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Dr. Ndubuisi J. Madubuike-Ekwe
Golden Gate University School of Law

Dr. Olumide K. Obayemi
Golden Gate University School of Law

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ASSESSMENT OF THE ROLE OF THE NIGERIAN POLICE FORCE IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN NIGERIA

DR. NDUBUISI J. MADUBUIKE-EKWE*
DR. OLUMIDE K. OBAYEMI**

ABSTRACT

This article examines the role of the Nigerian Police Force in the promotion and protection of human rights in Nigeria. It discusses the concept of human rights under international and domestic law. It highlights the powers of the Nigerian Police Force under the Police Act and the Administration of Criminal Justice Act, 2015 and observes that although the police use discretion to support human rights, it is the abuse of the discretion and power that results in violation of human rights of citizens. This article identifies the rights most subjected to abuse by the police as the right to life, dignity of the human person, liberty, fair hearing, privacy and family life and analyzes some of the factors responsible for the ineffective performance of the police. As a result, the paper recommends a number of legal and institutional reforms to make the police force more effective in their duties and in the protection and promotion of the human

* S.J.D., Golden Gate University School of Law; LL.M., Ife; B.L., LL.B. (Hons.) UNN; Senior Lecturer and Head of Department of Private and Property Law, Faculty of Law, Benson Idahosa University, Benin, Edo State, Nigeria.

** S.J.D., LL.M., Golden Gate University School of Law; LL.M., Alberta; LL.B. (Hons.) Ife; Faculty of Law, Department of Commercial and Industrial Law, University of Lagos, Nigeria; admitted to the Bars of the Federal Republic of Nigeria and California.

rights of citizens. The article concludes, however, that the government should overhaul the entire police structure in Nigeria by implementing a community policing strategy across the country.

INTRODUCTION

This article critiques the role, function and effectiveness of the Nigerian Police Force (NPF), within the local and international legislation governing effective policing in democratic societies and similar common law jurisdictions, and proffers solutions and suggestions for improvement for bringing the NPF, its personnel and standards at par with the policing system of western countries. One of the basic responsibilities of the government in all societies is to ensure the safety of life and property of its citizens. Section 14(2)(b) of the 1999 Constitution of the Federal Republic of Nigeria (Constitution),¹ states that “*the security and welfare of the people shall be the primary purpose of government.*” Therefore, it is by establishing and maintaining an efficient police force that the government provides a feeling of security to its citizens.

The primary responsibility for ensuring security and protection of basic human rights rests with each country, since they alone are the contracting parties to the relevant international treaties.² Hence, Nigeria is a party to many human rights treaties, which include: the Universal Declaration of Human Rights, 1948,³ International Covenant on Civil and Political Rights (ICCPR) 1966,⁴ International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966,⁵ International Convention on the Elimination of All forms of Racial Discrimination,⁶ The International Convention on the Elimination of all forms of Discrimination Against Women (CEDAW),⁷ The United Nations Convention on the Rights of the Child, 1989,⁸ the United Nations Convention Against Torture and Other Cruel,

1. CONSTITUTION OF NIGERIA (2004), § 14(2)(b).

2. See Expert of the U.N. Secretary-General, *Rep. on the Impact of Armed Conflict on Children*, ¶ 220, U.N. Doc. A/51/306 (Aug. 26, 1996).

3. Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc A/810, ¶ 71 (Dec. 10, 1948).

4. International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), ¶ 52, 21 U.N. GAOR Supp. No. 16, U.N. Doc. A/6316 (Dec. 16, 1966).

5. *Id.* at ¶ 49; International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

6. International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. 2106 (XX), 660 U.N.T.S. 195 (Jan. 4, 1969).

7. Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, ¶ 193, 34 U.N. GAOR Supp. No. 46, U.N. Doc. A/34/46 (1980).

8. Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

Inhuman or Degrading Treatment or Punishment,⁹ etc. Regionally, Nigeria is a party to the African Charter on Human and People's Rights (ACHPR) 1981.¹⁰ The ACHPR incorporates both the ICCPR and the ICESCR. As such, member states are bound by the provisions of the latter two treaties.¹¹ The African Charter on the Rights and Welfare of a Child¹² is another regional document for the protection of African children. These international and regional treaties were all negotiated, executed and ratified towards safeguarding the fundamental freedom and rights of every individual in the member states.

Nigeria, as a signatory to the above conventions and treaties, is bound by the provisions therein. In furtherance of this obligation, Nigeria has enacted its own municipal laws to protect the inherent rights and freedom of all citizens in the country. In Nigeria, the Constitution is the supreme law of the country and every law that is inconsistent with the provision of the Constitution shall, to the extent of such inconsistency, be rendered null and void.¹³ Chapter IV of the Constitution embodies the fundamental rights of every Nigerian and these rights are enforceable under Section 6 of the Constitution, with these constituting legal safeguards for ensuring that human rights are preserved and that people are governed within the ideas and values of true democracy in Nigeria.¹⁴

Therefore, promotion and protection of human rights is at the very core of policing. The enforcement of laws and the maintenance of peace and order are first and foremost about protecting the rights of citizens, and thus the role of police personnel in protecting and respecting the rights of every individual is fundamental. However, because the police is always responding to diverse issues and problems of law enforce circumstances, issues of rule of law and human rights are cast around police intervention, including methods such as stopping people for questioning, arresting them, searching them or their property, and interrogation after

9. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, Annex, U.N. Doc. A/39/708 (Dec. 10, 1984).

10. African Charter on Human and People's Rights, OAU Doc. CAB/LEG/67/3 rev. 5, June 27, 1981, 21 I.L.M. 58 [hereinafter African Charter].

11. Adekunbi Adeleye, *Human Rights as a Measure against Dictatorship in the Democratic Dispensation: Legal Safeguards in Nigeria*, 6 NNAMDI AZIKIWE J. COMM. & PROP. L. 175 (2017).

12. African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (Nov. 29, 1999).

13. CONSTITUTION OF NIGERIA (2004), § 1(3); *see Marbury v. Madison*, 5 U.S. 137 (1803) ("All laws which are repugnant to the Constitution are null and void."); *see also* Attorney-General of Ogun State v. Attorney-General of the Federation, [1982] 13 NSCC 1, 2 (per Fatai-Williams CJN) (Nigeria).

14. CHUKWUDIFU A. OPUTA, REFLECTIONS ON NIGERIAN NATIONHOOD AND DEMOCRACY 60 (2014).

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custodial arrest. Moreover, how the police take control of such circumstances particularly through the level of force they use, is also a matter concerning the rule of law and human rights.

In Nigeria, protection and/or violation of fundamental human rights continue to be critical challenges facing the NPF, with allegations of human rights abuses by the police officers dominating most discussions about the effectiveness of police in dealing with cases relating to crime and criminality. However, police work can be very complex and invariably there are many aspects of policing that also enhance and promote the rule of law and human rights within the community. As an emerging democracy, it is imperative that the police in Nigeria promote human rights through the practice of policing with a focus on protecting human rights and thus help to institutionalize and sustain democratic practice.

The aim of this paper is to examine the role of the Nigerian Police Force in the promotion and protection of human rights in Nigeria. The paper is divided into four parts. Part I examines the concept of human rights and the cognizable rights under the Constitution. Part II examines the functions of the NPF and how they affect the enjoyment of the fundamental rights of the citizens. Part III discusses the factors responsible for the ineffective performance of the police in Nigeria. Part IV concludes the paper with a central recommendation for the police force in Nigeria to be overhauled and replaced with a community-policing strategy.

