

## HUMAN RIGHTS VIOLATIONS, THE YOUTHS AND CRIMINAL JUSTICE IN NIGERIA: AN APPRAISAL

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### **YOUTH CRISES IN TWENTY-FIRST CENTURY AFRICA: AN INTERDISCIPLINARY DISCOURSE**

#### **Introduction**

The notion of human rights is ancient and yet emergent. It is reflected in oral tales and mythologies, debated by classical philosophers and even highlighted in classical literature. Yet the issue is still a fresh and disturbing one<sup>2</sup>. Human rights violations have remained one of the most intractable challenges bedeviling contemporary Nigeria society. In the quest to address this trend, societies have systems put in place to help protect the rights of its people. Documents asserting individual rights, such as the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the United States Constitution and Bill of Rights (1791) are the written precursors to many of today's human rights documents. On December 10, 1948, the Universal Declaration of Human Rights, hereinafter referred to as (UDHR), was adopted by member nations of the United Nations<sup>3</sup>. The UDHR, commonly referred to as the 'international magna carta', extended the revolution in international law, which was ushered in by the United Nations Charter. How a government treated its own citizens became a matter of legitimate international concern, and not just a domestic issue. The notion that all rights are interdependent and indivisible, gained preeminence<sup>4</sup>.<sup>1</sup>

The influence of the UDHR has been substantial, and its principles, have been incorporated into the constitutions of most nations. In 1979, Nigeria

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<sup>3</sup>United Nations Association of the United States of America. *Basic Facts About the United Nations*. New York: United Nations Publication, 1992.

<sup>4</sup><http://hrlibrary.umn.edu/edumat/hreduseries/hereandnow/Part-1/short-history.html>retrieved on 25th January, 2022.

adopted a presidential system of government and in doing so, a new constitution was introduced. This constitution provided for the protection of fundamental human rights of Nigerian citizens. Nigeria also became a signatory to several international human right treaties<sup>5</sup>.<sup>2</sup> In 1999, the Federal Republic of Nigeria enacted a new constitution and devoted chapter four in its entirety, to provisions pertaining to the protection of the fundamental human rights of Nigerians<sup>6</sup>.<sup>3</sup> Section 46<sup>(a)</sup> of the Constitution of the Federal Republic of Nigeria, 1999 (as altered), empowers any person who alleges that his right has been, is being or is likely to be infringed or breached, to apply to a High Court for redress.

## **Definition and Succinct Explanation of Key Terms**

### **Human Rights**

Human rights are moral principles, values or norms for certain standards of human behaviour and are often protected by municipal and international law. These rights are commonly understood as inalienable - a person being inherently entitled to same simply because he or she is a human being. These rights are inherent in all human beings, regardless of age, ethnic origin, location, language, religion, or, any other status. These rights apply everywhere and at all times, in the sense of being universal; and are egalitarian, in the sense of being the same for everyone. These rights impose an obligation on persons to respect the human rights of others, and it is generally considered that these rights should not be taken away except as a result of due process based on specific circumstances.<sup>7</sup><sup>4</sup>

Thus, human rights are rights inherent to all human beings, regardless of nationality or ethnic origin, place of residence, sex, or, colour, religion,

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<sup>5</sup> These treaties include the Universal Declaration of Human Rights; International Covenant on Civil and Political

Rights; International Covenant on Economic, Social and Cultural Rights; Convention against Torture and other

Cruel, Inhuman or Degrading Treatment or Punishment; & the African Charter on Human and Peoples Rights, etc.

<sup>6</sup> These rights are, right to life; right to dignity of human person; right to personal liberty; right to fair hearing; right to private and family life; right to freedom of thought, conscience and religion; right to freedom of expression and the press; right to peaceful assembly and association; right to freedom of movement; right to freedom from discrimination; right to acquire and own immovable property anywhere in Nigeria; and right against compulsory acquisition of property.

<sup>7</sup> See [https://en.wikipedia.org/wiki/Human\\_rights](https://en.wikipedia.org/wiki/Human_rights) retrieved 24th January, 2022.

language, or any other status. We are all equally entitled to our human rights without discrimination. And when these rights are protected as legal rights they become known as fundamental human rights which are protected by the grundnorm<sup>8 5</sup> of the society; such as the Constitution of the Federal Republic of Nigeria, 1999 (as altered).<sup>9 6</sup> Fundamental Human Rights are therefore fundamental because they are guaranteed and protected by the Constitution<sup>10</sup>.

