

**THE CORRELATION BETWEEN HUMAN RIGHTS AND THE ADMINISTRATION
OF JUSTICE IN NIGERIA.**

By

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1.0. Introduction

"Fundamental Rights are rights that are not only basic to the citizens; they are rights that have been entrenched in Chapter IV of the 1999 Constitution of Federal Republic of Nigeria. These rights are sacrosanct and very important to everyone within the borders of Nigeria. These rights are moulded into freedom blocks that fence the citizen from forces of unbridled aggression, oppression, repression, and authoritarianism. Where these rights are to be enforced in Court, the Court within reasonable limits must do all that is necessary to cause a flourishing of these rights."¹

1.0. Understanding Human Rights

It is well-established that human rights are inalienable and universally applicable to humans because they are necessary for a peaceful, harmonious and dignified living; it is a primary condition for civilized existence². On the other hand, fundamental rights are conventionally infused and enforced under various national laws. The difference here is that fundamental rights are specific to a particular country, whereas human rights has global acceptance and exists in the realm of international law. Human rights in Nigeria are legally considered as fundamental because they have been guaranteed by the Constitution of the Federal Republic of Nigeria (CFRN) which is the grundnorm of the Federation³. Calling these guaranteed "rights", suggests that they are attached to individuals who can invoke them and the fact that these rights are given paramount recognition also means that firm compliance and adherence is mandatory and not merely discretionary.

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¹Per Adah, J.C.A. (P. 17, paras. E-G in Nweke & Ors v. The Inspector General Police & Ors (2013) LPELR-21173 (CA)

²Per Abiru, J.C.A. (P. 23, paras. A-C) in Alhaji Aliyu N. Salihu v. Suleiman Umar Gana & Ors (2014) LPELR-23069 (CA)

³Per. Omuogbe, JCA Ekanem v. Asst. I.G.P. (2008) ALL FWLR (Pt.420) at 785 Para. C

This work focuses on various human rights issues, the legal perspectives, challenges and concludes with possible recommendations to remedy the recounted issues of human rights violations.

2.0. Historical Narrative of Human Rights

The origin of Human Rights can be traced as far back as the year 539 BC, when the troops of Cyrus the Great conquered the Babylonian empire⁴, and freed the slaves, declaring that all people had the right to choose their own religion, and live freely without racial discrimination.⁵ These precepts and many others which evolved over centuries served as inspiration for the first four articles of the Universal Declaration of Human Rights.⁶

The rise to prominence of human rights in the modern age can be ascribed to The Universal Declaration of Human Rights (UDHR) which was adopted on 10th December 1948 by the United Nations General Assembly. The UDHR⁷ document contains all rights and freedoms of humans globally irrespective of gender, ethnic nationality, race, religion and creed. Nevertheless, it is an international law and therefore not binding on sovereign nations until domestically ratified.

Domestically, Nigeria has ratified a number of international legal instruments and protocols on human rights⁸ which includes the African Charter on Human and Peoples' Rights amongst other International Protocols.⁹

3.0. Human Rights Protection and Access to Justice

The administration of justice in Nigeria refers to activities and structures of the judicial system tailored towards providing access to justice for aggrieved individuals who seek refuge

⁴Babylon is located in the present-day, Iraq.

⁵ <https://www.activesustainability.com/sustainable-development/brief-history-human-rights><accessed April 10, 2021>

⁶The first four articles are; (i) right to equality and human dignity, (ii) freedom from discrimination and equality before the law, (iii) right to life, liberty and (iv) security of person, freedom from slavery and servitude.

⁷ Universal Declaration of Human Rights. The UDHR is also called "International Magna Carta for all men everywhere"

⁸ Section 12 of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) provides that the National Assembly is empowered to ratify international treaties in order for them to be applicable and enforceable as extant law.

⁹ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=127&Lang=EN<accessed April 10, 2021>

in it. Our judicial system is structured in a hierarchical order and its powers are provided under the constitution and other enabling laws, this forms the basis of the jurisdiction of a court to do justice in any matter before it.¹⁰ In the course of administering justice, the courts are challenged with reports of corruption amongst some judicial officers as well as law enforcement officers who have been accused of being unfair, biased, or materially influenced¹¹. There are also cases of low access to justice for the less privileged or the poor as a result of their inability to afford quality legal representation in the event that their rights are being infringed upon or violated.