I. THE CONCEPT OF HUMAN RIGHTS

The concept of human rights as it is known today stems from the natural law theory that individuals in society possess certain rights, which are inherent, inalienable and fundamental to their existence, as propounded by Thomas Hobbes and John Locke, among others.¹⁵ Accordingly, these rights cannot be deliberately taken away without good reason. Human rights were first formulated conceptually in the United States Bill of Rights, developed as a universal concept in the Universal Declaration of Human Rights (UDHR),¹⁶ and elaborated in various international human rights instruments following the UDHR.¹⁷

15. N.J. Udombana, *Human Rights Protection and Good Governance in Nigeria*, JUSTICE J. 37 (2016).

16. UDHR, *supra* note 3.

17. For example, see: the ICCPR, *supra* note 4; the ICESCR, *supra* note 5; the ACHPR, *supra* note 10.

In terms of definition, there is no universally accepted definition of human rights¹⁸; it has been variously defined. U.O. Umozurike defines “human rights” as “claims which invariably supported by ethics and which should be supported by law, made on society, especially on its official managers, by individuals or groups on the basis of their humanity.”¹⁹ Michael Ikhariale also describes “human rights” as sacred rights inborn in man because they are implanted in man by divine nature and therefore, positive law can neither establish nor abolish but only protect them.²⁰ Osita Eze notes that “human rights represents demands or claims which individuals make on society, some of which are protected by law and have become part of *lex lata* while others remain aspiration to be attained in the future.”²¹ According to Ogbu, the expression ‘human rights,’ in its widest connotation, embraces those civil, political, economic, social, cultural, group, solidarity and developmental rights which are considered part of the human nature and are therefore indispensable to a meaningful human existence.²² In this sense, the concept of human rights embraces both human rights that have been guaranteed by positive law (*lex lata*) and moral human rights which ought to be, but have not yet been, guaranteed by positive law (*lex ferenda*).²³ In *Ransome Kuti v. Attorney-General of the Federation*,²⁴ the Nigerian Supreme Court defined it as “a right which stands above the ordinary laws of the land and which in fact is antecedent to the political society itself. It is a primary condition to a civilized existence.” Thus, however defined, one indisputable feature of human rights is that they are rights to which every human being, everywhere, can lay claim to by virtue of his or her humanity.

A. KEY ATTRIBUTES OF HUMAN RIGHTS

Human rights are: *inherent* - human beings are born with such rights; *inalienable* – they cannot be limited or taken away without legal justification²⁵; *universal* – they belong to every human being everywhere irre-

18. Wahab Egbewole, *Fundamental Human Rights in Nigeria: Myth or Reality?*, VANGUARD (July 13, 2017), <http://www.vanguardngr.com/2017/07/fundamental-human-rights-nigeria-myth-reality/>.

19. U.O. UMOZURIKE, *THE AFRICAN CHARTER ON HUMAN AND PEOPLE’S RIGHTS* 4 (London, Martinus Nijhoff Publishers 1997).

20. Michael Ikhariale, *The Jurisprudence of Human Rights*, 5 J. HUM. RTS. & PRAC. 58 (1995).

21. Agbo Madaki, *The Nigerian Police Force and the Promotion and Protection of Human Rights in Nigeria*, 3(1) COM. & INDUS. L.J. 302 (2012); Egbewole, *supra* note 18.

22. N.O. OGBU, *HUMAN RIGHTS LAW AND PRACTICE IN NIGERIA* 5 (2d ed. 2013).

23. *Id.*

24. *Ransome Kuti v. Attorney-General of the Federation*, [1985] 2 NWLR (Pt. 6) 211, 229 (per Kayode Eso, JSC) (Nigeria).

25. See CONSTITUTION OF NIGERIA (2004), § 33(1); ICCPR *supra* note 4, art. 6; CHUKWUDIFU A OPUTA, *HUMAN RIGHTS IN THE POLITICAL AND LEGAL CULTURE IN NIGERIA* 45 (1989) (asserting

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spective of race, sex, religion, ethnicity, political or other national or social origin and must be respected everywhere²⁶; *equally applicable* and *non-discriminatory* – no human beings are worthy of more rights than others; *indivisible* and *interdependent* – this attribute is very important and underscores the need for a holistic approach to the realization of human rights, especially in Nigeria, and by extension Africa, where the government tends to attach more importance to the protection of civil and political rights to the detriment of economic, social and cultural rights and the other later generations of rights such as the right to democracy and good governance.²⁷

All human rights must be treated equally as they are all indivisible, interdependent, interrelated and consequently, affect each other.²⁸ For instance, the guarantee of civil and political rights calls for the observance of economic, social and cultural rights and vice versa. Otherwise, the right to life, for instance, is of no relevance if a right not to be indirectly “sentenced” to death by starvation through unemployment does not support it.

Human rights are not given to people by government. The duty of government is to recognize human rights and protect them. One way for a government to recognize and protect human rights or fundamental rights is to enact human rights into law, such as a bill of rights or a fundamental rights chapter in the constitution, like in the Nigerian Constitution, and by making provisions for the ordinary courts of the land to enforce fundamental rights.²⁹ One scholar, Mudiaga Odje, stated: “It follows that while all rights enjoyed and asserted by human persons may be described generally as human rights not all human rights can be termed fundamental rights or fundamental human rights under our classification unless they are entrenched in the constitution.”³⁰ Therefore, fundamental human rights remain in the realm of domestic law. They are fundamental because they have been guaranteed by the fundamental law of that country through its constitution.

that human rights is inalienable because “they attach to man because of his humanity. Without them there is automatic diminution of his humanity.”); Udombana, *supra* note 15, at 39.

26. UDHR, *supra* note 3, art. 2.

27. Udombana, *supra* note 15, at 39.

28. *Id.*

29. ESE MALEMI, THE NIGERIAN CONSTITUTIONAL LAW 114 (2006).

30. *Id.* at 120; Mudiaga Odje, *Human Rights Civil, Political, Social, Economic and Cultural Rights: Their Place and Protection in the Future Political Order*, 21 NIGERIAN B. J. 87 (1986); N.J. ADUBA, KEY ISSUES IN NIGERIAN CONSTITUTIONAL LAW 161 (Nigerian Inst. Advanced L. Stud. 2014).

B. COGNIZABLE RIGHTS UNDER THE NIGERIAN CONSTITUTION

The rights that are both cognizable and justiciable in Nigeria are civil and political rights, found mainly in the ACHPR and Chapter four of the Constitution. These rights include:

- i. Right to life.³¹
- ii. Right to the dignity of the human person.³²
- iii. Right to personal liberty.³³
- iv. Right to fair hearing.³⁴
- v. Right to private and family life.³⁵
- vi. Right to freedom of thought, conscience and religion.³⁶
- vii. Right to freedom of expression and the press.³⁷
- viii. Right to peaceful assembly and association³⁸
- ix. Right to freedom of movement.³⁹
- x. Right to freedom from discrimination.⁴⁰
- xi. Right to acquire and own immovable property anywhere in Nigeria.⁴¹
- xii. Compulsory acquisition of property.⁴²

For purposes of this article, not all the rights will be discussed. The scope of this paper will be confined to those rights with which the police contend with in the exercise of their powers under the Police Act, 2010.⁴³

II. THE NIGERIAN POLICE FORCE

The establishment of the NPF predates the Nigerian Constitution. Prior to the arrival of the British to Nigeria in 1800,⁴⁴ law and order was maintained by the local chiefs and their messengers by means of traditional

31. CONSTITUTION OF NIGERIA (2004), § 33.

32. *Id.* § 34.

33. *Id.* § 35.

34. *Id.* § 36.

35. *Id.* § 37.

36. *Id.* § 38.

37. *Id.* § 39.

38. *Id.* § 40.

39. *Id.* § 41.

40. *Id.* § 42.

41. *Id.* § 43.

42. *Id.* § 44.

43. The Police Act (2010) Cap. (P19) Laws of the Federation of Nigeria 2004.

44. O. Oluwaniyi, Evolution of State and Society in Pre-colonial Nigeria 1500-1800 (unpublished manuscript), <https://run.edu.ng/directory/oermedia/3696103805403.pdf> (last visited Aug. 15, 2018).

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institutions and the age grade system.⁴⁵ After the arrival of the British in Nigeria,⁴⁶ the police system and administration gradually passed from the local chiefs to the British. Many reasons accounted for this. The key reasons were: to protect the British commercial interest, to deal with uncompromising local chiefs and traditional rulers and to safeguard trade routes and stop slave trade.⁴⁷ There was also the need to ensure that consular orders were executed, particularly against those uncompromising chiefs. Following the annexation of Lagos, William McCoskry and the first acting Governor of Lagos established the Hausa constabulary/Lagos Police Force in 1861.⁴⁸ Thus establishing the Nigeria Police Force.

