and oversight, public complaint mechanisms, and monitoring and discipline of police personnel. Ensure that sufficient resources are allocated to enable effective implementation of these recommendations.

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