All these notwithstanding, there are constitutional safeguards which defines the Nigerian justice system and remains firmly rooted in our criminal and civil jurisprudence. These safeguards are premised on the fact that justice must not just be done but be manifestly seen to be done in any proceeding, which is further expressed by the notion of independence and impartiality of a tribunal or judge. These safeguards are referred to from a legal standpoint as the two pillars of natural justice (*audi alteram partem & nemo judex in Causa sua*) which underscores the constitutional right to fair hearing.¹² Fair hearing is so fundamental that an entire hearing/proceedings could become a nullity where it is not adhered to. Thus any person accused of committing an offence must be allowed sufficient time and facilities to defend oneself before an unbiased judge, while the defendant is expected to take immediate advantage of an opportunity to be heard and put up his defence in line with any stipulated procedure to that effect.

As a corollary to the above, the trial and appellate process system in Nigeria are regarded as slow and expensive, and there should be purposeful reforms in this regard, it could appear sometimes that justice when delayed is tantamount to being justice denied. A successful party in court must be allowed to speedily enforce their legal or contractual rights, enjoy the fruits of their judgment and an aggrieved party in the same vein, be entitled to a swift appellate process where such a party seeks to explore his/her right of appeal. Court proceedings must above all, be conducted in such a manner that it is clearly transparent, open,

¹⁰See Section 6 of the CFRN 1999(as amended)

¹¹<https://www.aa.com.tr/en/africa/nigeria-urges-2-judges-sacked-for-corruption/1273166><accessed April 13, 2021>

¹²Section 36 (1) & (4) CFRN 1999 (as amended)

logical and accessible to the public except as otherwise permitted by law in the case of a juvenile or in the interest of national security etc.

Fundamental rights preservation continues to serve as a major litmus test for a country's legal system in appraising its level of adherence to the principles of the rule of law, especially how they are protected and enforced through the instrumentality of our justice system. The high prevalence of social injustice, corruption, abuses of power, illegal detentions, data breaches, forceful evictions without adequate compensation, frivolous trials, over population at most Nigeria's correctional facilities and several others too numerous to mention, reflects an overburdened justice system, government ineffectiveness, structural issues and administrative lapses¹³

To surmount these challenges and for our justice system to sustain public confidence, the protection and enforcement of human rights by the law courts, police and other law enforcement agencies should be one of the priorities of the government.

4.0. Jurisdictional issues in Human Rights Enforcement in Nigeria

Jurisdiction is the power of a court derived from the country's constitution or laws to hear and determine matters before it, where such power is absent, the proceedings no matter how well conducted amount to nullity¹⁴. However, if the court is competent, the proceedings are not a nullity; but they may be attacked on the ground of irregularity in the conduct of the trial; the argument may then be that the irregularity was so grave as to affect the fairness of the trial and the soundness of the adjudication.

Any person who alleges that any of the fundamental rights provided for in the constitution and to which he is entitled, has been, or is likely to be infringed may apply to the appropriate

¹³ <https://www.justiceinitiative.org/litigation/alade-v-federal-republic-nigeria> <accessed April 9, 2021>

¹⁴ The locus classicus case of **Madukolu v. Nkemdilim** (1962) 2 SCNLR 31 where it was held that a court is competent when it is properly constituted as regards numbers and qualifications of the members of the bench, and no member is disqualified for one reason or another; the subject matter of the case is within its jurisdiction, and there is no feature in the case which prevents the court from exercising its jurisdiction and the case comes before the court initiated by due process of law, and upon fulfilment of any condition precedent to the exercise of jurisdiction.

Court in the state where the infringement occurs or likely to occur, for redress.¹⁵ These rights are to be jealously guarded that no citizen should be shut out from seeking redress when one's fundamental right has been infringed or is likely to be infringed upon, unless such person suffers any lawful disability. Therefore, for the purposes of administering justice, it is important that there exists some form of enforcement mechanism to uphold one's fundamental rights, that is the law courts.