Section 214(1) of the Constitution establishes the NPF. It abolished the individual state or local government police forces and provides that no other police force shall be established for the Federation or any part thereof. Police affairs are under the jurisdiction of the federal government as it is an item on the Exclusive Legislative list of the Constitution.⁴⁹ The duties of the Police Act are provided for under section 4 of the Police Act⁵⁰ as follows:

[T]he police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of the law and order, the protection of property and the enforcement of all laws and regulations with which they are directly charged and shall perform such military duties within or without Nigeria as may be requested of them by or under the authority of this or under any Act.

In addition to these duties, the police are charged with the performance of other auxiliary duties, including assisting in regulating traffic on the highway, providing assistance during disasters and acting as escorts in various spheres.⁵¹ The NPF also patrols jointly with the army in strife torn areas.

45. V.A. Mpamugo, *The Role of the Nigerian Police in Human Rights Protection and Enforcement*, ABIA STATE L.J. 29 (1996).

46. Oluwaniyi, *supra* note 44.

47. *Id.*

48. *Id.*; See also Madaki, *supra* note 21, at 304.

49. CONSTITUTION OF NIGERIA (2004), Item 45 of the Exclusive Legislative list Part I, Second Schedule.

50. The Police Act (2010) Cap. (P19) Laws of the Federation of Nigeria 2004.

51. Mpamugo, *supra* note 45, at 31.

POLICE DUTIES AND HUMAN RIGHTS

The Nigerian Police Force is principally responsible to maintain law and order. Virtually all other duties mentioned in section 4 of the Police Act above is centered on this particular duty which involves maintaining law and order. This duty demands that the police compel the citizens to obey laid down laws as outlined in the Nigerian Constitution. However, the police are required to balance the freedom of the individual with the need to prevent and detect crime and, the preservation of law and order.⁵² In this way, the police gives life to human rights, meaning that police make decisions that either affirm or deny human rights of individuals. Police are mandated to protect and serve. They are the centurions at the gate and defenders of the law, legality, freedom, individual liberties and human rights.⁵³ For example, the NPF has very wide powers in the performance of their duties under the Police Act and the Administration of Criminal Justice Act, 2015.⁵⁴ These include the powers of arrest,⁵⁵ search,⁵⁶ seizure, detention and use of force in certain circumstances. The exercise of these rights affect either the citizen directly or their property. Consequently, the fundamental rights of citizens are more often and more directly affected by police activities than by those of any other institution. According to J.R. Greene, “[P]olicing can be seen as law in action, as opposed to black letter law as printed. It is legal realism giving life to the laws that are at once substantive, procedural and restorative, concerned with legality but also with due process and doing justice.”⁵⁷ Therefore policing as an extension of human rights protection is an aspiration of democratic societies yet to be realized. The police are at once charged with enforcing the law, while also being constrained as to how they go about such enforcement. Balancing the rights of the individual with those of the state has been a perennial question in democratic societies.

The police can, and do, use their discretion in support of human rights. Today, police use referrals to mediate disputes for example drug refer-

52. Madaki, *supra* note 21, at 304.

53. *Id.*

54. The Police Act (2010); The Administration of Criminal Justice Act (2015), § 1(1) [hereinafter ACJA] was enacted by the National assembly to “ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of society from crime and protection of the rights and interests of the suspect, the defendant, and the victim.”

55. ACJA, *supra* note 54, § 3.

56. *Id.* §§ 9, 143.

57. J.R. Greene, *Policing Through Human Rights*, POLICE FOUNDATION (Dec. 2010), <https://www.policefoundation.org/wp-content/uploads/2015/06/Greene-2010-policing-through-Human-Rights.pdf>.

rals, provide advice to crime victims about how to pursue their rights and claims. They protect victims such as battered women and children, often directing them to non-governmental organizations (NGOs), shelters and medical help. Through the enforcement of civil and criminal court orders, the police protect potential victims and stop dangerous practices. Each of these interventions support human rights but often occupy a modest fraction of police effort.⁵⁸

On the other hand, police abuse of their discretion and mandated powers invariably results in the violation of the human rights of citizens. Thus, this article focuses on those rights with which the police come to grips with in the exercise of their powers under the Police Act, 2010 and the ACJA. The rights most subjected to wanton abuses by the police are the rights to life, dignity of human person, personal liberty, fair hearing, and privacy.

1. Right to Life

The right to life is provided for under Section 33 of the Constitution,⁵⁹ stating that no one shall be deprived intentionally or arbitrarily of his life. The right to life is the mother of all rights and the foundation for the enjoyment of all other rights. Without life, the pursuit of other rights would be in vain.⁶⁰ The enjoyment of the right prohibits police officers, or even soldiers, to resort to lethal force, such as firing live ammunition at people unless their own lives or the lives of others are in immediate danger and less extreme measures are not available to deal with the situation. Unfortunately, the police have abused the right to life of many Nigerians. These violations range from extra-judicial killing to torture and unlawful detention. Various newspaper reports are replete with horrendous accounts of extra judicial killings in Nigeria, particularly in the hands of members of the Nigeria Police Force. Citizens arrested for mere misdemeanors are labeled armed robbers as soon as they spend a few days in police custody.⁶¹ From 2000 to 2003, 5,776 out of 24,941 armed robbery suspects arrested by the Nigerian Police were summarily executed without trial and classified as “killed in combat.”⁶² Allegations against the police in Nigeria of summary killings are widespread. While some of the killings occur at police traffic check-points and during patrol duty, others

58. *Id.*

59. ACHPR, *supra* note 10, art. 4 (On right to life); *see also* Filani Alfred Oluropo, *The Right to Life in Nigeria: An Analysis*, 7 KOGI STATE UNIV. L.J. (2015).

60. Madaki, *supra* note 21, at 306.

61. *Id.*

62. *Id.*

are committed in cold blood at police stations or during torture and interrogation of suspects. For instance, the Boko Haram insurgency that has claimed, and continues to claim, thousands of lives in the Northeast might not have assumed the deadly dimension it took, had the police not, allegedly, extra-judicially killed the first acclaimed leader of the sect, Mohammed Yusuf, a few hours after his arrest.⁶³

2. Right to Dignity of the Human Person

The right to dignity of the human person is provided by Section 34 of the Constitution.⁶⁴ It specifically prohibits torture, inhuman or degrading treatment. The Constitution forbid slavery or servitude and all forms of forced or compulsory labor. According to Professor B.O. Nwabueze,⁶⁵ this covers not only the type of punishment meted out to an offender, but his treatment in police custody or prison. Similarly, section 8(1) of the Administration of Criminal Justice Act (ACJA), 2015 provides that: “A suspect shall be accorded humane treatment, having regard to his right to the dignity of his person; and not be subjected to any form of torture, cruel, inhuman or degrading treatment.”

However investigations reveal the prevalence of torture and other forms of inhuman treatments by the police in Nigeria.⁶⁶ Torture was found to be a widespread means employed by the police in obtaining information from suspects and has indeed become a regular feature of police law enforcement system in Nigeria.⁶⁷ Some of the investigations show that about 69.5% of statements or confessions made by suspects during interrogation are not made voluntarily.⁶⁸

The most common types of torture committed by the police in Nigeria, and as described by victims and perpetrators in reports from Human Rights Watch, includes “repeated and severe beatings with metal rods and wooden sticks or planks . . . other violations reported include the tying of arms and legs tight behind the body; suspension by hands and legs from the ceiling or a pole; resting concrete blocks on the arms and back while suspended; spraying of tear gas in the face and eyes; electric shocks; death threats, including holding a gun to the victims head; shoot-

63. Owolola Adebola, *1000 Nigerians Killed Recklessly by Police in 10 Years-Investigation*, POINT (Jan. 6, 2017), <http://www.thepointng.com/1000-nigerians-killed-recklessly-by-pol>.

64. ACHPR, *supra* note 10, art. 5.

65. BENJAMIN O. NWABUEZE, *THE PRESIDENTIAL CONSTITUTION OF NIGERIA* 411 (1983); K.M. MOWOE, *CONSTITUTIONAL LAW IN NIGERIA* 310 (2008).

