
HUMAN RIGHTS VIOLATIONS IN ENDSARS PROTESTS IN NIGERIA. YOUTH VERSUS THE STATE

¹Dr. Michael Obiora Ifeanyi Nwabuoku , ²Dr. Jenigho Phillip Esavwede , ³Dr. Kingsley .Omote Mrabure

¹Senior Lecturer, Ph.D

Delta State University, Abraka, Nigeria. Faculty of Law (Oleh Campus), Dept of Public Law.

²Senior Lecturer, Ph.D

Delta State University, Abraka, Nigeria. Faculty of Law (Oleh Campus), Dept of Public Law.

³Assoc.Prof, Ph.D (corresponding author)

Delta State University, Abraka, Nigeria. Faculty of Law (Oleh Campus), Dept of Public Law.

e-mail: ifybuoku123@gmail.com¹, jpesavwede@delsu.edu.ng², kingomote@gmail.com³

ABSTRACT

The paper examines the EndSARS (Special Anti-Robbery Squad) youth protests against the Nigerian State over police brutality and other socio-economic issues. It emphasizes the importance of protests in any society. It condemns military forces shooting of unarmed peaceful protesters on October 20, 2020 at the Lekki toll gate. It is clear that the right to life was infringed upon. The article concludes by stating that under the 1999 Constitution of the Federal Republic of Nigeria as amended, case law, several regional and international conventions, the right to peaceful protest is guaranteed and must be recognized and protected by States.

Keywords : EndSARS Protests, Youth, State, Right to life, The Constitution of Federal Republic of Nigeria, 1999 as amended.

1. INTRODUCTION

The Special Anti-Robbery Squad (SARS) was formed in 1992 to combat violent crimes, especially armed robbery. SARS has a reputation for using excessive force and breaching human rights of individuals in cases of extra-judicial killings; torture of suspects for confessions; suspects are routinely locked sometimes for years without trial; shooting of protesters and other random unprovoked killings [1]. SARS agents who are supposed to be fighting violent crimes, have recently derailed in their duties by pursuing internet scammers known as ‘yahoo boys’ [2]. This is done by stopping mainly young men on the street and asking for access to their phones. Being in possession of an iPhone automatically makes you a suspect.

Following the unprovoked shooting of a youngster in the streets of Ughelli, Delta State by SARS operatives on October 3, 2020, which was widely reported on social media¹. A report which the Nigerian Police disputed, public outrage intensified as a result of this as other videos of police shootings were uploaded on social media. As a result, nationwide protests began on October 8, 2020 calling for the Special Anti-Robbery Squad, an aggressive police force to be abolished [3]. Police used tear gas, water cannons and live bullets against protesters, killing at least four individuals and injuring many more².

¹ ‘Police Dismiss Video Alleging SARS killing in Delta’ (2020) <https://www.vanguardngr.com/2020/10/police-dismiss-video-alleging-sars-killing-in-delta/> accessed June 5 2022.

² In response to the #EndSARS protests, the government swiftly announced that it was disbanding SARS and replacing it with a new Special Weapons and Tactics Team (SWAT). This announcement further provoked protesters who were concerned that SARS personnel would simply be drafted into the new SWAT team.

This organic, decentralized protests lacked leadership. The reason for this is straightforward: ‘a head that does not exist cannot be cut off’ [4]. Any effort by the government to hold closed-door meetings failed because even if a self-appointed leader was negotiated with, he or she had no authority to order protesters to disperse. Protesters demanded a seven point agenda [5]. The immediate release of all protesters; justice for all deceased victims of police brutality and adequate compensation for their families; the establishment of an independent body to oversee the investigation and prosecution of all reports of police misconduct; and the establishment of an independent body to oversee the investigation and prosecution of all reports of police misconduct; before they are redeployed, all SARS officers who were disbanded must undergo psychological assessment and retraining ; increased salary for police officers and so on [6].

This paper in light of the above deals with nine interrelated parts beginning with the introductory part. Part 2 states unequivocally the repressive character of the Nigerian State in using the security apparatus of the government in brutalizing her citizens by trampling on their fundamental rights. Part 3 highlights the importance of protests in the society. It states the reasons for the EndSARS protest and views postulated by various scholars. Succinctly, part 4 examines the legality of the EndSARS protest under the law. The Federal Republic of Nigeria's 1999 Constitution as amended guarantees the right to protest as a basic right. It also raises concerns about the police's participation in the use of firearms during protests. They failed in their responsibility because there were several incidents of demonstrators' rights being violated. Section 5 covers the killing of innocent peaceful protesters by military officers at the Lekki toll plaza on October 20, 2020. National, regional and international bodies all condemned this cruel act. It raised concerns about the military's engagement in protests. Part 6 examines the definition of rights as proposed by scholars as well as statutes and case law in tandem with the fundamental right to life of unarmed peaceful protesters guaranteed under the Constitution. Part 7 of this paper took a look at the 2019 Sudan protests as a comparative study. The lessons learnt are stated in part 8. Part 9 concludes by stating that all those found culpable in the Lekki toll plaza killing must face punishment in accordance with the law and that Nigerians have the right to peaceful protests which the government must respect and protect.

2. THE NIGERIAN STATE

The Nigerian Police Force (NPF) is the primary law enforcement agency in Nigeria, according to section 214 of the Federal Republic of Nigeria Constitution of 1999 as amended³. The NPF is under the command and control of the Inspector General of Police under section 215(2) of the Constitution. The Nigerian State enforces rules and orders that benefit the ruling elites rather than the people, using coercive authorities such as the military and police force. Section 45 (1)(d) of the CFRN requires law enforcement officers, for example, to arbitrarily arrest without a warrant, confiscate, demolish property and obtain information from any person or organization without restraint.

