

## REFLECTION ON THE EVOLUTION AND CONTINUOUS VIOLATION OF HUMAN RIGHTS IN NIGERIA

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### Abstract

*The article examines the historical evolution of human rights in Nigeria from the pre-colonial era, colonial era, post-independence era: inclusive of the military era and the present civilian-democratic era of 1999. The paper generally acknowledged the fact that the past co-exist with the present as history is a study of both change and of continuity. The authors argued that the issues of human rights violations are not associated with a particular era in the Nigerian history, premised on the fact that there was observed in Nigerian pre-colonial era the principles of human right, even though without any enactment to guide the observance. Furthermore, that the British Colonial administration merely harvested and documented the scattered vagaries of species of theoretical aspect of human rights in Nigeria and that the democratic era of the Nigerian government has made very little or no improvement in the protection of human rights on assumption of office. Consequently, the paper maintained that the observance, protection and violations of human rights have predated colonial administration in Nigeria.*

**Keywords:** human rights, colonial administration, violation, customary practice, pre-independence.

### 1. Introduction

Historically, the issues bedevilling human rights violations in Nigeria are not associated with a particular era. At very point in time in the Nigeria history, the issues of human rights protection against its violation has been an issue of national discourse. Various challenges to human rights violations have always existed from the pre-colonial era, colonial era, post-independence era: inclusive of the military era and the present civilian-democratic era of 1999. The challenges to human rights' violations ranges from human rights violation committed by private individuals, government authorities as well as defined government refusal to take steps to protect human right.

This article undertakes a contemporary discourse on issues and challenges associated with human rights protection and violations in Nigeria's history. The paper also

examines critically the status of human rights in the pre-colonial, colonial, post-independence era: inclusive of the military era and the present civilian-democratic era of 1999 till date. The rationale for and the relevance of ascertaining human rights violation and protection in Nigeria in historical perspective are by no means far-fetched. It has long been generally acknowledged that the past co-exists with the present. History is a careful study of both change and of continuity.<sup>1</sup> There is no doubt saying history helps to appreciate the past, understand the present and prepare for the future.

The article takes the stance that: the issues of human rights violations are not associated with a particular era of Nigeria history, human rights were observed in Nigerian pre-colonial era without any enactment to guide the observance of it, the British colonial masters brought the theoretical aspect of human rights to Nigeria without practicing it absolutely and that the democratic era of the Nigerian government has made very little or no improvement in the protection of human right since 1999 till date. It offers suggestions and recommendations, which if implemented could curb human rights violations in Nigeria.

## 2. Conceptual framework

In this part of this article, the following concepts would be explained: human rights, and human rights' violations.

### i. Human Rights

Human rights can be best described as those rights possessed by human beings in contradistinction with other non-human creature.<sup>2</sup> This definition appears rather too broad in the sense that it could include other 'rights' which; though are observed and protected by the society as rights, are not necessarily protected by law or capable of judicial enforcement. For instance, some rights observed and protected under customary law are not protected by law. However, there is a general agreement that once human rights have been identified, their sanctity must be recognised, observed and protected particularly in a democratic setting. In summary, human rights are rights that inures in favour of a person by virtue of that person being a human being. They are also the legal and universal legal entitlements which every human being has under the law irrespective of his or her status. The first rational behind the observance of human rights was based on the fact that certain principles of justice are natural and that rights conferred by natural law are something to which every human-being is entitled.<sup>3</sup>

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<sup>1</sup> J. F. Ade Ajayi 'The Factor of Tradition in Development' 23 January 1991 (2) Text of an Award Winner Lecture of the Nigerian National Merit Award, Daily Sketch.

<sup>2</sup> I. Oraegbunam, 'Human Right: A Jurisprudential analysis of theories and concepts' (2011) 1(1) *Sacha Journa of Human Rights* 102-117.

<sup>3</sup> A. Rosenbaum, *The Philosophy of Human Rights: International Perspective* (Aldwyeh Press, 1980) 1.

## ii. Human Rights' Violation

Human rights' violations are the direct or indirect deprivation of an individual's enjoyment of human right. It is direct when it is committed by a person, group of persons or government authority. It is indirect when the government fails, refuse or neglect to protect an individual's enjoyment of human right. When a State commits human rights violation, it can either be the deliberately and intentionally committed or the failure of the State to protect human rights of its citizens. When a State commits human rights violations, various actors can be involved such as its security official and other government officials.<sup>4</sup> Such violations by the State can be physically violent in nature such as police brutality. It can also be non-physically violent when a citizens' right such as right to fair hearing, freedom of speech and freedom of association is deprived.<sup>5</sup>

The indirect violation of human right can be said to arise in situations when there is a conflict between individuals or groups in the society and the State fails to wade-in to protect the rights of vulnerable persons and groups.<sup>6</sup> For instance, in the United States, the State failed to protect black Americans when they were being lynched frequently in the country.<sup>7</sup> Since many of those responsible for the lynching were also State actors such as the Police, it amounted to both types of human rights violations occurring at the same time.<sup>8</sup>

## 3. Theoretical and Historical development of Human Rights in Nigeria

Human rights in Nigeria are protected under the current Constitution of the Federal Republic of Nigeria (CFRN) 1999, particularly in Chapter Four. Nigeria has made tremendous improvements on human rights under this Constitution. The America Human Rights Report of 2012, notes areas where significant improvements are needed, which include, abuses by Boko Haram insurgents, killings by governmental forces, lack of social equality and issues with freedom of speech.<sup>9</sup>

The Human Rights Watch's 2015 World Report states that intensified violence by Boko Haram insurgent, restrictions of Lesbians, Gays, Bi-Sexual and Transgender (LGBT) rights and government corruption continue to undermine the protection of human rights in Nigeria.<sup>10</sup>

The historical development of Human rights in Nigeria shall be discussed under the following sub-headings:

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<sup>4</sup> 'What are Human Rights Violations' <<https://www.humanrightscareers.com/issues/what-are-human-rights-violations/>> accessed 10 March 2024.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> 'Bureau of Democracy, Human Rights and Labor' Human Rights Practice for 2012.