66. Mpamugo, *supra* note 45, at 33.

67. *Id.*

68. *Id.*

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ing in the foot or leg; stoning; burning with clothes irons or cigarettes; slapping and kicking with hands and boots; abusive language or threats; and denial of food and water.”⁶⁹ There were also numerous cases of the molestation and rape of female detainees; use of pliers or electric shocks on the penis; insertion of broom bristles into the penis; beating the penis with cable wire; and spraying of tear gas on genitals.⁷⁰

Most often, these types of torture have led to loss of life and permanent incapacitation.⁷¹ The Special Anti-Robbery Squad (SARS) of the police frequently committed torture and other ill-treatment during interrogations. For instance, On July 10, 2013, mobile policemen abducted the governor of Anambra State, Chris Ngige, forced him to sign a resignation letter and detained him for over five hours for refusing to fulfill his part of pre-election accord he entered into with Mr. Chris Uba, his political godfather.⁷² This was indeed a clear violation of the right to dignity as enshrined in the Constitution. Although the law forbids the use of torture in law enforcement, the policemen continue to engage in this practice across the country without any machinery within the police system to stop the abuse of this fundamental right. In May 2016, Chubuikwe Edu died in police custody, after he was arrested for burglary and detained for two weeks by the SARS in Enugu. The police authorities investigated the incident, but no one had been held accountable for his death even at the end of the year.⁷³ In June 2017, on Kester Edun, a commercial bus driver was accused of being a cultist. He was stopped and searched on the road and some substances suspected to be Indian hemp and cocaine were found on a passenger in his bus. Mr. Edun was chained to the back of a police patrol van and dragged along the street. Some horrified onlookers who pleaded on his behalf were assaulted by the police.⁷⁴

69. Sonya Maldar, *Rest in Pieces: Police Torture and Death in Custody in Nigeria*, 17 HUM. RTS. WATCH (July 2005), available at <https://www.hwr.org/report/2005/07/27/rest-pieces/police-torture-and-deaths-custody-nigeria>.

70. *Id.*; see also Madaki, *supra* note 21, at 310.

71. *Nigeria: Amnesty Calls for Immediate Investigation of Football Fan Killed by Police*, AMNESTY INT'L (Apr. 1, 2019), <https://www.amnesty.org.uk/press-release/Nigeria-amnesty-calls-immediate-investigation-football-fan-killed-police>; *Nigeria: Special Police Squad 'Get Rich' Torturing Detainees and Demanding Bribes in Exchange for Freedom*, AMNESTY INT'L (Sept. 21, 2016), <https://www.amnesty.org/en/latest/news/2016/09/nigeria-special-police-squad-get-rich-torturing-detainees/>; Amnesty International, *How Nigeria Police Torture Detainees, Rob Them-Victims*, PREMIUM TIMES (Sept 21, 2016), <http://www.premiumtimesng.com/news/headlines/210951-nigeria-po>.

72. Madaki, *supra* note 21.

73. Amnesty Int'l, *Nigeria 2016/2017, AI Index POL 10/6700/2017* (Feb. 2017), available at <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>.

74. Editorial, *Benin Police Brutality*, VANGUARD (June 21, 2017), www.vanguardngr.com/2017/06/benin-police-brutality-unacceptable/.

3. Right to Personal Liberty

This right is contained in Section 35 of the Constitution,⁷⁵ 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 the procedure permitted by law.”⁷⁶ This means that no person shall be deprived of his liberty by confinement in prison or otherwise except by due process of law. The provision recognizes the occasional need for detention of persons pending trial, but places a limit on the duration of such detention.⁷⁷ It also requires quick disposition of cases.⁷⁸ Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person.⁷⁹ “The appropriate authority or person” means an authority or person specified by law such as a police officer, Magistrate or a Judge.⁸⁰ A person accused of an offense is entitled to be brought to trial within a reasonable time.⁸¹ Reasonable time is defined to mean a period of one day if there is a court of competent jurisdiction within a radius of forty kilometers or a period of two days in other cases.⁸² If a person is not tried within a certain period, two months in the case of a person in custody and three months for a person on bail, that person shall be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.⁸³ A longer period can only be allowed if the court considers it reasonable.⁸⁴

Both the Constitution⁸⁵ and the ACJA⁸⁶ recognize the right to bail of any person charged to court on allegation of a criminal offense.⁸⁷ The rationale behind the right to bail was clearly stated by Idoko J. (as he then was) in *Onu Obekpa v. COP*⁸⁸ as follows:

75. ACHPR, *supra* note 10, art. 6.

76. CONSTITUTION OF NIGERIA (1999), § 35(1).

77. *Id.* § 35(4)(a)-(b); *see Ariori v. Elemo*, [1983] 1 SC 13 (Nigeria).

78. *Id.* § 294(1).

79. *Id.* § 35(6).

80. *Id.*

81. *Id.* § 35(4)(a)-(b).

82. *Id.* § 35(5)(a)-(b).

83. *Id.* § 35(4)(a)-(b).

84. *Id.* § 35(5).

85. *Id.* § 35(1), (2), (5).

86. ACJA, *supra* note 54, § 158.

87. I. Okoronye & M.O. Okeyim, *Assessment of the Right to Personal Liberty under Nigeria's Democracy: 1999-2013*, 1 NET J. Soc. Sci. 40, 42 (2013).

88. *Onu Obekpa v. COP*, [1982] 2 NCLR 420 (Nigeria); *see also Mпамуго, supra* note 45, at 34.

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It allows those who might be wrongly accused to escape punishment which any period of imprisonment would inflict while awaiting trial; to stay out of prison guarantees easy accessibility to counsel and witnesses who ensure unhampered opportunity for preparation of defence. Of much further advantages in this regard is this fact that unless the right to bail or to freedom before conviction is preserved, protected and allowed, the presumption of innocence constitutionally guaranteed to every individual accused of a criminal offence would lose its meaning and force.⁸⁹

However, there are exceptions under Section 35 in which a person may be denied his constitutional rights to liberty without repercussions. These exceptions are execution of the sentence or order of court in respect of an offence of which the accused has been found guilty,⁹⁰ failure to comply with the orders of a court,⁹¹ bringing an individual before a court on the orders of the court, upon reasonable suspicion of having committed a criminal offence.⁹² A person can also be lawfully deprived of his liberty if he is under age and such deprivation is in the interest of his education and welfare.⁹³ Persons suffering from infectious or contagious disease, of unsound mind, drug or alcoholic addicts may be deprived of their liberty for the purposes of their care, treatment or the protection of the community.⁹⁴

Although the police is empowered to arrest persons suspected of committing criminal offences, evidence shows that this power is widely abused by them. For example, on Nov. 1, 2017, one Sylvester Ihejirika bought a 1999 model Toyota Siena from a car dealer in Port Harcourt with a balance of N10,000.00.⁹⁵ The car dealer's stern demand for the balance turned to threats and finally police arrest. Mr. Ihejirika was arrested and detained for two weeks.⁹⁶ He said that he was beaten, maltreated and his family members were extorted over N170,000, part of which was paid through electronic bank transfer to one investigative officer known as

89. *Id.*

90. CONSTITUTION OF NIGERIA (1999), § 35(1)(a).

91. *Id.* § 35(1)(b).

92. *Id.* § 35(1)(c).

93. *Id.* § 35(1)(d).

94. *Id.* § 35(1)(e).

95. Ben Ezeamalu, *How Nigeria Police Officers Tortured, Extorted, Harassed Us-Victims*, PREMIUM TIMES (Nov. 1, 2017), <https://www.premiumtimesng.com/news/headlines/248017-nigeria-police-officers-tortured-extorted-harassed-us-victims.html>.