It is instructive to further note some applicable rules in pursuing a fundamental rights claim in court; one is that it is improper in law to file an application in the name of any person other than that of the person whose right was breached. Also, when an application is made under the Fundamental Rights Enforcement Procedure (FREPE) Rules, a condition precedent to the exercise of the Court's jurisdiction is that the enforcement of fundamental rights or the securing of the enforcement thereof should be the main claim and not an accessory claim. Where the main or principal claim is not the enforcement of a fundamental right, the jurisdiction of the court cannot be properly exercised as it will be incompetent.¹⁶

In Nigeria, the FREPE Rules was introduced in 2009 pursuant to section 46(3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). The Fundamental Rights Enforcement Procedure (FREPE) was to complement Chapter IV¹⁷ of the 1999 Constitution. The jurisdiction of courts on Fundamental Rights cases is based on the subject matter jurisdiction of that particular court. The Supreme Court has interpreted Section 46(2) of the Constitution thus:

"On Jurisdiction of the Federal and State High Court over action for enforcement of fundamental rights -

A High Court of a State lacks Jurisdiction to entertain matters on Fundamental Rights, although brought pursuant to Section 46(2) of the Constitution, where the alleged breach

¹⁵Order 2 Rule 1 Fundamental Rights (Enforcement procedure) (FREPE) Rules of 2009, Section 46 of the CFRN 1999 (as amended).

¹⁶See: *Gafar v. Government, Kwara State* (2007) 4 NWLR (PT.1024) 375; *Sea Trucks Nigeria Ltd v. Anigboro, Tukur V. Government Of Taraba State* (1997) 6 NWLR (PT.510) 549." Per Galinje, J.C.A. (Pp. 14-15, paras. F-B)

¹⁷ Chapter IV of the CFRN 1999 (as amended) provides for the protection of the Fundamental Rights of every citizen.

arose from a transaction or subject matter which falls within the exclusive Jurisdiction of the Federal High Court as provided by Section 251 of the Constitution"¹⁸

The seeming import of the above judicial authority is that whereas both the State and Federal High Courts have concurrent jurisdiction in the determination of Fundamental Right cases, the phrase "subject to the provision of the Constitution" as embodied under Section 46(2) demarcated the respective Jurisdictions of the State and Federal High Courts. In essence, a State High Court or the High Court of the Federal Capital Territory cannot for instance rightly and validly determine allegations of breach of Fundamental Rights emanating from acts of Terrorism or Treason and Treasonable felonies. Likewise, a Federal High Court cannot, ordinarily validly determine alleged violation of human rights that arise from torts, rape or armed robbery etc which is reserved for a State High Court or the High Court of the Federal Capital Territory.

Also, the same will apply for the National Industrial Court in the interpretation, application and enforcement of Fundamental Rights on matters pertaining to employment, labour, industrial relations, trade Unionism, employer's association or any other matter which the Court has jurisdiction to hear and determine.¹⁹

5.0. The role of the Police in the Administration of Justice

The major roles and functions of the Nigeria Police Force is aptly captured under the Police Act²⁰ which is the principal legislation governing the duties and functions of the force. It essentially provides that the Police shall be employed for the prevention and detection of crime, 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.

¹⁸Prince Abdul Rasheed Adesupo Adetona & Ors. v. Igele General Enterprises Ltd. (2011) LPELR-159(SC)

¹⁹Section 254C (1) (d) of the Constitution (Third Alteration) Amendment Act, 2010, Section 7 of the National Industrial Court Act, 2006, Ali v. Bayero University [2014] 42 N.L.L.R. (Part 130) Page 303.

²⁰ A new Police Act 2020 passed into law by the National Assembly was recently assented into law by President Muhammadu Buhari on September 16, 2020. The Act repeals the Police Act Cap. P19. Laws of the Federation, 2004.

There is an inextricable linkage between the Police and human rights in the country. Human rights law requires the prosecuting authorities (of which the police is one) to demonstrate high sense of professionalism and civility in the course of carrying out their legitimate duties so as to avoid unwarranted infringement of human rights and inappropriate conducts. Nevertheless, in Nigeria, several actions and practices by the Police force and other security agencies in the country indicate a disdain or total disregard for citizens' fundamental rights and procedural law clearly enshrined in the Constitution and other applicable laws.