<sup>10</sup> Human Rights Watch, 'World Report 2015: Nigeria' <<https://www.hrw.org/world-report/2015>> accessed 15 January 2024.

### I. 4Human Rights in Pre-Colonial Era

The present day Nigerian society is a product of colonialism.<sup>11</sup> Nigeria as a nation State has unarguably the largest population in Africa Continent. It came into existence with the amalgamation of Lagos colony together with the Southern and Northern Protectorates of Nigeria in 1914 by Sir Frederick Lugard.<sup>12</sup>

It is worthy of note that before the advent of the British colonialists, the present day Nigeria was constituted by different tribes which ruled themselves separately in fragmentary communities without a central political union.<sup>13</sup> These, included the powerful sultanates of Sokoto, principalities and ancient kingdoms like Benin Empire,<sup>14</sup> the Emirate systems of Kano and Katsina. The Obas and Chiefs ruled-over their kingdoms in the Western part of Nigeria.<sup>15</sup> Governance was essentially a collective responsibility of the Chiefs and elders in the Eastern part of Nigeria as there was no centralised system of government compared to what was in existence in the Western and Northern parts of Nigeria.<sup>16</sup>

Human rights in pre-colonial Nigeria, therefore refers to the state of human rights in the various socio-political formations which existed in the present day Nigeria before 1914. The important question to ask at this stage is: Did the pre-colonial Nigeria know of and observed the system of human rights? Put differently, is the notion of human rights alien to the traditional communities which make-up the present day Nigeria? What extent were human rights observed, recognised and protected in the pre-colonial era? Some scholars doubted the existence of laws in societies which were at the level of development of Africa during the pre-colonial era.<sup>17</sup> In order to provide justification for their work, these Western scholars contend that Africa was a land of paganism, fetish and ignorant people<sup>18</sup>. The historical account above undoubtedly stunted the growth of human rights in Africa. It should be noted that the existence of some measure of protection of human rights in traditional African societies cannot be denied.

Eze, rightly points out that few legal studies have been conducted into pre-colonial history of Africa, and as such there are no coherent data, upon which a scientific examinations and analysis of human rights promotion and protection in

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<sup>11</sup> S. G. Ehindero, *The Constitutional Development of Nigeria 1849 – 1989* (Ehindero Nig Ltd., 1999) 1.

<sup>12</sup> Council for Foreign Relations, ‘Amalgamation of 1914’ <<https://www.cfr.org/blog/lord-lugard-created-nigeria-104-years-ago>> accessed 5 June 2023.

<sup>13</sup> B. O. Nwabueze, *A Constitutional History of Nigeria* (Longman Group Ltd., 1982) 116. See also, P. U. Umoh, *The Nigerian Constitution Today* (Uyo Modern Business Press, 1985) 1-5.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

that epoch could be predicated.<sup>19</sup> This notwithstanding, the argument that traditional societies did not possess a legal system was based either on inadequate information or lack of appreciation of the true nature of pre-colonial African societies. For instance, many North African countries like Libya, Algeria, Egypt and Ethiopia in East Africa were, by all standards civilised nations before the advent of colonialism in Africa.<sup>20</sup> Without doubt, the preponderance of opinion tilts in favour of the view that the notion of human rights was not alien to traditional African societies. On his part, Dankwa notes that:

Long before the advent of colonialism, Africans had a notion of human rights. The rights to life, property and social security evidenced this point. At every libation, on festive and other occasions, prayers are said for the protection and preservation of individual life and life in general respectively.<sup>21</sup>

The opinion of Dankwa above was re-echoed by Bello when he states that ‘human rights were not alien to traditional African societies’.<sup>22</sup>

Baye, another African legal scholar also, argues that pre-colonial Africa knew of a system of human rights adapted to the political and legal situation existing in that era.<sup>23</sup> He accordingly stated that in spite of difficulties in obtaining material, enough information exists to show that there not only existed legal systems but that there was some measure of protection of human right.<sup>24</sup> This argument draws strength from the fact that the African chieftains and empires were more or less ‘democratic’ as rarely did the will of one man, whether chief or king determined the fate of those societies.<sup>25</sup>

It is important to first make certain preliminary but important points before examining the content and quality of human rights recognised and protected in the pre-colonial era of Nigeria. Firstly, although the existence of human rights in traditional Nigerian communities cannot be denied, there is a point of difference between traditional and Euro-American conceptions of human rights. Human rights in the later are considered universalistic in nature and therefore applicable to all human beings

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<sup>19</sup> O. C. Eze, *Human Rights in Africa, some selected problems* (Nigerian Institute of International Affairs, 1984) 1-8.

<sup>20</sup> This is Africa, ‘What Africa had before colonisation’ <<https://thisisafrica.me/african-identities/africa-colonisation/>> accessed 26 December 2023.

<sup>21</sup> V. Dankwa, *The African Charter on Human and Peoples’ Rights: Hopes and Fears in Human Rights and Development in Africa* (Welch and Meltzer Publications, 1984) 17.

<sup>22</sup> T. Bello, ‘Human Rights, African Development’ (2002) 7(8) *Encyclopedia of Public International Law* 19.

<sup>23</sup> M. ‘Baye, *Organization de L ‘Unite-Africane’ Les Dimensions Internationales Des Droits Del ‘Homme* (UNESCO, 1975) 650.

<sup>24</sup> L. Marasinghe, ‘Traditional Conception of Human Rights in Africa’ in *Human Rights and Development in Africa* (1984) 8(39) *Welch and Meltzer Journal* 16.