### Youth

Youth is the time of life when one is young, and often means the time between childhood and adulthood (maturity)<sup>11</sup>.<sup>8</sup> It is also defined as the appearance, vigor, spirit, and characteristic of one who is young. The United Nations, for statistical purposes, defines 'youth', as a person between the age of 15 and 24 years<sup>12</sup>.<sup>9</sup> One who is classified as a youth is a young person, especially those within the age bracket found in the Universities.

### Criminal Justice

Criminal justice can be defined as the system through which crimes are identified, and criminals are apprehended, judged, and punished<sup>13</sup>.<sup>10</sup> The criminal justice system comprises of three parts, namely; law enforcement, courts and corrections. Law enforcement can be seen as the front lines of the criminal justice system. The courts can be thought of as the part of the criminal justice system where guilt or innocence of a suspect is assessed at trial. Corrections can be referred to as the administrative part of the criminal

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<sup>8</sup> The term "grundnorm" is commonly used to describe a country's constitution which simply means that the constitution is the basic and the highest law of the land and no law must be contrary to its provisions.

<sup>9</sup> Per Abubakar Datti Yahaya, JCA at 19 paragraph A-C in **Fort Royal Homes Ltd. & ANOR. v. E.F.C.C. & ANOR.** (2017) LPELR-42807(CA).

<sup>10</sup> See **Uzoukwu v. Ezeonu II** (1991) 6 NWLR (Pt. 200) 708; and, **Enahoro v. Abacha** (1998) 1 NWLR (Pt. ) 424.

<sup>11</sup> Macmillan Dictionary, Macmillan Publishers Ltd; Merriam-Webster Dictionary; .and, Longman Dictionary of Contemporary English.

<sup>12</sup> <https://www.un.org/esa/socdev/documents/youth/fact-sheets/youth-definition.pdf> retrieved on 24<sup>th</sup> January, 2022.

<sup>13</sup> <https://www.internationalstudent.com/study-criminal-and-forensic-science/what-is-criminal-justice/> retrieved on 24th January, 2022

justice system due to its application of sentences and enforcement of punishments.

The three layers of the criminal justice, work in tandem. For instance, if a crime has been committed, law enforcement investigates. Once a suspect is apprehended and charged, and arraigned in court, the court takes over. Although police and detectives may offer testimony in a trial, it is really the courts' show until a verdict is reached. If the accused person is found guilty, he is sentenced, and turned over to correctional authorities, in our case, the Nigerian Correctional Service, known before as the Prisons<sup>14</sup>.<sup>11</sup>

### **HUMAN RIGHTS VIOLATIONS, THE YOUTHS AND CRIMINAL JUSTICE IN NIGERIA**

The trend in every modern society where the rule of law operates is to protect fundamental human rights for the enhancement of human dignity and liberty. Thus, once there is a breach of fundamental rights, the court looks at it with all seriousness<sup>15</sup>.<sup>12</sup>

Cases of human rights violations are fast becoming a norm in Nigeria. The courts are inundated with so many cases bordering on the violation of human rights. Citizen's rights to freedom of expression, peaceful assembly, freedom of association, particularly for the teeming youths who are displeased with the high rate of corruption in the country, improper governance and lack of employment opportunities, are constantly being infringed upon. The Police are allegedly reputed to be one of the institutions of government engaged in violation of human rights. For instance, in numerous cases pending in various courts in Nigeria, private citizens often instigate law enforcement agencies to violate the rights of their fellow citizens, through false allegations, fabricated petitions, in an unnecessary show of might. Sometimes, innocent citizens, especially the youths, are arrested by security agencies, maltreated and often have their rights violated. These occurrences were part of what triggered the youths, rights defenders, and activists in Nigeria, to launch a massive campaign sometime in 2017 hashtagged as #EndSARS which snowballed into the 2020 #endsars protest. The campaign was aimed at drawing attention to the human rights violations occasioned by members of the Special Anti-Robbery Squad

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<sup>14</sup> The Prisons Act Cap P29 LFN was repealed in 2019 to Nigerian Correctional Service Act, 2019.