The Nigerian State established security forces protect the ruling elites' interests [7]. As a result of this, the state became "an instrument of private and sectional interests" and is unable to maintain adequate conditions for civil rights protection [8]. The colonial regime essentially left the Nigerian State with an authoritarian and repressive character [9].

Police brutality has a long history in Nigeria and other African countries [10]. The prevalence of police brutality in Africa is a result of political leadership failure rather than colonial legacy [11]. African post-independence States serve as weapons of police brutality, intimidation, murder, crime against humanity, repression and excessive abuse rather than agents for the protection of citizens and the facilitation of development [12]. This is accomplished by emboldening and strengthening the repressive apparatuses of the State such as the police and the military to flagrantly violate human rights and commit crimes against humanity [13]. The thinning and shrinking of civic spaces entails restrictions on free speech, information access, association and organization. The repressive State uses intimidation and open violence to victimize its citizens [14].

The Nigerian police employs routine surveillance and the use of force to subjugate the masses and to dismantle the machinery of citizens' collective organization in order to instill intense fear in the people. Such States impose arbitrary regulations, encourage police brutality and criminalize public gatherings in order to shrink civic spaces [15]. As a result, widespread public distrust of the State and its law enforcement institutions exists. This growing mistrust as well as the Nigerian police's corrupt and State-backed authoritarian nature, make them to frequently treat Nigerian youths as criminals until proven innocent, rather than the other way around as provided by Nigerian laws. Therefore,

³ It shall be hereinafter be referred to “ CFRN 1999“.

the primary function of the police is to protect the regime rather than the people. To protect the regime and its interests, police and military forces frequently use excessive and brutal force to repress the people. State repression and restrictions on civil liberties in Nigeria have far-reaching consequences for democracy, development and national security [16]. It depicts a high level of human rights violations. It shrinks civic spaces, jeopardizes democracy and the rule of law, undermines constitutionalism, jeopardizes national security and disrupts peace and people's well-being. It also discourages foreign investors, reduces economic opportunities, and exacerbates hardship and poverty among citizens.

The State functions more as a tool of intimidation and maltreatment than as a protector of citizens and facilitator of development. The repressive responses of Nigerian security forces to #EndSARS protesters eroded the confidence of the Nigerian people, including those in the Diaspora. The #EndSARS protest went global with massive turnouts recorded in Ontario on October 12, 2020; Germany on October 23, 2020; Dublin on October 11, 2020; London on October 11, 2020; New York on October 11, 2020; Michigan on October 18, 2020; Hungary on October 22, 2020; Ohio on October 25, 2020, and so on [17].

3. THE ENDSARS PROTESTS

Incidences of human rights violations such as right to life, freedom of movement, freedom of association among others were committed by officers of the Nigerian Police Force on

Endsars protesters⁴ in various States of Nigeria. This is despite the fact that protests are an important aspect of the legal, political, economic, social and cultural life of all countries [18]. Protests have in the past sparked constructive social change and bolstered human rights security and they continue to help define and secure public space around the world⁵. Protests help citizens become more informed and they improve representative democracy by allowing them to participate directly in government activities [19]. Individuals and organizations can use them to voice their opposition and concerns, exchange ideas and counter-ideas, expose governance flaws and openly demand that authorities and other powerful institutions address problems and accept accountability for their actions. This is especially critical for people who do not get their voices heard or who are excluded.

Protest is defined as ‘contentious politics’ or ‘contentious actions’ in the case of claimants, or those claiming to represent them, dependent on non-institutional ways of contact with elites, opponents, or the State to some extent [20]. It is also defined as ‘public group activities that use conflict politics to apply tension to a specific purpose in attempt to sway public opinion’ [21]. Protest is a non-traditional style of political participation. They go on to suggest that citizens are becoming more critical of politicians and that this criticism is constantly manifested in protest, which

⁴ In Delta State on 3/10/2020, report of the unprovoked shooting of a boy on the street of Delta State whose car was vandalized by SARS official; In Oyo State on 10/10/2020, Jimoh Isiaka was killed by a stray bullet while the police were dispersing protesters in Ogbomosho; Vanguard newspaper, Ondo State on 11/10/2020, the police shot teargas and live bullets to disperse protesters, killing about 4 persons; on 12/10/2020, Amnesty International reported that the police killed about 10 persons in one week during the protest. As the protesters were heading towards Force HQ Abuja, the police attacked them using teargas, water cannons and gunshots, slashing car tyres, seized phones and arrested others; in Lagos on 13/10/2020, as the police dispersed protesters in Surulere, 1 person was killed, and others were arrested and kept in police stations; ThisDay newspaper report in Abuja on 15/10/2020, announcement by the Federal Capital Territory Administration that all demonstrations have been banned after a wave of #EndSARS protest in various cities; in Lagos on 20/10/2020, peaceful protesters were allegedly shot at by the Nigerian military at the Lekki Tollgate in which 49 persons were alleged to be killed. For full details. See Asogwa KC, Edeh.HC *et al* (2021) The State, End SARS Protests and Human Rights Violation in Nigeria *Ikenga Journal of Institute of African Studies* vol. 22, no.2 at 45.

⁵ See Jasmine Revolution Tunisian History’ (2011) <https://www.britannica.com/event/Jasmine-Revolution> accessed September 5 2022. Jasmine Revolution, popular uprising in Tunisia that protested against corruption, poverty and political repression and forced Pres. Zine al-Abidine Ben Ali to step down in January 2011. The success of the uprising, which came to be known in the media as the “Jasmine Revolution,” inspired a wave of similar protests throughout the Middle East and North Africa known as the Arab Spring.

could explain why there is now a flood of study and theory claiming to address the issue [22]. It's called 'high-risk political behaviour'[23]. However, protests and social movements are normal and 'inherently political' and that they have become 'an accepted aspect of citizens' political activities' [24].