96. *Id.*

'Scorpion'.⁹⁷ During his ordeal he was not allowed to contact his lawyer or family members.⁹⁸ He was finally released after two weeks in detention without any explanation by the police. His request for the police to release his car and to refund the N170,000 was not granted.⁹⁹ Additionally, one Mr. Iwuala, was arrested and detained in Asaba, Delta State after he reported that his bank account was frozen by his bank on an allegation that N600,000 was illegally transferred to the account.¹⁰⁰ Although, he offered to return the money to the person who paid the money into his account, he was still arrested and held in custody in Asaba.¹⁰¹ He was charged to court and the Magistrate found no case against him and released him.¹⁰² Immediately after he stepped out of the court, the police re-arrested him and detained him for "several weeks."¹⁰³ While in detention he was made to pay N80,000 to be kept in a special and more "comfortable cell."¹⁰⁴ He said that he narrowly escaped food poisoning after his friend was made to write an undertaking which he was forced to sign before he could secure his release from detention.¹⁰⁵ These examples highlight the near absence of arrest procedures or guidelines in Nigeria's law enforcement system. The police have over relied on constitutional exceptions to indiscriminately arrest and detain innocent citizens. Similarly, section 18(1) of the ACJA¹⁰⁶ and section 24(1) of the Police Act empower the police to arrest without warrant under certain circumstances.

In Nigeria, most arrests effected by the police are hardly based on any reasonable suspicion of the victims having committed a criminal offence. All the constitutional safeguards provided in Section 35 are obeyed in breach. For example, on April 3, 2016, one Chinedu Mba was arrested and detained by the anti-kidnapping unit of the police force in Enugu for belonging to an unlawful society. His family and lawyer have not seen him since May, 2016.¹⁰⁷ Similarly, on July 5, 2013, one Oluwaseyi Adesuyi was seen alive in public when he was paraded as a suspect

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. ACJA, *supra* note 54, came into effect on May 13, 2015.

107. Amnesty Int'l, *supra* note 73.

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before journalists in connection with a high profile kidnapping.¹⁰⁸ Since then, he has completely disappeared without a trace.¹⁰⁹ The police who arrested him are unable to explain what happened to him.¹¹⁰ They could not produce any record of arrest.¹¹¹ He did not escape from police custody and there is no evidence he was charged to court.¹¹² His family has searched for him in every police station in Lagos, Ondo and Abuja, but has come out with absolutely no information about what happened to him.¹¹³

However, the courts always come to the rescue of victims who challenge their arrest and detention. In *Chinedu Eze v. I.G.P.*,¹¹⁴ the court held that where a person has been arrested and detained without justification in law, the right to personal liberty has been trampled upon by the invaders.

4. Right to Fair Hearing

The right to fair hearing is contained in Section 36 of the Constitution, which provides that “in the determination of his civil rights and obligations including any question or determination by or against any government or authority a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law constituted in such a manner as to secure its independence and impartiality.”¹¹⁵

Under this right, the twin pillars of justice are established: that a man must be given an opportunity of presenting his own side of a case (*audi alterem partem*) and that a man should not be the judge of his own cause (*nemo iudex in causa sua*). Also, the impartiality of the judge and the independence of the tribunal are important attributes of this right. According to Mpmugo, this right is a conglomeration of other rights which are so important themselves that they are sometimes referred to as fundamental human rights.¹¹⁶ These include:

108. Nicholas Ibekwe, *How Man Arrested by SARS Five Years Ago Disappeared Without a Trace*, PREMIUM TIMES (Dec. 6, 2018), <https://www.premiumtimesng.com/news/headlines/299406-how-man-arrested-by-sars-five-years->

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

114. *Chinedu Eze & Anor v. I.G.P. & Ors*, [2007] CHR 43, 64 (Nigeria); Madaki, *supra* note 21, at 311.

115. ACHPR, *supra* note 10, art. 7.

116. Mpmugo, *supra* note 45, at 35.

- (a) The right to have proceedings and decisions held in public.¹¹⁷
- (b) The right to make representations before administering authority.¹¹⁸
- (c) The right to have the decision of administering authority reviewed by a higher organ.¹¹⁹
- (d) The right to be tried in public within a reasonable time.¹²⁰
- (e) The right to be presumed innocent until proved guilty.¹²¹
- (f) The right to be informed promptly in the language that he understands and in detail of the nature of the offence.¹²²
- (g) The right to be given enough time to prepare his defense.¹²³
- (h) The right to defend himself in person or by a legal practitioner of his own choice.¹²⁴
- (i) The right to examine the witnesses called by the prosecution and to bring his own witnesses before the court.¹²⁵

In the performance of their duties, the police have to some extent violated some or most of the attributes of this right. For example, the police have powers of bail regulated by the Constitution¹²⁶ and the ACJA.¹²⁷ Section 30(1) of the ACJA requires a person arrested without a warrant for a non-capital offence to be charged to court within 24 hours or released on bail. The police officers do not abide by this provision of the law. Although there are posters and signs indicating that bail is free, accused persons or their relatives are made to pay money to police officers in order to secure bail. In spite of such warnings, corruption of the bail process at the police stations still persists.¹²⁸

Section 36(4) of the Constitution requires any arrested person who is detained to be brought before a court of law within a reasonable time. However, the reality is that arrested persons are held for several weeks or months before being released or charged to court. This leads to over-

117. CONSTITUTION OF NIGERIA (1999), § 36(3).

118. *Id.* § 36(2)(a).

119. *Id.* § 36(2)(b).

120. *Id.* § 36(4).

121. *Id.* § 36(5).

122. *Id.* § 36(a); *see also* ACJA, *supra* note 54, § 6.

123. CONSTITUTION OF NIGERIA (1999), § 36(6)(b).

124. *Id.* § 36(6)(c).

125. *Id.* § 36(6)(d).

126. *Id.* § 35(4).

127. *See* ACJA *supra* note 54.

128. Mpamugo, *supra* note 45, at 35.

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crowding and unnecessary congestions in prison cells.¹²⁹ For example, in *Isaac Sambo v. State*, the accused committed an offense on July 7, 1976 and was in custody till June 27, 1977 when he was charged to court for the first time and was later sent back to custody.¹³⁰

Furthermore, Section 36(6) requires any arrested person be informed promptly in the language that he understands and in detail of the nature of the offence, and that he be given adequate time and facilities for the preparation of his defense. Unfortunately, research conducted by the Nigerian Institute of Advanced Legal Studies shows a gross abuse of this right by the police. In the report, 9.5% of the suspects claimed that they were not told the reason for their arrest until they appeared in court, 34.8% were told on arrival at the police station, 18.2% were not told until after questioning, 1.2% at the time of the formal charge, 3.1% just before being asked to make a statement, 6.8% after they had spent time in police custody.¹³¹ The report, therefore, reveals that 73.6% of those arrested were not informed of the details of the nature of the offence at the time of their arrest.¹³²

Additional evidence of police derogation of this right to fair hearing is their power to prosecute suspects in court under section 23 of the Police Act.¹³³ In practice, the police are responsible for most of the prosecutions of criminal suspects at the magistrates' courts.¹³⁴ Some of the offenses tried in the magistrates' court relate to offenses punishable with less than 5 years imprisonment, such as stealing, manslaughter, and assaults generally among others.¹³⁵ The objection here is that the police who prosecute suspected criminals lack training or competence. Besides, there is incompatibility in their roles of investigating and prosecuting, which obviously negates one of the principles of natural justice namely that an accuser shall not at the same time be the judge.¹³⁶ Added to this is the allegation of corruption. There is the revelation that police seek and obtain bribes from suspects in order to prosecute their cases with less diligence.

129. Madaki, *supra* note 21, at 314; Kalu Uwadineke, *A Case for the Demise of the Holding Charge in Nigeria's Criminal Justice System*, 5-7 BENIN J. PUB. L. 199 (2007-2009).

130. *Isaac Sambo v. State*, [1989] 1 CLRN 75 (Nigeria).

131. *See generally* NIGERIAN INSTITUTE OF ADVANCED LEGAL STUDIES, RESEARCH SERIES NO. 1, HUMAN RIGHTS AND THE ADMINISTRATION OF CRIMINAL JUSTICE IN NIGERIA, Pt. 2, Ch. 4, 106-07 (Ayo Ajomo & I.E. Okagbue eds. 1999).

132. Madaki, *supra* note 21.

133. The Police Act (2010) Cap. (P19) Laws of the Federation of Nigeria 2004, § 23.

134. *Id.*

135. *Id.*

136. *Legal Practitioners Disciplinary Comm. v. Gani Fawehinmi*, [1985] 16 NSCC (pt. II) 998; [1985] 2 NWLR (pt. 7) 300 (Nigeria).