There are several indicators that police officers in Nigeria routinely effect an arrest before carrying out proper investigation, torture and wantonly abandon suspects in incarceration, thus infringing on their freedom of movement and right to dignity of human person.²¹ In this regard, it is necessary to point out that an arrest which is properly made cannot constitute a breach of fundamental rights and citizen who is arrested by the Police in the legitimate exercise of their duty and on grounds of reasonable suspicion of having committed an offence cannot sue the Police in court for the breach of his fundamental rights.²² However, the outrageous, unreasonable and arbitrary detention of citizens is frowned at by the spirit and letters of our constitution. The Administration of Criminal Justice Act²³(ACJA) in section 7 made a very important provision to guide the police in the course of executing their functions, where it provided that there shall be no arrest in lieu or by proxy and when a person has been arrested, he or she ought not to be subjected to unnecessary restraints.²⁴ An arrested person while in custody, must be given all reasonable facilities for gaining access to a legal practitioner of his choice²⁵ who may take steps to take him on bail or otherwise make arrangements for his defence or release.²⁶

Another sad phenomenon tied to the Police and other sister agencies which have attracted the attention of the Courts recently is their popularized use as instruments of harassment and intimidation by parties to civil disputes against opposing parties. This has been criticized by the Courts and it is now settled law that the duty of the police does not by any stretch of legal

²¹<https://www.justiceinitiative.org/litigation/alade-v-federal-republic-nigeria><accessed April 11, 2021>

²²Ebo& Anor v. Okeke &Ors (2019) LPELR-48090(CA)

²³ The ACJA was signed into law by Nigeria's former President, Goodluck Jonathan on May 14, 2015. The Act introduces several innovations in Nigeria's criminal justice system.

²⁴Section 5 of the ACJA.

²⁵Section 35(2) CFRN 1999(as amended)

²⁶Section 14(2) of the ACJA

imagination or statutory function, extend to collection of debt or mischievously criminalizing a *prima facie* civil matter at the inducement and behest of a party to the dispute²⁷. In *McLaren v. Jennings*²⁸, where the plaintiff was arrested and detained by the police for debt owed to another, the court held that the police officers were liable for false imprisonment as their duties did not extend to debt recovery. Section 8(2) ACJA appears to have also given a statutory stamp to the above legal position, by providing that a suspect shall not be arrested merely on a Civil wrong or breach of contract. Therefore, a legal practitioner must advise his clients properly that the law is established that law enforcement agencies have no role in civil contract, such is exclusively meant for a law court or an arbitration panel to determine. The courts are now titled to hold both the counsel and his client liable in damages for facilitating the involvement of law enforcement agencies in civil disputes.²⁹

Another breed in the class of right violations frequently carried out by the police is the application of violent force and coercion to compel arrested persons into making dictated confessional statements. The innovative provisions of the ACJA provides that where a police officer decides to take statement from a suspect, such must be made in writing through video recording³⁰ or in the presence of the suspect's legal practitioner or other persons of his choice³¹. Fortunately, also, the Evidence Act³² provides for a trial within trial procedure in order to ascertain the voluntariness of a confessional statement before admitting same in evidence.

It is therefore important that in the course of effecting a lawful arrest, a police officer must adhere to the fundamental rights provided under chapter 4 of the Nigerian Constitution; by ensuring that the suspect's right to life, presumption of innocence,³³ human

²⁷EFCC v. Diamond Bank Plc &Ors (2018) LPELR-44217(SC)

²⁸[2003] 3 NWLR (Pt.808)470 .

²⁹In *Kure v. COP*(2020) LPELR-49378(SC) the Supreme Court held that when, as in the circumstances of this action, a purely civil matter is reported to the Police, such a person cannot go scot-free as the report ought not to have been made at all since it is not within the purview of Police duties. It is a report made malafide and he will be equally liable for the action taken by the Police irrespective of whether he actively instigated them or not, since he had no business involving the Police in a purely civil matter in the first place. Such conduct which portrays disregard of the law and is aimed at using the coercive powers of the State to punish a contracting party in a purely civil matter ought to be mulcted in exemplary damages.