Whether the protests are against a government policy on university education, fuel price increases, or other government policies, incidents of forcible dispersion by security services occur, people have been gruesomely killed and others have sustained lasting injuries as a result of similar events. In Nigeria, individuals use political power to persecute and suppress their opponents. The Public Order Act was used by governors and their accomplices to frighten protestors who were against them, but it was also used to protect those who were protesting against their opponents [25].

What began as a protest by young Nigerians against the feared police Special Anti-Robbery Squad (SARS) turned into a venue for the youth to vent their frustrations with Nigeria's ruling class and demanded change [26]. The protests in Lagos were met with a police crackdown, with government buildings set ablaze and stores looted by hoodlums who hijacked the peaceful demonstrations. The looting and mayhem spread fast across the country [27]. Several warehouses across the country containing COVID-19 relief items were looted,⁶ bringing the misery of many Nigerians to the fore once more. The demonstrations did not just target the Special Anti-Robbery Squad. It's the outpouring of bottled-up rage at the government's dehumanising policies as well as mismanagement, injustice, famine and sky-rocketing high energy and fuel prices. Nigeria is known for being one of the world's poorest country despite her abundant resources. Approximately 70% of the population is under the age of 30; in the second quarter of 2020, 21.7 million people were unemployed, with 13.9 million of them being teens. As a result, government policies that have resulted in labour scarcity and sustainable sources of income disproportionately harm young Nigerians. Other factors include political officials' lavish lifestyles [28]. 'Sorókèwèrey', a Yoruba term that loosely translates as 'speak up stupid,' has become another iconic word linked with the protests [29]. It is directed to the government and the leadership of the police force and it is a demand that SARS be disbanded immediately, that victims be compensated and that concrete measures be made to end police violence.

We believe that the government's failure to provide basic social amenities such as power, portable drinking water and job opportunities, among other things resulted in bottled-up anger among the youth, which is one of the reasons for the protests. We agree with the above-mentioned viewpoints of scholars on protests. We add that Bamgboye and Azu's perspectives encapsulated the causes for the protests and how it ultimately failed. The Nigerian youth's well-organized and coordinated protests were non-violent and thus well coordinated until suspected government-sponsored hoodlums hijacked the protest by attacking peaceful protesters and stealing and destroying property. The obvious purpose for this was to give the impression that law and order had broken down in order for the military to be called in to restore peace and normalcy. As a result of this, the military was summoned.

4. LEGALITY OF ENDSARS PROTESTS UNDER NIGERIAN LAW

The right to protest originates from the citizen's right to freedom of expression as stated in section 39(1) of the 1999 Constitution as amended, which provides that 'everyone has the right to free speech, including the freedom to hold opinions and to obtain and convey ideas and knowledge without interference'. Persons have the right to protest as a result of their freedom of speech, expression and peaceful assembly and association. It's also worth noting that protest permits are not required in any part of Nigeria. In Nigeria, protest is legal and protected under the country's constitution. The ability to express oneself and promote one's thoughts is a core human right. Protesters must ensure that their actions and demonstrations are non-violent as it is predicated on a mixture of fundamental rights, the right to protest is considered a fundamental right in Nigeria (specifically, the right to freedom of speech and the press, as well as the right to peaceful assembly and association). An effort to infringe the right to protest, like any other basic right is illegal, unlawful, and unconstitutional and can be challenged in court [30]. Furthermore, any limitations on the freedom to protest must follow the constitutional process and procedure for limiting fundamental rights.

⁶ #ENDSARS: Looting Spree in Nine States' (2020) <https://www.vanguardngr.com/2020/10/endsars-looting-spree-in-nine-states/> accessed October 17 2022.

In Nigeria, a prohibition on demonstration is either a violation of fundamental rights or a restriction on fundamental rights. The difference is made by rigorous adherence to constitutional clauses restricting fundamental rights. The only way the Judiciary can legally limit them is by a valid court order. Under section 1 of the Public Order Act, the Governor of each State has the authority to direct the conduct of all assemblies, meetings, and procession on public roads or places of public resort, as well as to prescribe the route and times through which the procession may pass, and those interested in holding one must apply for and receive a licence from the Governor of the State. Section 1(3) of the Public Order Act⁷ mandates that people or groups apply for and get police approval to hold peaceful marches and assemblies. However, in 2007, the Court of Appeal declared that section 1(3) of the Public Order Act was invalid in the case of *Inspector General of Police v. All Nigeria Peoples Party & Ors.*⁸, Pertinent to the above is that section 40 of the Constitution and article 11 of the African Charter on Human and Peoples Rights Act, which Nigeria is a signatory clearly mention the right to freely congregate and communicate with others. Section 40 of the CFRN 1999, as amended protects the freedom to protest stating that ‘every person shall have the right to freely congregate and associate with other persons, and in particular, to create or join any political party, trade union, or association for the protection of his interests.’ This right binds⁹ the government, authorities and individuals because it is enshrined in our Constitution.