<sup>25</sup> *Ibid.*

without distinction as to language, colour, race, sex and religion.<sup>26</sup> While in the former, human rights existed within the context of a particular tribe or group.<sup>27</sup>

Secondly, as a result of the developmental and rudimentary nature of the socio-political relations of that era, the scope and catalogue of human rights recognised and protected then were not comparable with those of Euro-American societies. It was based on this reason that Eze states that while the existence of human rights in traditional African societies cannot be denied, the degree to which they were observed and protected was comparatively limited.<sup>28</sup>

The rights recognised in traditional Nigerian societies were remarkably-influenced by laws, beliefs and customs of the individual tribe or group.<sup>29</sup> It is based on this reason that the concept of human rights in traditional African communities generally did not lend itself to the contemporary barge of universality.<sup>30</sup> Eze, insightfully notes that traditional African communities knew of institutionalised derogations from human rights.<sup>31</sup> Thus, there was the *Osu* caste system and slavery epitomised by the untouchables.<sup>32</sup> The practice of human sacrifice and killing of twins in the unfounded belief that they will bring evil to the land was also prevalent in the pre-colonial Nigeria era.<sup>33</sup> Among the human rights that were observed and protected in the pre-colonial Nigeria era, were the right to life, freedom of thought and of expression, limited only by the principle of respect for oneself and others. Widows remained members of their deceased husband's extended families. Freedom of association with one's own kin within the extended family and age groups was also protected. Right to membership of an extended family was considered as a right. Thus, a member of a family may not be unlawfully excluded from the family. Individuals could own property and their rights to such property were protected by the punishment of an unauthorised trespasser. The right to work and right to education were equally recognised and protected.<sup>34</sup> It is noteworthy, also, that, some of the new generation rights were protected under the traditional systems. For instance, freedom from hunger was recognised and protected by the pre-colonial Nigerian societies, as members of a community were under an obligation to provide food for a hungry member of the same community.<sup>35</sup>

Notwithstanding how interesting the above appears, it is pertinent to state at this point that there existed gross denials and violent violations of human rights in traditional Nigerian societies.<sup>36</sup> Traditional African communities generally

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26 *Ibid.*

27 *Ibid.*

28 See Eze, (n 19).

29 *Ibid.*

30 *Ibid.*

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

34 *Ibid.*

35 *Ibid.*

36 *Ibid.*

knew of institutionalised derogations from human rights.<sup>37</sup> Certain categories of persons; women and children particularly, were barred from belonging to certain traditional cults and organisations.<sup>38</sup> The practice of slavery flourished in this same era. There existed the *Osu* caste system in *Igbo* land in the South-Eastern part of Nigeria.<sup>39</sup> Little or no respect was paid to the value of life as human sacrifices were made to appease the gods. Servants were killed and buried with deceased kings in the unrealistic belief that such servants would minister to the needs of such kings in the great beyond.<sup>40</sup> These practices were more common in Yoruba tribe a tribe in the South-Western part of Nigeria.<sup>41</sup>

Twins were killed in the believe that they would unleash terror and evil on the land in Cross River and Akwa Ibom States in the South-South part of Nigeria.<sup>42</sup> Children and women enjoyed very little or no human rights with women regarded and treated as chattels.<sup>43</sup> Thus, when a man dies, his widow could be inherited by a close member of his family.<sup>44</sup>

Notwithstanding the above cases of gross violations of human rights in traditional Nigerian societies, the existence of human rights in that era cannot be denied. This proposition is not strange or contradictory. This is so, because the 1789 Declaration of the Rights of Man and Citizens did not prevent France from subsequently amassing a vast colonial empire in Africa. Also, it did not also prevent them from enslaving the blacks.<sup>45</sup>

Again, the 1776 American Declaration of Independence did not absolutely terminate violations of human rights by the Americans, as they continued the practice of racial segregation, slavery and dehumanising treatment of blacks.<sup>46</sup> Globally, notwithstanding the various UN instruments on human rights, worrisome situations of human rights violations across the globe still exist.<sup>47</sup>

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37 *Ibid.*

38 *Ibid.*

39 *Ibid.*

40 *Ibid.*

41 *Ibid.*

42 *Ibid.*

43 *Ibid.*

44 *Ibid.*

45 Ny Times, 'Slavery, Power and the Human Cost' <<https://www.nytimes.com/interactive/2019/08/19/magazine/history-slavery-smithsonian.html>> accessed 28 December 2023.

46 *Ibid.*

47 Human Rights, 'Human Rights Violations' <<https://www.humanrights.com/what-are-human-rights/violations-of-human-rights/>> accessed 28 December 2023.

## II. Human Rights in Colonial Era

Colonial era in Nigeria's history, as in most colonised nations, had a dismal record of human rights recognition and protection.<sup>48</sup> There is no doubt that the arrival of the colonialists, inevitably subjected the Nigerian society to the political, economic as well as social domination and subjugation of the colonial power.<sup>49</sup> Also, the advent of colonialism engendered an imposition of European education and values.<sup>50</sup> Read commented on the oppressive and repressive character of colonialism. He states that:

...colonial rule was essentially authoritarian and even the introduction of English law as the basis for local legal systems did not result in the colonial subjects enjoying the full rights of liberty, due process, free speech and the rest which the common law is said to guarantee to the Englishman himself.<sup>51</sup>

It should be noted that the colonial administrators did not only plunder the Nigeria like other colonial territories with naked force in search of slaves and raw materials. Other human rights such as freedom of the press, freedom of speech, freedom of association and assembly were denied in order to silence and weaken critical opinions against the colonial administrators. Na'im argues that:

Colonial rule... is by definition the negation of (human) rights. However, one evaluates pre-colonial African political regimes from the point of view of human right, it is clear that colonialism was incapable of creating and sustaining the institutions and processes necessary to protect rights.<sup>52</sup>

Eze states that colonial rule was a negation of fundamental human rights of self-determination and that the colonial system, in spite of declarations to the contrary, was authoritarian and racist.<sup>53</sup> It encouraged class and ethnic differentiation, and even if it could be construed as a better and higher level of development when compared to the feudal-slave systems, it was essentially antithetical to human rights.<sup>54</sup>

Flowing from the perspective above, it is obvious that the British colonialists left a legacy of monumental infraction of human rights in Nigeria. For instance, the right

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<sup>48</sup> Eze, (n 19).

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> J. Read, 'Bills of Rights in The Third World-Some Commonwealth Experiences' cited by Eze, (n 19) 20.

<sup>52</sup> Abdullahi A. An-Na'im, *The Legal Protection of Human Rights in Africa: How to do more with Less* (University of Michigan Press, 2001) 98.

<sup>53</sup> O. Eze, 'African Concept of Human Rights' in A.U. Kulu & Y. Osinbajo, 'Perspectives on Human Rights' *Journal of Law Policy and Globalization* <[www.cohinariiste.org](http://www.cohinariiste.org)> accessed 7 June 2023.