<sup>15</sup> Per Talba, JCA in **Nigerian Army & Ors. v. Oyewole** (2021) LPELR-55113(CA).

<sup>16</sup> <https://www.mondaq.com/nigeria/human-rights/1081802/how-to-seek-redress-for-human-rights-violations-in-nigeria> retrieved on 24th January, 2022.

(SARS), a unit of the Nigerian Police Force. SARS was accused of widespread human rights violations including extra - judicial executions, torture, and false imprisonment<sup>16</sup>.

The #EndSARS campaign ended in 2020 with the disbandment of SARS, but the human rights violations have not abated. Rather, cases of human rights violations in Nigeria have not only been on the rise, but have taken in new dimensions in the form of profiling many of the youths as yahoo yahoo boys (a Nigerian slang for people who engage in cybercrimes), an omnibus crackdown on citizens' right to freedom of expression by the banning, and, restriction of the use of online social media applications such as Twitter<sup>17 13</sup> (the ban was lifted on 12<sup>th</sup> January, 2022), among others.

Caught in the web of these human rights violations are mainly the Nigerian youths, most of whom are university undergraduates, young graduates, commercial bus drivers, tricycle drivers, motorcycle riders and other sundry artisans and allied workers. There are instances of how youths are being harassed by the security agents, especially if seen in flashy cars, with state of the art gadgets, wearing flamboyant clothes or with lurid or gaudy haircuts and styles like tinted or dreadlocks. Other illustrations of human right violations include violation of rights to personal liberty. Instances of such include inordinate incarceration without arraignment or trial and extra-judicial executions which violate the right to fair hearing and right to life of human beings. Just recently, an on line video went viral about a lady from Aguleri who was stripped and publicly paraded and allegedly accused of killing her husband because he died while making love to her, among so many others. The Nigeria Constitution<sup>18 14</sup> has made adequate provision on the rights guaranteed to all. It also provides means for seeking redress in court which avail all whose rights are violated or likely to be violated.

The following rights are protected under Chapter Four of the Constitution of the Federal Republic of Nigeria, 1999 (as altered):

1. Right to Life (Section 33);
2. Right to Dignity of Human Person (Section 34);
3. Right to Personal Liberty (Section 35);
4. Right to Fair Hearing (Section 36);
5. Right to Private and Family Life (Section 37);

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<sup>17</sup> <https://edition.cnn.com/2021/06/04/africa/nigeria-suspends-twitter-operations-intl/index.html>  
retrieved on 24th January, 2022.

<sup>18</sup> Chapter 4 of the Constitution of the Federal Republic of Nigeria, 1999 (as altered).

6. Right to Freedom of Thought, Conscience and Religion (Section 38);
7. Right to Freedom of Expression at the Press (Section 39)
8. Right to Peaceful Assembly and Association (Section 40)
9. Right to Freedom of Movement (Section 41)
10. Right to Freedom from Discrimination (Section 42)
11. Right to acquire and own immovable property anywhere in Nigeria (Section 43)
12. Right against compulsory acquisition of property (Section 44).

The above rights are so important that they are considered as standing above other laws of the land outside the Constitution<sup>19</sup>.<sup>15</sup> These rights however are not absolute as there may be derogation from them as provided for in the Constitution<sup>20</sup>.<sup>16</sup> Section 45(1) (a) & (b) of the Constitution of the Federal Republic of Nigeria, 1999 (as altered), provide in clear wordings that nothing in sections 37 - 41 of the Constitution shall invalidate any law that is reasonably justifiable in a democratic society; in the interest of defence, public safety, public order, public morality or public health; or, for the purpose of protecting the rights and freedom of other persons. Thus, it is very important that we understand that our entitlement to these rights referenced above are not absolute. Once issues of defence, public safety, public order, public morality, public health; or, the protecting of the rights and freedom of others are involved, your right as enshrined in sections 37 - 41 of the Constitution can be put on hold. It follows therefore, that your right ends where another person's right begins.

Section 33 of the Constitution provide that everyone has a right to life and no one can be intentionally deprived of same, save in the execution of a sentence of a court in respect of a criminal offence for which he has been found guilty in Nigeria<sup>21</sup>.<sup>17</sup> However, if one's life is lost in the following permissible circumstances, his/her fundamental human right to life will not be said to have been infringed upon. These permissible circumstances are:

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<sup>19</sup> See **Badejo v. Federal Minister of Education** (1996) 8 NWLR (Pt. 464) 15 at 41; and, **Anzaku v. Gov. of Nasarawa State** (2005) 5 NWLR (Pt. 919) 448 at 483.