In the same way, police officers are not allowed to use force against non-violent demonstrators. Under specific circumstances, police officers are authorised to use force when a lawful protest turns violent or is hijacked by hoodlums. According to the 2019 Reviewed Police Force Order 237 on the Use of Force and Firearms, police officers shall use only the force necessary to carry out their duties and that force must be proportional to the threat or resistance posed by the subject in the circumstances. Lethal methods are only used as a last option. As a result, officers must use all proportional means to apprehend or defend themselves or others prior to using fatal force during a tumultuous protest.¹⁰ Only in self-defence or in the defence of others against an imminent threat of death or serious injury, to prevent the commission of a particularly serious crime involving a grave threat to life, to arrest a person posing such threat and resisting their authority, or to prevent his or her escape, and only when less drastic measures are not available. In any case, the use of firearms for the purpose of killing people is only permitted when it is absolutely necessary to safeguard lives. The Nigeria Police Force (NPF) is in charge of preserving law and order in the country.

The police officers tasked with handling protests must be well-trained and experienced in the field and they must understand that their primary responsibility is to assist in the management of protests. Human rights standards as well as ways for understanding crowd behaviour and methods and skills for reducing and de-escalating conflict such as negotiation and mediation should all be addressed in training. They must attempt to develop or strengthen discussion with protest organizers in order to foster mutual understanding, reduce tensions, identify potential dangers and conflict escalation, and agree on the best course of action for the protest. The police are expected to ensure public safety as well as the protection of everyone’s rights. The police should be a separate executive branch unit, reporting to the courts and following their directives. In Nigeria, this isn’t the case. The police force and its ilk obey the present government’s commands, despite the fact that its primary responsibility is to enforce law and order, which is essentially the responsibility of the legislative branch and by extension the court. Every law enforcement organization represents the entire community, reacts to it and is responsible to it. As unbiased servants of the general public and the current government, members of the police force are to carry out their functions, powers, and obligations as such.

⁷Cap 382 LFN, 2004.

⁸(2007) 12 WRN 65. The Plaintiffs being registered political parties requested the Defendant, the Inspector-General by a letter dated 21st May, 2004 to issue police permits to their members to hold unity rallies throughout the country to protest the rigging of the 2003 elections. The request was refused. There was a violent disruption of the rally organized in Kano on the 22nd of September 2003 on the ground that no police permit was obtained. In a suit filed at the Federal High Court against the Inspector-General of Police, the Plaintiffs challenged the constitutional validity of police permit under the Public Order Act and the violent disruption of the rally. In defending the action, the Defendant contended that the conveners of the rally did not obtain a police permit.

¹⁰United Nations ‘Basic Principles on the Use of Force and Firearms by Law Enforcement Officials’ <<https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>>accessed January 22 2022. Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

Furthermore, international law also protects the right to demonstrate. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the African Charter on Human and Peoples' Rights, and the UN Human Rights Council's Resolution on Promotion and Protection of Human Rights in the Context of Peaceful Protests from its 38th Session are all clear on this. Principle 1 of the Resolution on the Promotion and Protection of Human Rights in the Context of Protest recognizes that a protest can anger or offend persons who disagree with the ideas, including government entities, commercial entities or individuals, or the general public. It also recognizes that protests may hinder or hamper third-party activities for a short period of time. The right to protest is then protected under principle 2 by States/countries. Instead of the Nigerian government defending its citizens who exercised their right to demonstrate, the protesters were mocked and rendered susceptible to harm. Principle 4 ensures that internationally mandated human rights be protected during all protests, regardless of restrictions or exceptions. Furthermore, principle 5 allows States to diverge from international human rights commitments only in cases of national emergency; nevertheless, such derogation must be announced openly and legitimately in accordance with both national and international law. Principle 8 permits anybody to choose the place of a protest, but the chosen location must be relevant to the protest and its expressive goal. States should also allocate sufficient resources to prevent counter-protests from devolving into mayhem when they are within sight and hear of each other. The possibility of disorder resulting from disagreements or tensions between opposing parties should not be used to justify banning protests. Everyone has the right to select the form and manner of their protest, including its duration, according to principle 9. Non-violent direct action or civil disobedience are also recognized as viable forms of protest. President Buhari, like any other public figure, has no way of knowing how long a protest will last or whether or not protest demands will be met. Protesters are allowed to do so under the law. Principle 12 compels States to handle protest policing from a human rights perspective. Protest policing by law enforcement agencies should be guided by human rights principles such as legality, necessity, proportionality, and non-discrimination and should always adhere to international human rights law and policing standards, especially the United Nations Code of Conduct for Law Enforcement Officials.

We assert unequivocally that peaceful protests against the State such as the EndSARS protests are protected under national laws, international laws and many regional and international accords. The use of guns by law enforcement officers who fired live ammunition at peaceful protesters violated national and international regulations. We strongly condemn all of these actions.

5. IMPOSITION OF CURFEW AND LEKKI GATE KILLING

A curfew was imposed ahead of the protests on October 20, 2020 at the Lekki toll plaza in Lagos. Governor of Lagos State, Sanwo-Olu issued a statement urging 'peaceful protestors and residents' to adhere to the curfew and stay at home [31]. Security forces opened fire on non-violent protestors at the toll plaza without notice, according to Amnesty International, killing at least 12 people and injured many more [32]. Sanwo-Olu said that the forces were outside his authority claiming that they were dispatched by Buhari. According to Amnesty International, government officials cut off the electricity and removed CCTV cameras from the Lekki toll gate where EndSARS protesters had been camping for two weeks, in an obvious attempt to hide evidence [33]. As in earlier cases reported by Amnesty International, several of those slain and injured were purportedly taken away by the military.