Every week, the Nigeria police parade criminal suspects- people presumed to be innocent until presumed guilty by a court of competent jurisdiction- before the media in violation of the provisions of the Constitution.¹³⁷ Sometimes, the police even post group pictures of these suspects with items and ammunition allegedly seized from them on social media.¹³⁸ For example, on May 18, 2018, the police department's public relations officer tweeted with the official Twitter handle of the Nigerian Police Force, @PoliceNG, a picture of suspected pipeline vandals.¹³⁹ The Commissioner of Police believes that the parading suspects is meant for the police to always inform the members of the public of what they are doing so as to win the trust and confidence of the people and that the police is not restricted by any law from parading suspects when they are arrested.¹⁴⁰ However, Section 36(5) of the Constitution requires that every accused person should be presumed innocent until proven guilty. In *Ottoh Obono v. Inspector General of Police*, Justice Aneke, C.J., declared the parade of suspects before the media illegal and unconstitutional.¹⁴¹ In that case, the applicant, Ottoh Obono, on October 7, 2009, was paraded by the Commissioner of Police before journalists from both the print and electronic media prior to the arraignment of the applicant before a court of competent jurisdiction as a member of a gang of armed robbers who specializes in car snatching.¹⁴² The applicant's photographs were published in the Punch Newspapers on October 8, 2009 and the same news item was aired on the 9'o'clock Network News Programme of the Nigerian Television Authority (NTA) on the same day.¹⁴³ The applicant was exonerated of any crime by the legal adviser to the Director of Public Prosecutions of Lagos State after spending over ten months in Kirikiri Maximum Prisons, Lagos State.¹⁴⁴ According to the Honorable Judge, "this makes nonsense of the Applicants right to presumption of innocence as enshrined in section 36(5) of the Constitution and leaves much to be desired in the administration of the Justice system of the Country."¹⁴⁵

137. Banjo Damilola, *Fact Check: Is It Lawful for the Police to Parade Suspects, as Claimed by Lagos CP?*, SAHARA REPORTERS, (June 11, 2018), <http://www.saharareporters.com/2018/06/11/fact-check-it-lawful-police-parade-suspects-claimed-lagos-cp>.

138. *Id.*

139. *Id.*

140. *Id.*

141. *Obono v. Inspector Gen. of Police*, [2011] Suit No. FHC/CA/CS/91/2009 (Nigeria).

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

However, the law does allow the police to parade a suspect – but not before the media-only when the identity of the suspect is in question.¹⁴⁶ In identification parade, the suspect is lined up with eight other innocent people who have the same height, body build and complexion; the victim would then identify the accused among the nine men.¹⁴⁷ This is done in the police station in the presence of the suspect's lawyer, the investigative officer and the victim.¹⁴⁸ Thus, there is no doubt that all these examples constitute a serious derogation from the rights to fair hearing as provided in the Constitution.

5. Right to Privacy and Family Life

The Constitution guarantees every citizen the right to the privacy of their homes, correspondence, telephone conversations and telegraphic communications.¹⁴⁹ This right requires the police to desist from tapping a person's telephone lines or subjecting one's house to search or seizure of his property. Unfortunately, resorts of seizure of citizen's mails and correspondence in their offices and homes do continually occur in this country.

Generally, the police have powers to enter private homes in the course of arrest of a suspected criminal¹⁵⁰ or when investigating criminal matters,¹⁵¹ however, they must obtain a search warrant signed by the Judge, Magistrate or Justice of Peace.¹⁵² In discharging their duties, police often observe this right in breach. They enter private homes without search warrants and observe no limits in ransacking the home of the suspect. Amnesty International reports that, apart from demanding bribes, Special Anti-Robbery Squad (SARS) officers have been accused of stealing or confiscating property from relatives of detained suspects.¹⁵³ Some family members told Amnesty International that SARS officers stole their cars or withdrew all the money from their bank accounts.¹⁵⁴ For instance, the brother of a detainee who had been arrested on suspicion of participating in an armed robbery told *Amnesty International* how a team of SARS

146. Damilola, *supra* note 126.

147. *Id.*

148. *Id.*

149. CONSTITUTION OF NIGERIA (1999), § 37.

150. ACJA, *supra* note 54, § 12(1).

151. CONSTITUTION OF NIGERIA (1999), § 143.

152. *Id.* § 146(1).

153. Press Release, *How Nigeria Police Torture Detainees, Rob Them – Amnesty International*, PREMIUM TIMES NIGERIA (Sept. 21, 2016), <http://www.premiumtimesng.com/news/headlines/210951-nigeria-po>.

154. *Id.*

officers raided his home in Nsukka.¹⁵⁵ According to him, “The police team from SARS forcefully broke into boxes, locked furniture and drawers. By the time they left, several; items including watches, jewelry and shoes were missing. We were too scared to report the incident.”¹⁵⁶ In 2017, one Mrs. Ann Okpara was arrested in lieu of her husband whom the police alleged was an accomplice to Evans, the ‘Billionaire Kidnapper’ who is currently facing criminal trial.¹⁵⁷ She narrated how the police manhandled her in the process of arrest. She was later led by the police to arrest her husband at their home in Igando. At the time of her arrest, she was nursing a baby who was delivered prematurely. The police ignored it and took her into detention for over two weeks.¹⁵⁸ She further said that the police collected N50,000 from her brother, purportedly to release her, took her to their home and collected the few valuables they could lay their hands on, including a rechargeable fan, ladies handbags, which she sells, and her husband’s car, a 1999 model Toyota Camry. They further collected N40,000, N5,000, and N20,000 from her husband.¹⁵⁹

Thus, the above examples show that the police do not respect the right to privacy and family life of the citizens as provided for in the Constitution.

III. FACTORS RESPONSIBLE FOR THE INEFFECTIVE PERFORMANCE OF THE POLICE

Many factors have been adduced as responsible for the ineffective performance of the police in the promotion and protection of the human rights of citizens. One scholar, Ameh Madaki noted that, “these range from historical and structural factors to institutional and personality framework.”¹⁶⁰

The ability of the police officer to perform his duty of protecting lives and property, maintaining order and safety, effectively depends to a large extent on the officers perception of his duty, the level of his education and training and lastly, to his level of economic and social well-being. The inefficiency of the Nigerian Police is rooted in the historical form

155. *Id.*

156. *Id.*

157. Ezeamalu, *supra* note 95.

158. *Id.*

159. *Id.*

160. Madaki, *supra* note 21, at 316.

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and ideology of the policing system. The police have not quite departed from their original colonial philosophical template.¹⁶¹

The form and composition of the police today reflects its historical origins. The colonial police force from which the Nigerian Police Force emerged was mainly a force trained and equipped to protect officers of the Royal Niger Company (and later the colonial government) from hostile natives. The role of the police was not to serve the needs of the native communities, but to suppress and pacify them by maintaining some sort of peace.¹⁶² Each native police teams were generally recruited from alienated members of the communities. It was natural that these folks would wield colonial-invested power against their “oppressors.” It was also usual for the British (in typical divide and rule tactics) to import recruits from a different ethnicity to “pacify” the natives of an offending tribe.¹⁶³ It was easy for these first police to oppress the early Nigerians because they often had no stake in the communities. However, at independence, when the nationalists took over from the British colonialists, the police served the new rulers, not the people.

Consequently, the police view their fellow citizens as a conquered people without rights worthy to be respected. According to the view of one scholar, V.A. Mpamugo, “this in turn has led to permanent hostility between the police and the citizenry who resist answering a conquered people without fundamental rights to be respected.”¹⁶⁴ The British colonialists gave their police para-military training which equipped them to deal with opposition and insurrection against their imposed rule. Unfortunately, since the end of the British colonial rule, fifty-seven years ago, the same para-military training is still the system of training adopted for present day policemen. Similarly, the authority that was once derived from the might of the British Empire is now derived from the might of the federal government of Nigeria.¹⁶⁵ Over the years, succeeding administrations have maintained this idea that the Nigerian police works for the Nigerian government, protecting the government against the Nigerian citizenry. Thus when policemen guard private citizens, carry bags for politicians or clean their shoes, they are merely executing this traditional arrangement.¹⁶⁶

161. See Ayo Sogunro, *The Unfortunate Case of the Nigeria Police Force*, PUNCH NIGERIA, May 8, 2016, <http://punchng.com/unfortunate-case-nigeria-police-force/>.