³⁰Section 15(4) of the ACJA

³¹Section 17(2) of the ACJA; *Taiwo v. FRN* (2018) LPELR-45824(CA)

³²Section 29

³³ Section 36(5) CFRN 1999(as amended)

dignity,³⁴ privacy,³⁵ liberty,³⁶ notification of offence in a language that the suspect understands,³⁷ bail,³⁸ and reasonable restraint are conscientiously respected. It is noteworthy that where the rights of a person are unreasonably tampered with in the course of executing an arrest, a civil action could be maintained against the offending police officers for damages.

6.0. The Absurdity of Media Trials and the Ripple Effect on Human Rights.

The drafters of the 1999 Constitution in an astute display of thoughtfulness and foresight provided constitutional protections for the innocence, dignity and reputation of every citizen. It is amongst the contemplations of those provisions that every person who is charged with a criminal offence shall be presumed to be innocent until proven guilty. The above provides for a rebuttable presumption of innocence and the prosecutor has the legal burden of proving otherwise beyond reasonable doubt pursuant to the Evidence Act,³⁹ the guilt of one who is accused. It is instructive to state here that there are circumstances where the burden of proof might as well shift to the defendant to establish his innocence, especially when facts are within the knowledge of a person, such person shall have the burden of proving same. For example, financial crimes, lifestyle audit, insanity, self-defence, alibi, intoxication etc.

However, in recent times, there is a disturbing trend that appears to have been widely adopted by security outfits and government agencies nationwide where they publicly parade suspects sometimes unclad on the pages of the newspapers, social media or on television who are made to hold visibly, a placard of their alleged crime. This is sadly in clear contravention of the constitutional presumption of innocence and human dignity owing to the extent of reputational damage, career stagnation and business loss that such unfortunate actions of those agencies of government might cause the affected individual being paraded for a crime on public platforms⁴⁰ and especially when they may eventually be pronounced innocent by a Court of law.

³⁴Section 34 CFRN 1999(as amended)

³⁵Section 37 CFRN 1999(as amended)

³⁶ Section 35 CFRN 1999(as amended)

³⁷ Section 35(3) CFRN 1999, English is the official language of the Court.

³⁸Section 35 (4) & (5) CFRN 1999(as amended)

³⁹Section 135

⁴⁰ <https://www.efccnigeria.org/efcc/news/6716-music-producer-four-others-nabbed-for-alleged-cybercrime-in-uyo><accessed April 10, 2021>

7.0.The challenges of the Right to Life under our Justice System.

The Constitution which is the fundamental law in the country provides in Section 33, the most sacrosanct and sacred of all rights – the right to life. It stands out because all other rights are only exercisable only when there is life, the moment one dies, all other rights are consequently dissipated. The same constitution provides for exceptions to the right to life, that is, instances where this right might be taken away⁴¹. The right to life must be treated with the sanctity it deserves, even though the constitution and other applicable laws provides circumstances in which the right to life could be dispensed with. One of the instances is upon a death penalty imposed by a court of law. While several international human rights organizations and developed countries are championing and end to the application of death penalty, the Supreme Court has held that death sentences are legal in Nigeria.⁴²In Nigeria, death penalty applies for capital offences such as Murder, Armed Robbery⁴³and sometimes Kidnapping. Certain persons are excluded from being subject to a death penalty which is a pregnant woman,⁴⁴ a juvenile⁴⁵ or a pardoned (condemned) convict pursuant to the powers of the President of Nigeria⁴⁶ or a Governor of a State⁴⁷ to grant clemency.

The Second Optional Protocol to the International Covenant on Civil and Political Rights abolishes death penalty; however, countries were permitted to make a reservation allowing for use of death penalty for the most serious crimes of a military nature, committed during wartime⁴⁸. As of September 2019, the Second Optional Protocol had 87 parties which Nigeria is not a party to⁴⁹.

The right to life is further challenged by the state of affairs in Nigeria, the worsening security situation in Nigeria is extremely worrisome and it then appears that the government is paying little attention to the protection and welfare of its citizens, several people are frequently being

⁴¹For the execution of the sentence of a court in respect of a criminal offence of which he has been found guilty of in Nigeria, for the defence of any person from unlawful violence or for the defence of property, in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or for the purpose of suppressing a riot, insurrection or mutiny.

⁴²Kalu v. State (1998) 13 NWLR (Pt.583)531

⁴³Section 1(3) of the Robbery and Firearms Act.