<sup>54</sup> *Ibid.*

of trade unions to strike was denied to the Enugu coal miners in 1949.<sup>55</sup> The re-occurrence of exercise of power of political detention of the natives also constituted a significant infraction on the rights of the natives.<sup>56</sup> In some situations, the checks and balances which ought to be the powers of the traditional rulers were destroyed by converting the ruler into a single native authority reinforcing thereby the authoritarian aspect of the powers of the Chiefs.<sup>57</sup>

The powers of traditional rulers were frequently abused beyond the limits that would ordinarily have been tolerated in the traditional legal order.<sup>58</sup> It was a common practice by the colonialists to exert forced and cheap labour from the local populace to reduce the cost of colonial administration.<sup>59</sup> In fact, the greatest infraction on human rights in the colonial era was the denial of the right to self-determination, as espoused in the various international instruments on human rights, particularly the UDHR 1948.<sup>60</sup> Again, the subjugation of people to alien domination and exploitation constituted a very serious denial of human rights.<sup>61</sup> Nigerians experienced all these denials of human rights during the colonial era.<sup>62</sup>

The poor record of the colonial masters on human rights protection and promotion is not to be construed to mean that colonialism had no positive impact on human rights. It should be noted that colonialism, also, had an admirable, profound and positive influence on human rights. Consequently, the coming of colonialism in Nigeria was not a total curse. Colonialism produced some positive impact on issues bordering on human rights. The British, like the Belgians and the French recognised and provided for the protection and application of customary law and institutions in so far as they were not repugnant to natural justice, equity and good conscience.<sup>63</sup> Based on this repugnancy rule, many customary practices which were considered objectionable, as being inconsistent with civilized standards were abolished. The customary practice, include slave trade and slavery, the custom of killing twins, the *Osu* caste system, trial by ordeal and human sacrifices.<sup>64</sup>

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<sup>55</sup> Medium, 'Short History of Strike in Nigeria' <<https://medium.com/@TheBlkRepublic/a-short-history-of-strikes-in-nigeria-52d41c7491e3>> accessed 28 December 2023.

<sup>56</sup> Viviane Saleh-Hanna, 'Colonial System of Control: Criminal Justice in Nigeria' <[https://www.researchgate.net/publication/293258312\\_Colonial\\_Systems\\_of\\_Control\\_Criminal\\_Justice\\_in\\_Nigeria](https://www.researchgate.net/publication/293258312_Colonial_Systems_of_Control_Criminal_Justice_in_Nigeria)> accessed 28 December 2023.

<sup>57</sup> A. A. Babalola, '**The Role of Traditional Rulers – Sanusi The Genius: A Case Study (2)**' <<https://www.abuad.edu.ng/the-role-of-traditional-rulers-sanusi-the-genius-a-case-study-2/>> accessed 28 December 2023.

<sup>58</sup> *Ibid.*

<sup>59</sup> Viviane Saleh-Hanna (n 56).

<sup>60</sup> The Universal Declaration of Human Rights adopted 10 December 1948 by the UN General Assembly Resolution 217A, art 2.

<sup>61</sup> Viviane Saleh-Hanna (n 56).

<sup>62</sup> *Ibid.*

<sup>63</sup> Native Law Ordinance, Cap 211 Laws of Nigeria 1948, s 19.

<sup>64</sup> Ejembi Anefu Unobe, 'Class-formation, State Construction and Customary Law in Colonial Nigeria' <<https://www.jstor.org/stable/43657827>> accessed 28 December 2023.

The positive effect of colonialism on human right was naturally summed up by Eze when he notes that:

There is no doubt that by abolishing certain objectionable practices prevalent in African traditional societies - slavery, human sacrifice, etc, - the colonialists have contributed to a progressive development of human rights...<sup>65</sup>

### III. Human Rights in Post-Independence Era

It is a fact that Nigeria gained political independent on 1 October 1960. Since the date, every considerable effort has been made to promote and protect human rights in Nigeria. The independence and Post-independence constitutions, that is, the Independence Constitution of Nigeria 1960, Republican Constitution of Nigeria 1963, the Constitution of the Federal Republic of Nigeria 1979 and the Constitution of the Federal Republic of Nigeria 1999, not only guaranteed human rights but initiated mechanisms to ensure their enforcement. The widely-basic civil and political rights guaranteed in the global instruments are recognised, guaranteed and protected by these constitutions. These rights, include right to life,<sup>66</sup> right to freedom from slavery,<sup>67</sup> right against torture, cruelty, inhuman and degrading treatment,<sup>68</sup> and right to liberty and security of persons.<sup>69</sup> Arbitrary arrest and detentions are also prohibited.<sup>70</sup> These constitutions, also, guarantee fair and public hearing within a reasonable time,<sup>71</sup> right to freedom of thought, conscience and religion,<sup>72</sup> rights to private and family life,<sup>73</sup> right to freedom of expression and the press,<sup>74</sup> right to freedom of movement,<sup>75</sup> right to freedom from discrimination,<sup>76</sup> right to peaceful assembly and association,<sup>77</sup> and right to acquire and own property.<sup>78</sup> Besides, the political, economic and social objectives provided under the Fundamental Objectives and Directive Principles of State Policy<sup>79</sup> are directed toward securing the realisation of the economic, social and cultural rights articulated

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<sup>65</sup> Eze, (n 53).

<sup>66</sup> The Republican Constitution of Nigeria 1963, s 15; the Constitution of the Federal Republic of Nigeria (CFRN) 1979, s 30 and the Constitution of the Federal Republic of Nigeria (CFRN) 1999, s 33.

<sup>67</sup> The Republican Constitution of Nigeria 1963, s 20; CFRN 1979, s 31 and CFRN 1999, s 34.

<sup>68</sup> The Republican Constitution of Nigeria 1963, s 19; CFRN 1979, s 31 and CFRN 1999, s 34.

<sup>69</sup> The Republican Constitution of Nigeria 1963, s 21; CFRN 1979, s 32 and CFRN 1999, s 35.

<sup>70</sup> The Republican Constitution of Nigeria 1963, s 21; CFRN 1979, s 32 and CFRN 1999, s 35.