162. *Id.*; see also Mpamugo, *supra* note 45, at 36.

163. Sogunro, *supra* note 161.

164. Mpamugo, *supra* note 45.

165. Sogunro, *supra* note 161.

166. *Id.*; See also Madaki, *supra* note 21, at 317.

Nevertheless, policing ought to be, first and foremost, a communal issue. A national police force (if necessary) should only be a scaled up version of a basic community level police force. In Nigeria, the opposite is the case; the average police officer is physically and emotionally alienated from the community they patrol. They are from a different ethnic group and do not speak the local language or understand the way of life of the community they patrol.¹⁶⁷ This hampers the ability of the police to discharge their duties properly.

Another major reason for the inefficient performance of the police is corruption. It is pervasive in the Nigeria Police Force. It ranges from extorting money from motorists at legal and illegal check points, collection of gratification in order to alter the course of justice¹⁶⁸ in favor of the highest bidders, to embezzlement and diversion of police funds to private accounts. This problem is compounded by the low literacy level of the lower ranks. Police work is seen in the society as a last resort employment, often for the unemployable i.e. those who are not only illiterate but often have some criminal records behind them. These groups view police work as a means of survival. For example, in a recent poll conducted by NOI Polls, most Nigerians (29%) attributed the poor performance of the Nigerian Police “to corruption in the rank and file.”¹⁶⁹ Followed by 22% who think it is “poor salary and welfare package” that contribute to the inefficient performance by the police.¹⁷⁰

Government also contributes immensely to the problems of the Nigerian Police Force. It is widely believed that police have suffered the worst neglect by successive governments of this country.¹⁷¹ The policemen, particularly the lower cadre, constantly exhibit signs of frustration. This is illustrated by their poor physical appearance and worn uniforms. Aside from poor remuneration, policemen are accommodated in barracks which are poorly maintained and overcrowded. Most of these barracks were

167. Dayo Johnson, *Give Us Community Policing- Oba Adebite*, SUNDAY VANGUARD, June 23, 2019, at 10.

168. Maruf Adeniyti Nasir, *Extra-Judicial Killings: A Reflection of Failing in Criminal Justice Systems*, 12 S. E. ASIA J. CONTEMP. BUS. ECON. & L. (2017).

169. Kingsley Omonobi, *Police Are Not Our Friends-Nigerians in Poll*, VANGUARD (May 14, 2017), <https://www.vanguardngr.com/2017/05/police-not-friends-nigerians-poll>.

170. *Id.*

171. Nduka Uzuakpundu, *Government and Politics Have Been Unkind to the Nigerian Police Force – Ex CP Frank Odita*, DAILY TIMES, July 12, 2016, <https://dailytimes-ng/features/government-politics-unkind-nigerian-police-force-ex-cp-frank-odita/>; Lukkey, *Police Have Been Neglected, IGP Cries Out*, AUTHORITY (Feb. 21, 2017), <https://www.authorityngr.com/2017/02/police-have-been-neglected-IGP-cries-out/>.

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designed by the British colonialists and have remained that way since independence without any efforts at modernization.

Other factors include: political interference, nepotism and ethnicity, inadequate manpower, lack of equipment, failure of accountability, the problem of holding charges, etc.¹⁷² In the midst of all these constraints, the Nigerian policemen lose a sense of discipline and decency and may engage in the very social vices they are supposed to prevent.

The Nigerian police do not provide adequate or “proper” policing services to the Nigerian people. It seems that their only monopoly is the investigation and prosecution of violent and proprietary crimes. Otherwise, as a public service, the police may have been relegated to the role of security guards, drivers and personal assistants to government functionaries and other high net-worth individuals. This, of course, ties into the patronage system.¹⁷³

The duplication of police functions by government and private entities contributes to the poor performance of the police in Nigeria.¹⁷⁴ Nowadays, vigilance groups and neighborhood watches handle basic community policing.¹⁷⁵ State traffic agencies have been more effective at traffic management.¹⁷⁶ The Federal Road Safety Corps supervises highway safety.¹⁷⁷ The Economic and Financial Crimes Commission handles economic and financial crimes.¹⁷⁸ The Department of State Services handles intelligence gathering, The military, ordinarily meant for defending Nigeria from external aggression,¹⁷⁹ also handles domestic aggression including: election monitoring; vehicular checkpoints; and suppressing civilian protests and demonstrations. For example, a report by Amnesty International indicates that, the military was deployed in 30 out of Nigeria’s 36 states and in the federal capital territory, Abuja, where they per-

172. Madaki, *supra* note 21, at 318.

173. Sogunro, *supra* note 161.

174. See Abawuru, *supra* note 171.

175. For example, in Lagos state, the local security groups include: Onyabo, the Vigilante Group of Nigeria (VGN); Yago Boys, Oodua People’s Congress (OPC), among others; see *Lagos: A Megacity in the Grip of Criminal Elements*, VANGUARD, July 23, 2017, at 27 (discussing the reasons why Ikorodu residents do not trust the police enough to rely on them for protection; Residents complained that when crimes are committed and suspects are handed over to the police, they later see them walking freely in the community and threatening the residents. In most cases, the police are alleged to be divulging the source of information to the suspects), <https://www.vanguardngr.com/2017/07/lagos-megacity-grip-criminal-elements-2/>.

176. See Abia State Road Traffic and Safety Management Law (2015) (Nigeria).

177. Federal Road Safety Commission (Establishment) Act (2007) (Nigeria).

178. Economic and Financial Crimes Commission (Establishment, etc.) Act (2004) (Nigeria).

179. CONSTITUTION OF NIGERIA (1999), § 217(2)(a)&(b).

formed routine policing functions including responding to non-violent demonstrations.¹⁸⁰ The military deployment to police public gatherings contributed to the number of extrajudicial executions and unlawful killings.¹⁸¹ Still, the Nigerian Security and Civil Corps deals with public vandalism, protection of public installations and the licensing of private guards.

Individual police attributes also contribute to the poor human rights record of the police. Nigerian policemen and women are inadequately screened and tested before recruitment, poorly trained – before and throughout their career.¹⁸² These inadequacies, together with poor supervision and leadership, weak disciplinary control, poor information management, poor remuneration and working environment, produce orientation and attitudes that are inappropriate to policing in a civilized and democratic society.¹⁸³

Furthermore, inadequate and obsolete equipment affect the performance of the police. The NPF lacks manpower (men and women), materials and money. According to the Inspector General of Police, Ibrahim Idris, “The Nigerian Police force is understaffed and hence, fall short of the United Nations recommendations of one policeman for 400 persons . . . the strength of the police is at the ratio of 1 to 537 persons.”¹⁸⁴ With regards to human resources, the force lacks adequate and well-qualified personnel for its duties. The facilities available to police ranging from transportation, telecommunication, office and residential accommodation, ammunition, stationary, furniture to uniform are inadequate or unserviceable or obsolete.

Thus, the NPF is greatly constrained from discharging their duties: to protect lives and property of citizens, to enforce all laws and regulations with which they are charged, and to promote and protect human rights of the citizens while policing.

180. Amnesty Int'l, *okonro* note 73.

181. *Id.*

182. See Okoronye & Okeyim, *supra* note 87, at 44 (stating that a large percentage of policemen were not vetted upon recruitment resulting in persons of questionable characters joining the force).

183. See CYPRIAN O. OKONKWO, *THE POLICE AND THE PUBLIC IN NIGERIA* (1966); E.E.O. Alemika, *The Nigerian Police: Functions, Powers and Performance*, 1 *NIGERIAN J. PUB. L.* 120-41 (1997).

184. See Abawuru, *supra* note 171.

IV. RECOMMENDATIONS

Unfortunately, this paper has shown that the police is of the worst violators of human rights in Nigeria. Due to certain endemic problems identified above, such as corruption, poor training, poor remuneration etc., most Nigerians do not trust the police to protect them. Instead, they rely on private security groups and vigilante organizations for their protection than the police. Thus, it becomes imperative that these factors are tackled with a view to putting measures in place to make the police live up to their responsibility in promoting and protecting the human rights of citizens. It is against this backdrop that these suggestions and recommendations are put forward.