⁴⁴Section 221(2) of the Child Rights Act

⁴⁵Guobadia v. State SC 295/2002, Sections 401 & 405 of the ACJA

⁴⁶Section 175 of the CFRN 1999 (as amended)

⁴⁷Section 212 of the CFRN 1999 (as amended)

⁴⁸https://en.wikipedia.org/wiki/International_Covenant_on_Civil_and_Political_Rights#cite_note-69

⁴⁹<https://indicators.ohchr.org/><accessed April 10, 2021>

raided and killed in their hundreds by armed bandits, herdsmen, robbers and other mischievous elements in the society, some others have also been displaced as a result. Furthermore, the widespread poverty and environmental hazards has made some citizens unable to afford food and shelter or gain access to quality drinking water which is basic to their survival and thus may also risk losing their lives to malnutrition.

8.0. The intersection between National Security and Human Rights:

"It must be understood that fundamental rights of a citizen are not absolute.⁵⁰ They can be curtailed by the appropriate authorities when there are lawful grounds for doing so⁵¹ Section 45 of the Nigerian Constitution provides that rights may be limited 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.

The President of Nigeria in an address at the Nigerian Bar Association's Annual General Conference of 2018 stated emphatically that national security trumps human rights and we have witnessed in the past when various courts local and foreign, ordered the release of the former National Security Adviser Sambo Dasuki, and yet the executive arm of government remained adamant and disobeyed nearly all the orders of the court until 2019 after Dasuki has been in detention for nearly four years⁵² Also, a popular human rights Activist, Omoyele Sowore was equally detained and charged to court for commission of crimes which appears to be tilted towards national security concerns.⁵³

The Nigerian Supreme Court has declared the position of the law on this point when it held that in the circumstance that where national security is threatened or there is the real likelihood of it being threatened, human rights or the individual right of those responsible take second place. Human rights or individual rights according to the Supreme Court, must be suspended until the national security can be protected or well taken care of. This is not anything new. The corporate existence of Nigeria is viewed by the Court as united,

⁵⁰Ukaegbu Vs National Broadcasting Corporation (2007) 14 NWLR (Pt 1055) 551 and Ukpabiov. National Film and Video Censors Board (2008) 9 NWLR (Pt.1092) 219.

⁵¹⁵¹Per Abiru, J.C.A. (Pp. 29-30, paras. F-A) in Salihuv. Gana & ORS (2014) LPELR-23069(CA)

⁵² <https://www.google.com/amp/s/punchng.com/we-released-sowore-dasuki-out-of-mercy-obedience-to-court-order-fg/%3Famp> <accessed April 10, 2021>

⁵³https://www.americanbar.org/groups/human_rights/reports/prelim_report_omoyele_sowore_nigeria/ <accessed April 14, 2021>

harmonious, indivisible and indissoluble sovereign nation, is certainly greater than any citizen's liberty or right. Once the security of this nation is in jeopardy and it survives in pieces rather than in peace, the individual's liberty or right may not even exist.⁵⁴

However, the author of this work respectfully takes a divergent view from that of the Supreme Court and submits that sometimes human rights complements national security. National security itself could be endangered when there is low enforcement of human rights, for it is only when the citizens are witnessing prosperity, communal harmony, religious tolerance, ethnic integration, true justice, good governance, rule of law, that peace and tranquillity reigns which eventually matures into a conducive atmosphere for government to operate.

9.0. Compensatory Regime for Human Rights Violation

It has been earlier stated that a breach of human rights is actionable, and the law courts are the appropriate venue to enforce those rights, having the powers and discretion to apply several options to meet the Justice of each case. Available remedies for human right breaches could entails; an award of damages, specific performance (offer of public apology or to directly remedy the breach), injunctions, declarations, fines etc. The Court has held in *Ejiofor vs Okeke*⁵⁵ that where there is an evidence of arrest and detention which were done or instigated by the Respondent in an action for enforcement of fundamental rights application, it is for the Respondent to show that the arrest and detention were lawful.