<sup>71</sup> The Republican Constitution of Nigeria 1963, s 22; CFRN 1979, s 33 and CFRN 1999, s 36.

<sup>72</sup> The Republican Constitution of Nigeria 1963, s 24; CFRN 1979, s 35 and CFRN 1999, s 38.

<sup>73</sup> The Republican Constitution of Nigeria 1963, s 23; CFRN 1979, s 34 and CFRN 1999, s 37.

<sup>74</sup> The Republican Constitution of Nigeria 1963, s 25; CFRN 1979, s 36 and CFRN 1999, s 39.

<sup>75</sup> The Republican Constitution of Nigeria 1963, s 27; CFRN 1979, s 38 and CFRN 1999, s 41.

<sup>76</sup> The Republican Constitution of Nigeria 1963, s 28; CFRN 1979, s 39 and CFRN 1999, s 42.

<sup>77</sup> The Republican Constitution of Nigeria 1963, s 26; CFRN 1979, s 37 and CFRN 1999, s 40.

<sup>78</sup> The Republican Constitution of Nigeria 1963 s 40 and CFRN 1999, s 43.

<sup>79</sup> Chapter II, CFRN 1979 and chapter II, the CFRN 1999.

in the UDHR 1948 and other related-instruments.<sup>80</sup> Institutional device essential for the enjoyment of human rights is equally provided in these constitutions.<sup>81</sup>

In 1995, the Federal Government of Nigeria, also, established the National Human Rights Commission<sup>82</sup> with the mandate to create an enabling environment for extra-judicial promotion, recognition, and enforcement of all human rights recognised and entrenched in the Constitution.

Nigeria's efforts at protecting and promoting human rights are not limited to mere constitutional provisions and establishment of institutional infrastructure to secure the enforcement of the rights. Nigeria played a predominant role in the process that led to the actualisation of the dream for the African Charter on Human and Peoples Rights 1981.

Although the Charter came into force in 1987, Nigeria already hosted a conference in Lagos on the Rule of Law as far back as 1961. It was at that conference, convened though by a Non-Governmental Organisation known as the International Commission of Jurists, that, African jurists for the first time called for the establishment of an African Commission on Human Rights.<sup>83</sup>

Indeed, Nnamdi Azikiwe, a Nigerian has been credited with the first suggestion for an African Convention on Human Rights 1981.<sup>84</sup> Nigeria, also, actively, participated in other conferences and seminars which furthered the realisation of an African Charter on Human and People Rights 1981. Apart from guaranteeing human rights in its constitution and facilitating the conclusion of regional human rights instrument, Nigeria has shown its commitment to human rights goal by the adoption and ratification of major international human rights instruments.<sup>85</sup> For instance, Nigeria is a member of the UN and a signatory to the African Charter on Human and People Rights 1981 and others.<sup>86</sup> Thus, in spite of the ambitious, audacious and enthusiastic endorsement of the international human rights instruments, and the

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<sup>80</sup> The International Covenant on Economic, Social and Cultural Rights, 1966.

<sup>81</sup> The Republican Constitution of Nigeria 1963, s 32; CFRN 1979, s 42; CFRN 1999, s 46.

<sup>82</sup> Pursuant to the Provisions of the Federal Military Government of Nigeria National Human Rights Commission Decree 22 of 1995 to deal with all matters relating to the protection of human rights as guaranteed by the Constitution, the African Charter on Human and Peoples' Rights 1981, the United Nations Charter 1945, the Universal Declaration of Human Rights, 1948 and other international treaties on human rights to which Nigeria is signatory.

<sup>83</sup> 'African Conference on the Rule of Law, Lagos, Nigeria, January 3-7, 1961: a report on the proceedings of the Conference' <<https://www.icj.org/conferencia-africana-sobre-el-imperio-de-la-ley-lagos-nigeria-3-7-de-enero-de-1961-informe-sobre-los-trabajos-de-la-conferencia/>> accessed 29 December 2023.

<sup>84</sup> K. Mbaiye, Keynote Address: 'Introduction to the African Charter on Human and People Rights' Report of a Conference held in Nairobi from 2nd to 4th December, 1985 convened by the ICJ Geneva 1986, 20.

<sup>85</sup> Jstor, 'Bringing Human Rights Home: An Examination of the Domestication of Human Rights Treaties in Nigeria' <<https://www.jstor.org/stable/27607989>> accessed 29 December 2023.

<sup>86</sup> *Ibid.*

apparent commitment to their protection as expressed in the constitutions, worrisome cases of infractions on human rights still exist in Nigeria.<sup>87</sup>

#### IV. Human Rights in the Military Era

After Nigeria gained political independence on 1 October, 1960, Nnamdi Azikiwe emerged as the first indigenous Governor-General from 1960 to 1963.<sup>88</sup> He also became the first [President of Nigeria](#) during the [First Nigerian Republic](#) which existed from 1963 to 1966.<sup>89</sup> Abubakar Tafawa Balewa was the Prime Minister from 1957 to 1966.<sup>90</sup> This regime was overthrown by a military coup on 15 January, 1966.<sup>91</sup> From 1966 to 1999 when Nigeria returned to democratic governance, there were eight military coups; while six were successful, two were not.<sup>92</sup> There is no doubt that military intervention in Nigeria, politics like in most African countries, has undoubtedly had a destabilising effect on human rights protection. This is as a result of the autocratic nature of military rule. All the military governments at one time or the other had unleashed varying degrees of terror on the people of Nigeria.<sup>93</sup>

The imperatives of these impositions range from vindictiveness to rule by might and dictatorship. Military regimes abridge most of the rights of the citizens by suspending some parts of the Nigerian constitution with Decrees.<sup>94</sup>

Flowing from the above, it is undeniably-true that a military regime, no matter how benevolent, is essentially antithetical to human rights.<sup>95</sup> It is thus true to state that virtually all military regimes in Nigeria from Aguiyi-Ironsi in 1963 to Abdulsalami Abubakar in 1999 are guilty of monumental infractions on human rights.<sup>96</sup> They characteristically, promulgated draconian and obnoxious Decrees and repressive Edicts which constituted grave violations of human rights.<sup>97</sup> For instance, over 140 Decrees were promulgated during the regime of Yakubu Gowon from 1966 to 1975 and more of these

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<sup>87</sup> State Government Report, '2022 Country Reports on Human Rights Practices: Nigeria' <<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/nigeria/>> accessed 29 December 2023.