<sup>20</sup> See **S.S.S. & Ors. v. Adamu** (2020) LPELR-50365(CA).

<sup>21</sup> See **C.O.P. Taraba State & Anor. v. Dabo & Anor.** (2019) LPELR-47215(CA).

- a. for the defence of any person from unlawful violence or for the defence of property;
- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c. for the purpose of suppressing a riot, insurrection or mutiny.<sup>22</sup>

Section 34 of the Constitution succinctly provides that every individual is entitled to respect for the dignity of his person, and accordingly, no person shall be subjected to torture or to inhuman or degrading treatment or shall be held in slavery or servitude and shall be required to perform forced or compulsory labour. However, there are permissible circumstances where this section will not be given effect. They are:

- (a) Any labour required in consequence of the sentence or order of a court;
- (b) Any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such;
- (c) In the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service;
- (d) Any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or
- (e) Any labour or service that forms part of –
  - (i) normal communal or other civic obligations of the well-being of the community.
  - ii) such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or
  - (iii) such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly<sup>23</sup>.<sup>18</sup>

Section 35(1) of the Constitution provides that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law –

- (a) in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;

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<sup>23</sup> See Section 34(2)(a) – (e) of the Constitution.

- (b) by reason of his failure to comply with the order of a court or in order to secure the fulfillment of any obligation imposed upon him by law;
- (c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;
- (d) in the case of a person who has not attained the age of eighteen years for the purpose of his education or welfare;
- (e) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or
- (f) for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto: Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence<sup>24</sup>.

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Any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice. Any person who is arrested or detained shall be informed in writing within twenty-four hours (and in a language that he understands) of the facts and grounds for his arrest or detention. Any person who is arrested or detained shall be brought before a court of law within a reasonable time, and if he is not tried within a period of –

- (a) two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail; or
- (b) three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date<sup>25</sup>. <sup>20</sup>A reasonable time means in the case of an arrest or detention in any place where there is a court of

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<sup>24</sup> See section 35<sub>(1)(a)–(f)</sub> of the Constitution.

<sup>25</sup> See section 35<sub>(2)–(4)</sub> of the Constitution.



competent jurisdiction within a radius of forty kilometres, a period of one day and in any other case, a period of two days or such longer period as in the circumstances may be considered by the court to be reasonable<sup>26</sup>.

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Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person<sup>27</sup>.<sup>26</sup> It is the duty of our criminal justice sector to see that adequate compensation are granted to any person(s) whose right is proved to have been violated.

The whole of section 36 of the Constitution is about fair hearing. Fair hearing means giving equal opportunity to the parties to be heard in litigation before the Court<sup>28</sup>.<sup>27</sup> Consequently, fair hearing connotes a trial conducted according to legal rules, giving equal opportunity for all parties to be heard before a court<sup>29</sup>.<sup>28</sup> The breach of the right of fair hearing renders the proceedings in which it was committed as well as all subsequent proceedings, and, any resultant decision thereupon, a nullity<sup>30</sup>.<sup>29</sup> Therefore, when a person is accused of breaching any of the fundamental human rights; or, is accused of committing any crime that will warrant the breach or suspension of his/her fundamental human rights, it is the duty of the criminal justice sector to ensure that person, or, institution, is afforded fair hearing in clear obedience to the provisions of section 36 of the Constitution. For instance, whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal<sup>31</sup>.<sup>30</sup>

Also, any person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty<sup>32</sup>.<sup>31</sup> Again and most importantly, any person who is charged with a criminal offence shall be entitled to the following:

- (a) to be informed promptly in the language that he understands and the details of the nature of the offence;
- (b) to be given adequate time and facilities for the preparation of his defence;
- (c) to defend himself in person or by legal practitioners of his own choice;
- (d) to examine, in person or by his legal practitioners, the witnesses called by the prosecution before any court or tribunal and obtain the attendance and

<sup>26</sup> See section 35<sup>(5)</sup> (a) and (b) of the Constitution.

<sup>27</sup> See section 35<sup>(6)</sup> of the Constitution.