On Instagram live, a musician named DJ Switch videotaped demonstrators being shot and wounded by Nigerian military officers, attracting international attention to the problem [34]. The Economic Community of West African States (ECOWAS) also urged¹¹ Nigeria's leadership to start a discourse as soon as possible in order to find a peaceful settlement. The African Union (AU) has asked Nigeria to launch an investigation to guarantee that those responsible for violent acts are brought to justice. The International Criminal Court (ICC) Prosecutor has also called for 'calm and restraint.' The African Commission on Human and Peoples' Rights expressed serious concern about reports of the use of excessive force by the police.

The Nigerian military's killing of protesters raised attention to the military's participation in protests as well as how and when they can interfere. The Nigerian military's major function is enshrined in the CFRN. The principal responsibility of the armed forces according to section 217 of the Constitution is to safeguard Nigeria from all types of foreign aggression and insurgency. As a result, they are under no responsibility to interfere with peaceful protest by Nigerian citizens demanding the enforcement of their fundamental rights. Unless there is a violent attempt to

¹¹'Nigeria: Stop the killings of Protesters by Security Forces and End Impunity' (2020) <https://www.article19.org/resources/nigeria-stop-the-killings-of-protesters/> accessed July 23 2022.

overthrow the government, the army has no business engaging in civil protests. The social contract theory emphasizes the existence of government and its authority to act on behalf of the people, primarily for their welfare and security. The Nigerian military's (as an agency of the State) indiscriminate killing of unarmed peaceful protesters undermined this and brought to the fore the fundamental right to life contained in the Nigerian Constitution. The act was barbaric and an heinous act of killing unarmed innocent protesters in Nigeria in the twenty-first century calls for critical questioning.

6. BREACH OF FUNDAMENTAL RIGHT TO LIFE

The word 'right' comes from the Latin word '*rectus*' which means 'proper', 'straight' or 'opposite of wrong' [35]. It could also mean in line with the law, morality or justice. The term 'right' also refers to something that a person holds, such as a just and lawful claim to land, a thing, or the ability to do or say something. A right is an interest or advantage recognized by law [36]. A right exists when one characteristic of a person's well-being is sufficient to impose an obligation on another person or persons. The term 'human' refers to someone who possesses characteristics of, or is of the nature of, mankind. Human rights are thus rights that all people (human kind) have everywhere and at all times because they are mortal and intellectual beings [37]. These rights cover a wide variety of civil, political, economic, social, cultural, group solidarity and developmental demands that are thought essential for a meaningful human existence [38]. They are demands or claims placed on society by individuals or organizations, some of which are protected by law and are part of *ex lata*, while others are ambitions that will be achieved in the future [39].

Many of today's human rights documents have their origins in papers¹² like the *Magna Carta* of 1215, the English Bill of Rights of 1689 and the French Declaration on the Rights of Man and Citizen of 1789. The Declaration of Independence of the United States of America proclaimed¹³ that 'life' is one of the inalienable rights, meaning that all people have the right to live and/or exist, and that governments have the responsibility to protect their citizens' inalienable rights. In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights and it states in article 3 that 'everyone has the right to life, liberty and the security of person'. In 1950, the Council of Europe adopted the European Convention on Human Rights and it states in article 2 that 'everyone has the right to life, liberty and the security of person'. Similarly, the African Charter on Human and Peoples' Rights (ACHPR)¹⁴ and the United Nations Convention on the Rights of the Child (UNCRC) affirmatively provide for the right to life in articles 4 and 6(1)¹⁵ and (2),¹⁶ respectively. This could also be exemplified by the African Commission for Human and Peoples' Rights' finding in *Organisation Mondiale Contre La Torture Association Internationale des Juristes Democraties Commission Internationale des Juristes (C.I.J) Union Interfricaine des Droits de l'Homme/Rwanda*, where the Commission found¹⁷ that the massacre of a large number of Rwandan villagers by the Rwandan Army, as well as the numerous reported extrajudicial executions for reasons of ethnic group membership, were a series of violations of the right to life enshrined in article 4 of the African Charter on Human and Peoples' Rights.

In many aspects, there has been a shift away from this traditional perspective toward a more liberal and expansive view that does not regard a violation of one's right to life in terms of death. This can be explained in a few ways. The European Court of Human Rights decided in *Makaratzis v. Greece*¹⁸ that the use of potentially deadly force by the police against the applicant was a violation of his right to life, despite the fact that he survived the injuries for which the Greek government was responsible. Furthermore, the African Commission on Human Rights declared in *World Organization Against Torture, Lawyers' Committee for Human Rights, Jehovah Witnesses, Inter-African Union for Human Rights/Zaire*,¹⁹ that arbitrary arrests, detention and torture violated the right to life in article 4 of the African

¹² 'A Short History of Human Rights' (2021) <http://hrlibrary.umn.edu/edumat/hreduseries/hereandnow/Part-1/short-history.htm>

¹³ '13a. The Declaration of Independence and Its Legacy' (2021) <https://www.ushistory.org/us/13a.asp>

¹⁴ African Charter on Human and Peoples' Rights, art. 4, June 27, 1981, O.A.U. Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 [hereinafter ACHPR] 'Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.'

¹⁵ Convention on the Rights of the Child, G.A. Res. 44/25, art. 6(1) (Nov. 20, 1989) ('mandating States parties to "recognize that every child has the inherent right to life.').

¹⁶ Art. 6(2) ('States Parties shall ensure to the maximum extent possible for the survival and development of the child.').

¹⁷ Communication 27/89, 46/91, 49/91, 99/93.

¹⁸ Application No. 50385/99.

¹⁹ Communication 25/89, 47/90, 56/91, 100/93.