<sup>88</sup> World Libraries, 'A Force in Library Development in Nigeria' <<https://worldlibraries.dom.edu/index.php/worldlib/article/view/199/154>> accessed 29 December 2023.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*

<sup>91</sup> Nigerians Scholars, 'Military Coups in Nigeria' <<https://nigerianscholars.com/tutorials/west-african-constitutional-development/military-coups-in-nigeria/>> accessed 29 December 2023.

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*

<sup>94</sup> See the Federal Military Government of Nigeria Constitution (Suspension and Modification) Decree No 9 of 1966 and the Federal Military Government of Nigeria Constitution (Suspension and Modification) Decree No 1984.

<sup>95</sup> Nigerians Scholars, (n 91).

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*

Decrees negatively impacted on human rights.<sup>98</sup> A good example is the Armed Forces and Police (Special Powers) Decree 1966 which gives the Inspector-General of Police, among others, wide discretionary power of arrest and detention, among other powers.<sup>99</sup> In the exercise of this power, many people were incarcerated for a long time.<sup>100</sup> Another example is the Federal Military Government (Supremacy and Enforcement of powers) Decree which completely ousted the jurisdiction of the courts in matters within its contemplation.<sup>101</sup>

The regimes of Murtala Mohammed and Olusegun Obasanjo of 1975 to 1976 and 1976 to 1979, respectively were also notorious for their human rights abuse.<sup>102</sup> It was during the regime of Obasanjo that many civil servants were compulsorily retired without due process, and private properties confiscated without hearing.<sup>103</sup> The Nigerian Security Organisation detention camp known as *Ita-Oko*, Lagos was established under this administration and many people were clamped into the detention camp.<sup>104</sup> Also, the military regime of Muhammadu Buhari did not do better as authoritarianism was the hall mark of that regime. The first Decree promulgated by the Buhari military regime was the Constitution (Suspension and modification) Decree 1984<sup>105</sup> which modified and suspended some provisions of the constitution relating to human rights.<sup>106</sup> Other subsequent Decrees also impacted negatively on human rights. These, include The Public Officers (Protection Against False Accusation) Decree 1984<sup>107</sup> which places the onus of proving innocence on an accused person for a publication that brought a public officer to disrepute.

The Recovery of Public Property (Special Military Tribunals) Decree 1984, and Special

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<sup>98</sup> I. H. Chioma, 'Human Rights and Military Rule in Nigeria, Issues and options' <<http://icchiomanhumanrights>> accessed 15 April 2023.

<sup>99</sup> *Ibid.*

<sup>100</sup> Example of some of the cases which arose under this Decree, include *Chief Agbaje v Commissioner of Police*. Suit No. CAW/81/69 of 27 August, 1969. Re Mohammed Olayori (Unreported) Suit No. M/196/69 of 17 November, 1969. Both cases are cited in J. A. Yakubu, *Constitutional Law in Nigeria* (Demyaxis Law Books, 2005) 500-511.

<sup>101</sup> D. O. Aihe, 'Nigerian Federal Military Government and the Judiciary: A Reflection on *Lakanmi v. Attorney-General (Western State of Nigeria)*' (1971) 13(4) *Journal of the Indian Law Institute* 570-580.

<sup>102</sup> A. Aboluwoye, 'A study of the civil-military relations in Nigerian fourth Republic' <<http://www.onlineresearchjournals.com/ijopagg/art/301.pdf>> accessed 29 December 2023.

<sup>103</sup> *Ibid.*

<sup>104</sup> Place Beam, 'Some Key Moment in Nigeria's Civil Society History' <<https://placbeam.com/2021/09/03/some-key-moments-in-nigerias-civil-society-history/>> accessed 29 December 2023.

<sup>105</sup> The Federal Military Government of Nigeria Constitution (Suspension and modification) Decree No 1 of 1984.

<sup>106</sup> See the Provision of Section 32, 37 and 40 of the 1999 Constitution dealing with personal liberty, freedom of association and right not to be expropriated of property.

<sup>107</sup> Decree No. 4 of 1984.

Military Tribunal (Miscellaneous Offences) Decree 1984 both had retro-active effect with the imposition of heavy penalties. Also, the State Security (Detention of Persons) Decree 1966 legalised arrest and detention of persons without trial. Many of these Decrees ousted the jurisdiction of the court and as such, the legality or otherwise of any action taken or purportedly taken pursuant to the provisions of these Decrees could not be inquired into by any court of law.<sup>108</sup>

Other obnoxious Decrees promulgated by the Buhari military regime are Public Officers (Special Provisions) Decree 1970<sup>109</sup> and Civil Service Commissions and Other Statutory Bodies (Removal of Certain Persons from office) Decree 1983.<sup>110</sup> Both Decrees empowered the appropriate authority to dismiss, compulsorily withdraw or remove any public officer from office. Under this regime, most of the Decrees were made to have retro-active effects and penal implications. Examples of such Decree, include State Security (Detention of Persons) Decree 1984<sup>111</sup> which empowers the Chief of Staff, Supreme Headquarters to detain persons who have contributed to the economic adversity of the nation, and Special Military Tribunal (Miscellaneous Offences) Decree 1984<sup>112</sup> which though was promulgated in March, 1984, had as its effective date, 31st December, 1983.

Human rights were violated in monumental proportion under the regime of Ibrahim Badamosi Babangida from 1985 to 1993. On assumption of office, this regime purported to commit itself to protect human rights. It is in consequence of this purported commitment, that the State Security (Detention of Persons) Decree 1984 was amended by the State Security (Detention of Persons Amendment) Decree 1996.<sup>113</sup> This amendment was intended to whittle down the seemingly un-trampled powers of the Chief of Staff, Supreme Headquarters to detain any person without trial. Similarly, the Public Officers (Protection against False Accusation Repeal) Decree 1984<sup>114</sup> was promulgated to repeal Public Officers (Protection against False Accusation) Decree No 4 1984 under which two journalists in the Guardian Newspapers – Nduka Irabor and Tunde

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<sup>108</sup> See Section 2(b)(1) of the Federal Military Government (Supremacy and Enforcement of Powers) Decree No. 13 of 1984 which re-affirmed the supremacy and power of the military government over the 1979 Constitution and unequivocally excluded all civil proceeding in respect of any act, matter or thing done or purported to be done under or pursuant to any Decree or Edict. See also, Section 1(2) of the Federal Military Government of Nigeria State Security (Detention of Persons) Decree No 2 of 1984.