In the case of damages, general damages need not be, specifically, pleaded or proved, as the same tends to flow from the act/conduct of the defendant complained against. Usually, in fundamental rights matters, damages automatically accrue, once there is evidence of breach or violation of an applicant's fundamental right(s).⁵⁶ The law is settled that damages in

⁵⁴Per. Muhammad JSC in *Dokubo -Asari v. F.R.N.* (2007) ALL FWLR (Pt. 375) 558 at 585; Paras B - E & F - H (SC)

⁵⁵ (2000) 7 NWLR (pt. 665); Per Mbaba, J.C.A. (Pp. 37-38, Paras. D-F)

⁵⁶ See Section 35 (6) of the 1999 Constitution (as amended) and the case of *Ozide & Ors v. Ewuzie & Ors* (2015) LPELR 24482 CA.

compensation, legally and naturally follow every act of violation of citizens fundamental right.⁵⁷

In the case of *Gusau &Ors vs Umezuruike*⁵⁸ it was held that detention, no matter how short, can lie a breach of fundamental right. But that can only be so, if the detention is adjudged wrongful or unlawful in the first place; that is, if there is no legal foundation to the base the arrest and/or detention of the applicant.⁵⁹

10.0. ENDSARS Protests and the Nigerian Youths clamour for social change

The Administration of Justice as earlier noted is one of the pillars that helps enforce and protect the rights of individuals who seek redress or remedies in the Court of law when rights have been violated. This is achieved through Courts, Arbitrations and Panels set up by the Executive, Legislature and Judiciary arm of governments. For example, the END SARS protest which took place in October 2020, happens to be a call to disband the Special Anti-Robbery Squad (SARS) over years of; police brutality, witch hunting, profiling, harassing and even killing the youths of Nigeria. The protest which gained global attention, led to the disbandment SARS and the setting up of judicial panels of inquiry across several states in Nigeria with a mandate to investigate the excesses of the Nigerian police force. The judicial panels through questioning, investigations and the invitation of concerned parties (which involved the presence of victims, the accused police officers, members of the civil society organizations and the press) were able to issue verdicts as they deem fit based on evidence available before them.⁶⁰

Although, in response to the #EndSARS protests, the then Inspector General of Police swiftly announced the disbandment of SARS and replacing it with a new Special Weapons and Tactics (SWAT) team, but that was not sufficient because the government has thus far failed

⁵⁷*Iwununne v. Egbuchulem & Ors* (2016) LPELR-40515(CA), See Section 35 (6) of the 1999 Constitution (as amended). See also *Agu vs Okpoko* (2009) LPELR 8286 CA.

⁵⁸ (2012) ALL FWLR (pt. 655) 291; (2012) LPELR 8000 (CA),

⁵⁹ *Okonkwo vs Ogbogu* (1996) 5 NWLR (pt. 499) 420; *Isenalumhe vs Joyce Amadin* (2001) CHR 458; *Nemi vs A.G Lagos State* (1996) 6 NWLR (pt. 452).

⁶⁰ <https://www.google.com/amp/s/leadership.ng/six-months-after-endsars-police-reforms-panels-verdicts-still-pending/amp/> <accessed April 11, 2021>

to address the remote causes of the complaints and could risk losing the trust of the Nigerian youths.

11.0. Conclusion and Recommendations

Human rights are frequently held to be universal in the sense that all people have and should enjoy them, it is globally standardized and could trigger praise or criticism whether or not they are recognized and implemented by the legal system or officials of a country. A society where there is strict adherence to the rule of law and protection of human rights, would witness more peace and tranquillity, international rating, improved business prospects and realization of the purpose of law.

In appreciating the nexus between human rights and administration of justice, we are minded to scrutinize the sociology of law, that is the actual working of the law in the society, whom it serves and the essence of it. For the administration of justice to thrive in Nigeria, leaders must ensure that the rule of law is normalized, court orders are treated with the sanctity that it deserves. In fighting corruption, human rights must be given priority, constitutional amendment process should take cognizance of the several loopholes in the law with which human rights could be easily trampled upon and justified. Speedy dispensation of justice is also of utmost significance for a proper and effective justice administration in Nigeria.

Nigeria government must rethink its human rights compliance level and promulgate laws, issue regulations, develop policies and prescribe protocols that will enhance the nation's human right record on paper and in reality.

Human rights is a dynamic concept which brings about rapid social change and that could be a burden on the administration of justice but it is expedient in order to create a society that is fair and just and will so remain for all eternity.

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