1. The Police Act should be reviewed in line with international conventions and principles, and the ACJA.
2. The NPF should change its law enforcement practices and style to emphasize reactive policing. Instead, proactive policing strategies such as beat (foot) patrol, problem-oriented policing, and involving police-community partnership should be emphasized.¹⁸⁵
3. Workshops, seminars, and lectures for the reorientation of police officers should be organized at state and divisional command levels, to enable them to acquire proper orientation for policing a free and democratic society. The curriculum of police colleges should be enlarged to adequately deal with human rights education; international codes and ethics for law enforcement officers; and how the craft and management of policing can embrace human rights as central to good policing.
4. The NPF should revise recruiting and vetting processes to ensure that only persons with good character, clean criminal records, adequate experience and/or preparation and are emotionally stable are recruited as police officers. The government can fund this with money from the Police Trust Fund as soon as the Police Trust Fund Bill, which was passed recently by the Senate, becomes law.¹⁸⁶ The money will be used to enhance the skills of the personnel of the police in order to ensure efficiency, overall per-

185. Alemika, *supra* note 183, at 69.

186. *Senate Passes Nigeria Police Trust Fund Bill*, PUNCH (Apr. 9, 2019), <https://punch.com/senate-passes-nigeria-police-trust-fund->.

formance and constant improvement while they perform their duties.

5. Members of the public should be educated on the role and powers of the police and the significance of public cooperation with police in order to promote an overall individual, communal and national security.¹⁸⁷
6. Policemen should intermittently undergo psychological checks to determine their mental state. This is not to ridicule the police, but to ensure that they are fit to handle the complex work involved in policing. The senior officers should supervise their officers properly and reprimand those who drink while on duty or under the influence of drugs.¹⁸⁸ Adequate training on the use of drugs and guns and the consequences of abuse should be given to the police. This is necessary to reduce the cases of extra judicial killings of citizens by the police.¹⁸⁹
7. Serious and sustained campaigns against corruption in the Nigeria Police Force should be mounted both in the classrooms, workshops, seminars, conferences, etc. Due to pervasive corruption in the police, members of the public are distrustful of the police in their community. For instance, most recorded cases of extra judicial killings involving the police were not prompted by the need to fight crime or arrest fleeing suspects but because of the victims' refusal to part with money. Therefore, combating corruption and greed in the NPF will enhance the ability of the police to perform their duties in the community.
8. The federal government should equip the police with modern and sophisticated equipment such as computers, crime laboratories, walkie-talkies, modern weapons, bullet-proof vests etc. The government should also provide good condition of service of the NPF, this includes recruitment of adequate number of policemen, attractive salary, health benefits, conducive offices/police stations and accommodations. This will give police officers a stake in the job or good reason to take the risks inherent in police work. It will also enable them to stop extortion to supplement their meagre salaries. Consequently, these changes will im-

187. *Id.* at 68.

188. Cosmas Omegoh, *Anxiety Over Extra-judicial Killings*, SUN (June 22, 2017), <http://sunnewsonline.com/anxiety-over-extra-judicial-killings/>.

189. *Id.*

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prove the image of the police and thereby boost their morale. The government could fund these changes with the Police Trust Fund Bill recently passed by the Senate. The bill proposes for a percentage, for example 1 percent from Nigerians gross income, 0.005% of profits made by companies in Nigeria would go a long way in helping the government to fund the police very adequately for improved services.¹⁹⁰

9. Another way to check the escalation of a police officer's proclivity for violence is to restrict the use of firearms to special units and those who deal with the public should not be allowed to carry arms indiscriminately. Rather, those who deal with the public should be trained in unarmed combat, the use of communication technology, and non-lethal weapons like pepper spray. In this regard, they would only need to send for reinforcement from their armed colleagues in situations they cannot handle without arms.¹⁹¹
10. Although brutality often involves the rank and file of an officer, the culture of impunity in the police has obviously been sustained by the complicity of the superiors. In most cases, it is the divisional police officers and even higher authorities that shield their junior officers from investigation and prosecution. In many cases, these superior officers are known to share from the reward of crime of their junior officers.¹⁹² Thus, for a change of values to be effective in the police, senior officers must model good behavior, sanction their erring officers, end the era of shielding policemen and maintain core values of policing.¹⁹³
11. Finally, the federal government should overhaul the entire police structure in Nigeria by implementing a community

190. Abdul Mahmud & Okey Nwanguma, *A Review of the Police Reform Bill, 2018*, SAHARA REPORTERS (Nov. 19, 2018), <http://www.saharareporters.com/2018/11/19/review-police-reform-bill-2018-abdul-mahmud-and-okey-nwanguma>.

191. Editorial Board, *Checking Police Killings*, GUARDIAN (Oct. 21, 2015), <http://guardian.ng/opinion/checking-police-killings>.

192. ERIC GUTTSCHUSS, HUMAN RIGHTS WATCH, "EVERYONE'S IN ON THE GAME": CORRUPTION AND HUMAN RIGHTS ABUSES BY THE NIGERIA POLICE FORCE (2010) (discussing how money flows up the chain of command through informal but widespread system of returns in which subordinates pay their superiors a portion of the money they make from bribes and extortions), available at <https://www.hrw.org/report/2010/08/17/everyones-game/corruption-and-human-rights-abuses-nigeria>.

193. *Id.*

policing strategy across the country.¹⁹⁴ This will improve police/community relations and prevent police violations of human rights of the citizens. For example, the lack of community participation in the security process contributes to the problem of insecurity in Nigeria. The police alone cannot secure a community without the assistance of the members of that community.¹⁹⁵ A police officer is supposed to know the nooks and crannies of the community, but where the police officer is from another part of the country and does not speak the local language, policing effectively would be difficult. Therefore, curbing crimes in a society needs the combined efforts and cooperation of Kings, Emirs, traditional rulers, religious leaders, and the people themselves who live and know each other better than the police in villages, towns and cities in the country.¹⁹⁶

V. CONCLUSION

This paper examined the role of the Nigerian Police Force in the promotion and protection of human rights. There is no doubt that the fundamental human rights of citizens are well provided for in the Constitution and in other Nigerian statutes. What is important is the recognition that human rights are broader than the rights associated with criminal law and criminal process. These rights encompass the individual sense of dignity, respect and free participation in society, as well as a government's role to facilitate social exchange. Such rights need a mechanism for their protection. In democratic societies, that mechanism is the law and the judiciary, but it is often mediated by the actions of the police.

How the police go about their business in interacting with the community is a major determinant of whether the community sees the police as legitimate and just, warranting public support and respect not fear. Since curbing crimes requires the combined efforts of everyone, there is need to reform and decentralize the NPF by implementing a community policing strategy. This will promote effective police services, respect for human rights and rule of law by the police, mobilize public support for

194. Babatunde Joseph Oduan, *Community Policing: A Panacea for Combating Crime in Nigeria*, NIGERIAN VOICE (June 27, 2019), <https://www.thenigerianvoice.com/news/279375/community-policing-a-panacea-for-combating->.

195. Dayo Johnson, *Traditional Rulers Need Constitutional Powers to Fight Insecurity- Deji of Akure*, SUNDAY VANGUARD, June 23, 2019, at 10.

196. Oduan, *supra* note 194.

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the police and encourage measures to reduce conflicts and violence between police and citizens.

In totality, it is submitted that there are both positive and negative dimensions to the impact of the law enforcement agencies in the performance of their roles in relation to the citizens' constitutional rights. Within the last decade, the NPF, SARS, and other law enforcement agencies have been able to reduce armed robbery, assassinations, rape, kidnappings, and other violent crimes. However, there have been significant notable cases of extra-judicial killings, custodial assassinations, torture, and other unconstitutional human rights violations. The key is for the government to adopt a proactive stance in continuous, regular and constant monitoring, supervising and overseeing the activities of the law enforcement agencies within the constitutional guidelines along with positive statutory and judicial reforms that will constantly take the needs of the society into consideration.