<sup>109</sup> The Federal Military Government of Nigeria Public Officers (Special Provisions) Decree No 17 of 1984.

<sup>110</sup> The Federal Military Government of Nigeria Civil Service Commissions and Other Statutory Bodies (Removal of Certain Persons from office) Decree No 16 of 1983.

<sup>111</sup> The Federal Military Government of Nigeria State Security (Detention of Persons) Decree No 2 of 1984.

<sup>112</sup> The Federal Military Government of Nigeria Special Military Tribunal (Miscellaneous Offences) Decree No 20 of 1984.

<sup>113</sup> The Federal Military Government of Nigeria State Security (Detention of Persons Amendment) Decree No 2 of 1996.

<sup>114</sup> The Federal Military Government of Nigeria Public Officers (Protection against False Accusation) (Repeal) Decree No 2 of 1984.

Thompson were convicted.<sup>115</sup> The journalists were subsequently granted State pardon and the fine of ₦50,000.00 paid by their employer - Guardian Newspapers was refunded.<sup>116</sup> Many detainees were also released in response to public yearnings. These gestures were, however, a mere subterfuge, because like as witnessed in other military regimes, human rights were desecrated in no small measure by the Babangida administration.<sup>117</sup> There were many cases of arbitrary detention without trial, unlawful entry and arrest; closure and proscription of newspapers and certain institutions were witnessed during the period.<sup>118</sup>

The Nigerian Labour Congress, the Academic Staff of Union of Universities and the National Association of Nigerian Students were at various times proscribed.<sup>119</sup> Also, National Concord, The Guardian Newspapers, The Punch and Daily Champion, were at various times proscribed, banned, or their publications seized and destroyed.<sup>120</sup>

The record of human rights under the military rule of General Sani Abacha was abysmal. The regime was notorious for its totalitarianism and autocracy. The regime witnessed the desecration of human rights with impunity and in an unprecedented manner.<sup>121</sup>

Nwankwo states that in the regime of Sanni Abacha, there were mindless desecration of human rights, detailed horrendous cases of extra-judicial killings, torture, assassination and prolonged incarceration.<sup>122</sup> Like previous military regimes, the military government of Abacha preserved and enforced the many obnoxious and draconian decrees, promulgated by the earlier military governments.<sup>123</sup> Many of these Decrees, as earlier pointed out, have an ouster clause imputed therein to oust jurisdiction of the court. However, because of the national and international condemnation of this regime, Sani Abacha, was constrained to establish the National Human Rights Commission in October, 1995 at the height of his human rights violations.<sup>124</sup>

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<sup>115</sup> Media Career Development Network, 'Once upon The Guardian Newspaper' <<https://mediacareer.org/2021/04/05/once-upon-the-guardian-newspaper/>> accessed 29 December 2023.

<sup>116</sup> *Ibid.*

<sup>117</sup> Human Rights Watch, 'Human Rights Developments' <<https://www.hrw.org/reports/1992/WR92/AFW-06.htm>> accessed 29 December 2023.

<sup>118</sup> *Ibid.*

<sup>119</sup> *Ibid.*

<sup>120</sup> *Ibid.*

<sup>121</sup> U. S. Department of State, 'Nigeria Country Report on Human Rights Practices for 1998' <[https://1997-2001.state.gov/global/human\\_rights/1998\\_hrp\\_report/nigeria.html](https://1997-2001.state.gov/global/human_rights/1998_hrp_report/nigeria.html)> accessed 29 December 2023.

<sup>122</sup> E. A. Nwankwo, *Human Rights practices in the Nigeria Police Force* (Constitutional Rights Projects, 2003) 64.

<sup>123</sup> *Ibid.*

<sup>124</sup> 'National Human Rights Commission' <<https://cfnhri.org/members/africa/nigeria/>> accessed 10 February 2024.

## V. Human Rights in Democratic Era(1999 till date)

Nigeria returned to civilian rule in 1999 and has since experienced an uninterrupted democratic government till date. During this period, Nigeria experienced the rule of five democratic elected Presidents. They are: Olusegun Obasanjo from 1999 to 2007, Musa Yar'Adua from 2007 to 2010, Goodluck Jonathan from 2010 to 2015, Muhamadu Buhari from 2015 to 2023 and now Bola Tinibu from 2023 till date. In all these democratic dispensations, human rights violation remained the order of the day. On November 20 1999, the military acting on the instructions of Obasanjo, invaded Odi, a predominantly Ijaw community in Kolokuma/Opokuma Local Government Area of Bayelsa State and killed many, burning the community to the ground<sup>125</sup>.

This attack has been largely described as a massacre. It was said to be in response to the killing of 12 policemen and an ambush of soldiers by a militia group using the civilian population of Odi as its cover.<sup>126</sup> The military invaded the small community in a manner only fit for external aggression. The infantry soldiers moved in and killed all in their path, including unarmed civilian residents of the community. After days of continuous assault, Odi laid in ruins. Houses were tumbled in flames and decomposing bodies lined empty streets. The few survivors fled to different locations to continue another homeless chapter of anguish.<sup>127</sup>

Apart from the Odi massacre which violated the rights of citizens since the resumption of this present uninterrupted democratic system of government, we have had a lot of other cases of human rights violation in Nigeria from 1999 till date. Sambo Dasuki who was National Security Adviser to Goodluck Jonathan, was placed under house arrest, arrested and charged to court with firearms and money laundering violations by the Buhari government in 2015. The then Buhari government applied for a secret trial, the court refused, granted Dasuki bail but the Buhari's administration refused to allow him enjoy the bail granted by competent courts on different occasions on the same subject.<sup>128</sup> He was also said to have been denied medical treatment by the security officers as acclaimed by his legal practitioners. In the case of Dasuki, presumption of innocence has provided by the 1999 Constitution was not observed.