Charter on Human and Peoples Rights. It has even been held that the Turkish government violated the deceased's right to life by failing to conduct a thorough investigation into the cause²⁰ of death. In the *Juvenile Re-education Institute case*,²¹ the Inter American Court of Human Rights declared that the right to life and the right to humane treatment require the State to not only respect them (negative obligation), but also to take all appropriate measures to protect and preserve them (positive obligation).

The right to life is a fundamental human right according to the Inter-American Court of Human Rights in the case²² of the Street Children. All rights become useless if it isn't honoured. In essence, the fundamental right to life comprises not only the right of every human being not to be arbitrarily deprived of his or her life, but also the right to access to the conditions necessary for a dignified living. States must ensure that the conditions necessary to prevent violations of this fundamental right are created. As a result, States must take whatever steps that are necessary to create an adequate statutory framework to deter any threat to the right to life; to establish an effective system of administration of justice capable of investigating, punishing and mitigating any deprivation of life by State agents or individuals; and to protect the right not to be denied²³ access to conditions that may be life-threatening.

In the Nigerian case of *Ransome Kuti and ors. v. The A.-G. of the Federation*²⁴, Eso JSC defined fundamental right as:

A right that exists prior to the political society and exists above the regular rules of the land. It's a requirement for living in a civilized society... and what your constitutions have done since independence...is to have these rights incorporated in the constitution so that they might be "inevitable" to the degree of the constitution's "non-immutability."

All Nigerians have a right to life, according to section 33 (1) of the Nigerian Constitution and no one shall be purposefully deprived of his life unless he is serving a judicial sentence for a criminal offence for which he has been proven guilty; to perform a lawful arrest or prevent the escape of a person lawfully imprisoned; to quell a riot, rebellion, or mutiny; and to effect a lawful arrest or prevent the escape of a person lawfully detained are all exceptions to the right to life under section 33(2). However, in recent years, the number of people killed as a result of unlawful acts of commission or omission by the Nigerian state law enforcement agents in violation of section 33 of the Constitution has risen, with the Lekki toll gate killings of October 20, 2020 serving as a prime example [40]. The perpetrators of these horrible acts are rarely brought before a competent court to account for their deeds. Furthermore, individuals are bound under the right to life not to wilfully deprive someone of his or her right to life, unless in legally permitted circumstances.

The 1999 Constitution recognizes the sacredness of life. The Supreme Court condemned the behaviour of the Oyo State Governor in the premature execution of Aliu Bello whose appeal was pending before the Court of Appeal in caustic terms because of the sacredness attached to this privilege. The accused had been found guilty of armed robbery and condemned to death by the Oyo State High Court under the State's Robbery and Firearms Law in the case of *Aliu Bello and 13 ors v Attorney-General Oyo State*²⁵. The convict's appeal was still pending before the Court of Appeal when the Governor ordered his death. The Supreme Court declared in *Kalu v. State*²⁶ that the right to life in Nigerian law is conditional rather than absolute. In reaction to this clause, Ajomo argued that life is sacrosanct and that all communities around the world reject willful killing. Everyone has the right to have their life and safety respected according to this clause. Police officers or soldiers may not use lethal force such as firing live ammunition at unarmed peaceful demonstrators at the Lekki toll plaza unless their lives or that of others are in immediate danger and less

²⁰*Tanrikulu v. Turkey*, Application No. 23763/94 of July 8, 1999.

²¹ Judgment of September 2, 2004. Series C. No. 112, para 158.

²²*Villagran-Morales et al v. Guatamela*, 1999 Inter-Am. Ct. H.R. (Ser. C) No. 63, 144 (Nov.19, 1999). Applauding the approach of the Court, Steven R. Keener and Javier Vasquez, 'A Life Worth Living: Enforcement of the Right to Health Through the Right to Life in the Inter-American Court of Human Rights', (2008-2009) 40 Colum. Hum. Rts Rev, 595, 597, opined that 'the court took the idea that the right to life must be a right to a dignified life and began to enforce many elements of the right to health, finding violations even when the victims did not die and requiring government provision of food, water, sanitation, medicine and adequate medical care'.

²³*The Indigenous Community of Sawhoyamaya v. Paraguay*, Series C No. 146 [2006] IACHR 2, para 153.

²⁴ (1985) 2 N.W.L.R (Pt 6) 211.

²⁵ (1986) 5 NWLR 828.

²⁶ (1998) 13 NWLR (Pt 583) 531.

drastic methods are not available to prevent the threat. In this scenario, neither their lives nor the lives of others were in any grave danger, hence their barbarous and unprofessional behaviour was not justified.

7. 2018 PROTESTS IN SUDAN

Sudanese protests began in December 2018 in response to rises in the price of basic commodities such as bread and fuel, as well as the economic impact of austerity measures. Protests erupted around the country and by April 2019, demonstrators were clamouring for a change of administration [41]. As a result of this, on April 11, 2019, Bashir, Sudan's long-serving president who had been in power for 30 years was ousted. He was removed with the help of the military. On June 3, 2019, the rapid support forces killed²⁷ several demonstrators. The people's voice was significantly more strong. The demonstrators were adamant that the political system be changed. They regrouped and were brutalized by the troops. They received international support after days of non-stop rallies, forcing the military to give in to their demands for a civilian administration, resulting in the formation of the Sudanese Sovereignty Council.

Women played crucial roles in the Sudanese protests. Women were motivated to take the lead during rallies and the Sudanese youth revolt took advantage of this by harnessing the power of women. Alaa Salah, a young woman, rose to fame as a notable leader. During political protests, they also displayed their capacity to lead. The employment of non-violent protest methods proved successful. Victory did not always come from destructive actions like burning down buildings and blocking key highways; victory came from non-violent marches and demonstrations.