<sup>28</sup> See **Attoe & Anor. v. Attoe & Ors.** (2021) LPELR-54143(CA).

<sup>29</sup> See **Nnajofofor & Ors. v. Ukonu & Ors.** (1985) LPELR-2056(SC).

<sup>30</sup> See **Ekpenetu v. Ofegobi** (2012) 15 NWLR (Pt. 1323) 276.

- carry out the examination of witnesses to testify on his behalf before the court or tribunal on the same conditions as those applying to the witnesses called by the prosecution; and,
- (e) have, without payment, the assistance of an interpreter if he cannot understand the language used at the trial of the offence<sup>33</sup>. <sup>32</sup>.

### **Human Rights Violations: Role of the Judiciary under the Criminal Justice System**

The judiciary has been entrusted with the responsibility of ensuring that the provisions of the Nigerian Constitution as it relates to the rights of its citizens are fully enforced and protected. Section 46<sup>(2)</sup> of the 1999 Constitution (as altered) grants the judiciary the authority to implement the provisions of Chapter Four of the Constitution. It provides thus:

“Subject to the provisions of this Constitution, a High Court shall have original jurisdiction to hear and determine any application made to it in pursuance of the provisions of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement within that State of any right to which the person who makes the application may be entitled under this chapter.”

The effectiveness of the judiciary in protecting the rights of citizens, especially that of our youths who are most often helpless, is an important indicator of the advancement and civilization of a nation. Every work day, Judges all over the country, deliver numerous judgments predicated on fundamental human rights protecting rights of citizens and even awarding monetary compensations where applicable and necessary. Thus, Nigerian citizens, and residents within the country, are encouraged to always have confidence in the Judiciary. Should the confidence of citizens in justice wane or vanish, citizen’s freedoms would have no meaning.

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<sup>31</sup> See section 36<sup>(4)</sup> of the Constitution.

<sup>32</sup> See section 36<sup>(5)</sup> of the Constitution.

<sup>33</sup> See section 36<sup>(6)(a)–(e)</sup> of the Constitution.

Therefore, we are all encouraged to approach the courts each time our rights are violated or when we even suspect that our rights are about to be violated. Human rights groups and activists are encouraged to expand their frontiers to accommodate many persons who may not have the wherewithal to engage lawyers.

### **What youths should do to minimize the violation of their Human Rights**

The youths constitute the majority of the population of most nations. In contemporary Nigeria, the rate of crime being perpetrated by the youths is on the increase; ranging from kidnapping, rape, banditry, money rituals, cybercrimes, armed robbery, thuggery and side-chick phenomenon among others. The paper, while condemning human rights violation in Nigeria, recommends that there is need for the youths to be law abiding. As the axiom goes, a country with a weakened youth is a weak country. Thus, for our youths to remain productive, they must avoid acts that may expose them to the violation of their human rights. Youths, especially those of you listening to me, must do the following:

- a. be law abiding;
- b. do not resist security agents;
- c. always have a means of identification on you;
- d. avoid keeping late nights;
- e. avoid unnecessary crowds and desist from acts capable of leading to public unrest.
- f. dress decently at all times.

### **Conclusion**

This paper appraises the youths and criminal justice system in Nigeria from the perspective of human rights violations, it highlighted what constitutes human rights violations, instances of human rights violations and its impact on the youths. The paper concludes by suggesting how victims of human rights abuses can seek redress from the courts leaning on fundamental rights enforcement procedure rules.

To strengthen the criminal justice sector, and make it more beneficial, it is important that we know our rights and how to seek redress for human right violations. The rising cases of human right violations will only begin to decrease when victims understand and know their rights and begin to seek judicial

redress. Unnecessary clashes with security agents will be a thing of the past if our youths know their rights and appreciate the limitations thereof. Indeed, for human rights in Nigeria to be translated into a practical reality, there must be an increase in cooperation with organizations that support these rights. The paper further recommends that parents, governments, religious leaders, traditional rulers, the political class, and, teachers among others, should have a role to play in the formation, education and in setting practical, moral, and, realistic values and examples that the youths can emulate from, to enable them live exemplary lives that is crime free. The judiciary is always there as a critical player in the criminal justice sector, ready and willing to help preserve the rights of every Nigerian.

Thank you and God bless you all.

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