Again, just like Dasuki, Nnamdi Kanu who is a leader of the Indigenous People of Biafra, a group agitating for the secession of Biafra, was also detained by the security agencies endlessly even after being granted bail on different occasions by different courts including the Court of Appeal.

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<sup>125</sup> 'INTERVIEW: Odi 1999 Massacre: Why we will never forgive Obasanjo, Alamiyeseigha – Odi Community Chairman' <<https://www.premiumtimesng.com/features-and-interviews/364370-interview-odi-1999-massacre-why-we-will-never-forgive-obasanjo-alamiyeseigha-odi-community-chairman.html?tztc=1>> accessed 25 November 2023.

<sup>126</sup> *Ibid.*

<sup>127</sup> *Ibid.*

<sup>128</sup> 'How not to try Dasuki' <<https://www.vanguardngr.com/2015/12/how-not-to-try-dasuki/>> accessed 25 November 2023.

A notorious Special Anti-Robbery Squad (SARS) in Nigeria carried out and enjoyed impunity for the continuous use of excessive force, torture and other ill-treatment to execute, punish and extract information from suspects. Too numerous victims of SARS have made the news these past years sparking each time a lot of indignation on social media and sometimes protests.<sup>129</sup>

In recent years, the Nigerian authorities at different time made promises to take care of the issues and disband SARS. However, the officers of SARS continued to extort, rape, torture, and kill Nigerians in gross violation of their rights.<sup>130</sup>

On October 4, 2020, a video went viral showing SARS officers dragging two boys from a hotel and shooting one of them outside the hotel. This led to protest erupting in a few days later across Nigeria. On October 11, SARS was disbanded. But because it was the 5<sup>th</sup> time since 2015 that the Nigerian authorities pledged to reform the police and disband SARS, the protests continued demanding more than empty promises and an outright disbandment of SARS.<sup>131</sup>

On October 20, the Nigerian army violently repressed a peaceful protest at the Lekki toll gate, shooting at the protesters and killing at least 12 people. Since that day, the Nigerian authorities have tried to cover up the events of the Lekki Toll Gate Shooting. They froze protests leaders' bank accounts and fined news agencies who diffused videos of the shooting.<sup>132</sup>

Apart from the above cases of human rights violations highlighted above to have occurred during the democratic era of 1999 till date, there are many other cases of human rights violation that were not overtly discussed or publicised. For example Nigerians experienced the BAGA invasion of 2018,<sup>133</sup> the shooting and killing of a female legal-practitioner on Christmas day 2022<sup>134</sup> and many more.

Also, there are numerous cases of Boko Haram and bandits killings, raping and maiming Nigerians in the northern part of Nigeria, cases of Unknown-Gunmen doing same in eastern part of Nigeria, cases of militia groups kidnapping both Nigerians and foreigners in the southern part of Nigeria and Herdsmen killings, kidnapping and raping all over Nigeria in this era. In all of this, the federal government of Nigeria has showed weakness, total lack of readiness and lack ability in tackling these issues.

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<sup>129</sup> ‘#EndSARS movement: from Twitter to Nigerian Streets. The “Soro Soke” generation won’t give up’ <<https://www.amnesty.org/en/latest/campaigns/2021/02/nigeria-end-impunity-for-police-violence-by-sars-endsars/>> accessed 25 November 2023.

<sup>130</sup> *Ibid.*

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*

<sup>133</sup> ‘NAF deploys six jets, combs Baga for missing soldiers’ <<https://punchng.com/naf-deploys-six-jets-combs-baga-for-missing-soldiers/>> accessed 25 November 2023.

<sup>134</sup> ‘Outrage as Police Officers Kills Lagos Lawyer on Christmas Day’ <<https://www.thecable.ng/outrage-as-police-officer-kills-female-lawyer-on-christmas-day>> access 25 November 2023.

#### **4. Findings and Discussions**

In this part, the article highlights or gives a summary of observations/findings during the research, as can be seen in the preceding parts.

- i. It is glaring from the foregoing discourse on issues and challenges associated with human rights protection and violations in Nigeria history that though the problems of human rights violations were prevalent in pre-colonial, colonial post-independence and military eras of Nigeria, human rights still enjoyed some level of protection during these eras.
- ii. It is observed that human rights were observed in Nigerian Pre-Colonial Era without any enactment to guide the observance of it.
- iii. Also, it is observed the British colonial masters brought the theoretical aspect of human rights to Nigeria without practicing it absolutely.
- iv. Finally, it is observed that the democratic era of the Nigerian government has made very little or no improvement in the protection of human right since 1999 till date.

#### **5. Recommendations**

- i. It is recommended that the Nigerian government should intensify efforts in tackling known human rights violators like the Boko Haram, Bandits, Herdsmen Unknown-Gunmen and other militia groups.
- ii. The None Governmental Organisations (NGOs) and the National Human Rights Commission (NHRC) should take steps to orient and re-orient Nigerian citizens in order to create more awareness on their human rights and the need to stand tall to protect it.
- iii. The National Assemblies should make laws creating special courts for the enforcement of fundamental human rights in order to speedy up human rights enforcement proceedings in a bid to better tackle human rights violations.
- iv. The Police and other security officers should train and re-train their officers to meet up to the international standard of good policing.

#### **6. Conclusion**

The article undertook a contemporary discourse on issues and challenges associated with human rights protection and violations in Nigeria's history. The paper also examined critically the status of human rights in the pre-colonial, colonial, post-independence era: inclusive of the military era and the present civilian-democratic era of 1999 till date. The article takes the stance that: the issues of human rights violations are not associated with a particular era of Nigeria history, human rights were observed in Nigerian pre-colonial era without any enactment to guide the observance of it, the British colonial masters brought the theoretical aspect of human rights to Nigeria without practicing it absolutely and that the democratic era of the Nigerian government has made very little or no improvement in the protection of human right since 1999 till date. It offered suggestions and recommendations, which if implemented could curb human rights violations in Nigeria.