8. LESSONS LEARNT

The youth-led protests in Nigeria and Sudan were aimed at addressing particular government decisions and/or activities by certain government agencies. The protests were non-violent and carried out by unarmed youth protesters in both jurisdictions. In both jurisdictions, lives were lost as a result of security personnel's use of live ammunition, which were blatant infringement of demonstrators' rights. The protests in Sudan against the government's activities was successful due to the protesters' tenacity and the military was forced to give in to create a new administration following the president's resignation. The EndSARS protests in Nigeria failed because they were hijacked by alleged sponsored State hoodlums who converted it into violent demonstrations, allowing the military to intervene.

As a result of the foregoing, all police officers and military officers should be trained and re-trained (as needed) in human rights-compliant activities in order to instill professionalism among the ranks and file [42]. Such training must be accompanied by a policy of careful investigation into any violations of human rights. They must understand that indiscriminate killings, arbitrary arrests and indiscriminate use of guns, as well as other cruel, inhuman, or degrading treatment and excessive use of force are all abuses of human rights and must be severely forbidden. Even though the Nigerian protests came to a stop when hoodlums began stealing and torching property, it demonstrated the ability of young Nigerians to organize and the prospect of turning #EndSARS into a political movement. Indeed, roughly half of all registered voters in Nigeria are between the ages of 18 and 35, meaning that if adequately organized, the youth will wield substantial electoral power in the election of 2023 [43].

In attempt to fulfill some of the protesters' requests, the administration has established panels of investigation to investigate into incidences of police abuse. Simultaneously, protesters believe that the government is conducting a targeted campaign to pursue²⁸ the alleged sponsors of the EndSARS protests by freezing some of their bank accounts.

9. CONCLUSION

We strongly condemn the military's use of live ammunition in the killing of unarmed protesters at the Lekki toll plaza. Those responsible should be held accountable to the full extent of the law. When it comes to the use of guns, security forces should exercise extreme caution. Nigerians have the right to peaceful demonstrations. This is a fundamental right that the government must uphold and safeguard at all costs.

²⁷'They were shouting kill them. Sudan's violent crackdown on protesters in Khartoum' (2019) <https://www.hrw.org/report/2019/11/18/they-were-shouting-kill-them/sudans-violent-crackdown-protesters-khartoum> accessed June 30 2022.

²⁸'Nigeria: Punitive Financial moves against Protesters' (2020) <https://www.hrw.org/news/2020/11/13/nigeria-punitive-financial-moves-against-protesters> accessed September 25 2022.

REFERENCES

1. Open Society Justice Initiative (2010) 'Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigerian Police Force' <https://www.justiceinitiative.org/uploads/8063279c-2fe8-48d4-8a17-54be8ee90c9d/criminal-force-20100519.pdf> accessed July 22 2022.
2. Uwazuruike, A R (2020) '#EndSARS: The Movement Against Police Brutality in Nigeria' *Harvard Human Rights Journal*, 83-96.
3. Human Rights Watch 'Nigeria: Crackdown on Police Brutality Protests' (2021) <https://www.business-humanrights.org/es/%C3%BAltimas-noticias/nigeria-crackdown-on-police-brutality-protests/> accessed July 22 2022.
4. Onuh-Yahaya, Z 'The Protesters on the Frontline of the fight to #EndSARS'. It's all been Empty Promises' <https://www.huckmag.com/perspectives/activism-2/the-protesters-on-the-frontline-of-the-fight-to-endsars/> accessed September 12 2022.
5. Olurounbi, R (2020) 'Nigeria: #EndSARS Movement Avoids Pitfalls of 'Leadership' <https://www.theafricareport.com/46106/nigeria-leaderless-movement-endsars-may-be-missing-ingredient-to-end-police-brutality/> accessed July 31 2022.
6. The Nigerian Voice (2020) '#EndSARS: Protesters Extend Demands, want Overhaul of Govt' <https://www.thenigerianvoice.com/news/292856/endsars-protesters-extend-demands-want-overhaul-of-govt.html> accessed July 11 2022.
7. Watts, M. (2007) 'Imperial oil: The anatomy of a Nigerian oil insurgency. Niger Delta Economies of Violence' Working Paper No 17. <http://geog.berkeley.edu/ProjectsResources/ND%20Website/NigerDelta/WP/17-Watts.pdf>. Google Scholar
8. Williams, G. (1976). *Nigeria: Economy and society*. London: Rex Collins.
9. Mkhize, M., and P. Madumi. (2016). Are police deaths a consequence of flaws in the South African Police Service administration? A SWOT Analysis. *African Security Review* 25 (4): 323–339. Google Scholar
10. Tamuno, T.N. (1970). *The Police in Modern Nigeria: 1861–1965*. Ibadan: Ibadan University Press.
11. Abati, R. (2020). '#EndSARS: Almost a Nigerian revolution'. Proshare, November 4.
12. Ihonvbere, J.O. (2001). The state and human rights in Africa. in *Contending issues in African development: Advance, challenges and the future*, ed. Iheduru, O.H. 101–119. Westport, CT: Greenwood Press. Google Scholar
13. Margulies, J.D. (2018) The conservation ideological state apparatus. *Conservation & Society* 16 (2): 181–192. Google Scholar
14. Malena, I. (2015) *Improving the Measurement of Civic Space*. London: Open Society Foundation.
15. Kesteren, VF (2019). Dealing with shrinking civic space: It is not just the state we have to worry about! <https://includeplatform.net/news/dealing-with-shrinking-civic-space-it-is-not-just-the-state-we-have-to-worry-about/>. Accessed October 24 2022.
16. Iwuoha, VC and Ernest Tooichi Aniche, ET (2021) Protests and blood on the streets: repressive state, police brutality and #EndSARS protest in Nigeria *Security Journal* 34.
17. The New York Times. (2020). 'Nigerians demand end to police squad known for brutalizing the young'. <https://www.nytimes.com/2020/10/12/world/africa/nigeria-protests-police-sars.html> accessed January 24 2022.

- 18.Uwandu, K (2020) 'Right to protest: A Fundamental Human Right'<https://guardian.ng/features/law/right-to-protest-a-fundamental-human-right/> accessed June 27 2022.
- 19.Javed, A (2020) 'Demonstrations that Rocked the year 2019' <https://timesofindia.india.com/readersblog/psychologicalcousins/demonstrations-that-rocked-the-year-2019-9560> accessed June 29 2022.
- 20.Charles, A (1996) 'Political Movement and Social Change: Analyzing Politics' 90(4) *American Political Science Review* 874-884.
- 21.Terchek, R (1974) 'Protest and Bargaining' *Journal of Peace Research* 133-144.
- 22.Hollander J and R Einwohner R (2004) 'Conceptualizing Resistance' 19(4) *Sociological Forum* 533-554.
- 23.Useem,B and Useem,M (2001) 'Government Legitimacy and Political Stability'. *Social Forces* 840 -852.
- 24.Schussman, A, and Soule,S (2005) 'Process and Protest: Accounting for Individual's Protest Participation'. 84(2), *Social Forces*, 1083-1108.
- 25.Bamgboye, A and Chuks Azu, J (2014). 'Public Order Act, to Be or Not to Be?' Daily Trust: 18 February
- 26.BBC (2020) 'How the EndSars Protests have Changed Nigeria Forever' <https://www.bbc.com/news/world-africa-54662986> accessed July 26 2022.
- 27.Omilana, T (2020) 'I Pretended I was Dead': Chaos and Violence Grip Lagos as End Sars Protestors Continue to Defy Curfew <https://www.independent.co.uk/news/world/africa/nigeria-protests-end-sars-lagos-riot-looting-b1228242.html> accessed September 30 2022.
- 28.The Conversation (2020) 'Why #EndSARS Protests are Different, and what Lessons they Hold for Nigeria' <https://theconversation.com/why-endsars-protests-are-different-and-what-lessons-they-hold-for-nigeria-148320> accessed June 15 2022.
- 29.Tayo,T (2020) '#End SARS to #End SWAT: Nigeria Needs Real Change' <https://blogs.lse.ac.uk/africaatlse/2020/10/16/endsars-to-endswat-nigeria-needs-real-change/> accessed October 30 2022.
- 30.Umah, O (2020) '#End Police Brutality: When and How can Government Prohibit Protest in Nigeria?' <https://learnnigerianlaws.com/when-and-how-can-government-prohibit-protest-in-nigeria/> accessed July 26 2022.
- 31.Facsar,F (2020) 'Nigeria's #EndSARS protests: What you need to know' <https://www.dw.com/en/ahat-you-need-to-know-about-nigerias-endsars-protests/a-55362389> accessed July 10 2022.
32. Obiezu, T (2020) 'Rights Group, Nigeria Officials Differ on Lekki Shooting Death Toll' https://www.voanews.com/a/africa_rights-group-nigeria-officials-differ-lekki-shooting-death-toll/6197472.html accessed January 23 2022.
- 33.'Amnesty International Nigeria: Time to end Impunity Torture and Other Violations by Special Anti-Robbery Squad (SARS)' (2020) https://www.policinglaw.info/assets/downloads/Amnesty_International_Report_on_Special_Robbery_Squad.pdf accessed January 31 2022.
- 34.Ani,I (2020) 'Nigeria's #EndSARS Movement and Media Suppression' <https://www.cjr.org/analysis/nigeria-endsars-press-freedom.php> accessed May 15 2022.

35. Oputa, CA (1989) *Human Rights in the Political and Legal Culture of Nigeria* Lagos: Nigeria, Law Publications
36. Salmond, J (1973) *Jurisprudence* 3rd ed, London: Sweet & Maxwell
37. Raz, J (1986) *The Morality of Freedom* London: Oxford, 116.
38. Ogbu, ON (1999) *Human Rights Law & Practice in Nigeria; An Introduction* Enugu: Cidjap Publishers
39. Eze, OC (1984) *Human Rights in Africa: Some Selected Problems* Lagos: NIIA & Macmillian Nig. Pub. Ltd
40. Fred-Young, Evans, LP (2020) 'Nigeria: I Am Confused. What Does My Right To Life Mean In Nigeria?'. <https://www.mondaq.com/nigeria/constitutional-administrative-law/974416/i-am-confused-what-does-my-right-to-life-mean-in-nigeria> accessed November 11 2022.
41. Maganga, T (2020) 'Youth Demonstrations and their Impact on Political Change and Development in Africa' <https://www.accord.org.za/conflict-trends/youth-demonstrations-and-their-impact-on-political-change-and-development-in-africa/> accessed November 3 2022.
42. Amnesty International (2020) 'Nigeria: Killing of #EndSARS Protesters by the Military must be Investigated' <https://www.amnesty.org/en/latest/news/2020/10/killing-of-endsars-protesters-by-the-military-must-be-investigated/> accessed October 14 2022.
43. Ojewale, O (2020) 'Africa in Focus: Youth Protests for Police Reform in Nigeria: What Lies Ahead for #ENDSARS' <https://www.brookings.edu/blog/africa-in-focus/2020/10/29/youth-protests-for-police-reform-in-nigeria-what-lies-ahead-for-endsars/> accessed October 17 2022.