

### **An Appraisal of Human Rights Protection And Enforcement in Nigeria**

Mohammed Hilal Adamu<sup>1</sup>

#### **Abstract**

The research paper appraises the concept of human rights accorded to citizens as guaranteed by the local and international laws or conventions particularly in the administration of criminal justice, rights touching on security and peaceful co-existence. It examines some fundamental rights provided by the chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended) that ranks paripassu with related legal instruments on Universal Declaration on Human Rights or Charter. The effort utilises judicial pronouncements or decisions which defines the scope, limitation, application or extent of human rights application from the legal standpoint and considered scholarly works by authors in research institutions and electronic medium that expressed divergent views on human rights protection and enforcement. However, the research paper identified how some of these rights are being violated, denied or infringed by the concerned authorities or law enforcement agents owing to flagrant abuse of legal process or power. The paper proffered necessary recommendations required to review certain legislation and procedure in view of providing suitable framework for protecting human rights as envisaged by law in the realm of criminal justice, peace and security.

Key Words: Human Rights, Protection, Violation, Criminal Justice, Enforcement

#### **1.1 Introduction**

Human rights are body rules that set out certain standard of human behaviour which are universally protected by the international community and codified or adopted by the states. They are commonly understood as inalienable rights that stems from divergent views based natural existence, religious inclination, social interests, protection of freedoms, civic rights, economic and environmental factors which every human being is entitle to enjoy.

The body of human rights became globally influential in states policies and non-governmental organisation's activities that suggest 'if public discourse of peace time global society can be said to have a common moral language, then it is that of human rights'.<sup>2</sup> The

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<sup>1</sup> Department of Private & Islamic Law, Faculty of Law, Nile University of Nigeria, [mohammed.hilal@nileuniversity.edu.ng](mailto:mohammed.hilal@nileuniversity.edu.ng)

<sup>2</sup>Wikipedia, Free Encyclopaedia: Human Rights <<http://en.wikipedia.org/w/index.php?title=humanrights>> accessed 18/8/2014

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strong claims made in human rights advocacy in the quest of human aspirations, struggle for survival and interests continued to provoke multi-dimensional debates about its context, scope and justification.

In view of the foregoing background, this paper appraises the concept and application of human rights in Nigeria. It examined the international legal instruments and convention against human degradation and torture governing human rights application and the enabling legislation in Nigeria that guaranteed the protection and enforcement of the rights. The efforts made particular emphasis to the rights accorded to citizens and how they are violated in the course of enforcement by state organs and security operatives in the administration of criminal justice and maintaining peace.

### **1.2 The Theory and Concept of Human Rights**

Human Rights originated from different thoughts, human struggle, ideologies and behaviours which commonly depicts rights that belong to an individual as a consequence of being human.<sup>3</sup>In other words, rights theory are profounded from social relation which provide the needs of humanity in marriage, contract or interaction and religious inclination that enables human being to worship or belong to a belief of his choice. Another theory expressed that rights emanated from the philosophy of natural or divine law or God given rights to humanity entitled to be enjoyed in lifetime struggle. It is also understood that rights represent human freedoms and interests' theory that enables humanity to be moving freely, liberty and expression. And rights theory based on human necessity to enjoy his environment, health and reproduction among others.<sup>4</sup>

The term Human rights came into wide use after World War II, replacing the earlier phrase 'natural rights' which had been associated with the Greco-Roman concept of natural law since the end of the Middle Ages. As understood today, human rights refer to a wide variety of values and capabilities reflecting the diversity of human needs and history. They are conceived as universal and fundamental, referring to essential or basic human needs.<sup>5</sup>

In another view, human rights are classified historically in terms of the notion of three generation. The first generation of civil and political rights, associated with the enlightenment and the English, American and French revolutions, which include the rights

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<sup>3</sup>Wikipedia, Free Encyclopaedia: Human Rights <<http://en.wikipedia.org/w/index.php?title=humanrights>> accessed 18/8/2014, Barzilai, G. *Communities and Law: Politics and Cultures of Legal Identities*(Michigan: University Press, 2003)

<sup>4</sup> Ibid.

<sup>5</sup>Ibid.

to life, liberty, speech and worship. The second generation entail economic, social, and cultural rights, associated with revolts against the predations of unregulated capitalism from the mid-19th century, which include right to work and education. Finally, the third generation of solidarity rights, associated with the political and economic aspirations of developing decolonized countries after World War II, which are collective rights to political self-determination and economic development.<sup>6</sup>

In legal parlance, the subject human rights is defined as *'the freedoms, immunities and benefits that, according to modern values, all human beings should be able to claim as a matter of right in the society in which they live.'*<sup>7</sup> Thus, it is deducible from the theory and legal standpoint that human rights are human interests, social needs, freedoms, and civil liberties accorded to humanity. These rights given to humanity from the foregoing bases could not be realistic without legal backing however eloquent aspired, codified or advocated. Consequently, the rights are backed by laws, and legal instruments to be applicable and enforceable universally owing to its nexus to humanity as discussed hereunder.

### **1.3 The Human Rights Regime**

The subject of human rights is operating within large regulatory framework classified into international instruments which consist of treaties and conventions. These are the Universal Declaration of Human Rights (UDHR) 1948, International Covenant on Civil & Political Rights, International Covenant on Economic, Social and Cultural Rights, the United Nation Declaration on Sexual Orientation & Gender Identity 2008. The Convention on the Prevention & Punishment of the Crime of Genocide, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984, and African Charter on People's Rights which has been domesticated in Nigeria<sup>8</sup> among others. The rights are protected in Nigeria under chapter IV of the of the Constitution of the Federal Republic of Nigeria 1999 (CFRN)(as amended) which are rights to life<sup>9</sup>, dignity of human person,<sup>10</sup> personal liberty,<sup>11</sup> fair hearing,<sup>12</sup> privacy and family life,<sup>13</sup> freedom of thought conscience

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<sup>6</sup> Ibid.

<sup>7</sup> Garner, B A. *Black's Law Dictionary* 9<sup>th</sup>Edn(St Paul Minn: West Group 1999) p. 809

<sup>8</sup> African Charter for Human and Peoples' Rights (Ratification and Enforcement) Act, Cap. A9 Laws of the Federation of Nigeria, 2004

<sup>9</sup> Section 33 Constitution of the Federal Republic of Nigeria, 1999

<sup>10</sup> Section 34, *ibid.*

<sup>11</sup> Section 35, *ibid.*

<sup>12</sup> Section 36, *ibid.*

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and religion,<sup>14</sup> freedom of expression and the press,<sup>15</sup> peaceful assembly and association,<sup>16</sup> freedom of movement,<sup>17</sup> freedom from discrimination,<sup>18</sup> acquire and own property anywhere in Nigeria,<sup>19</sup> compulsory acquisition of property,<sup>20</sup> restriction or derogation from human rights.<sup>21</sup>

In support of this constitutional provision, the Supreme Court in Nigeria held, inter alia, that the fundamental rights guaranteed by the constitution are inherently part of humanity. The apex court further stated that if a hierarchical order of laws is drawn, fundamental rights will not only take a pride place but the first place.<sup>22</sup>

### **1.4 Overriding Objectives of Human Rights Protection**

The fundamental rights guaranteed in Nigeria as contained in the constitution and other legal international instruments, regional instruments, conventions or declaration, charters which Nigeria is signatory are applicable for the purpose of protecting citizens' rights whether the bills or instruments constitute in themselves legal instruments or form parts of the larger documents domesticated in Nigeria. The rights are protected and enforced for the purpose of advancing freedoms of citizens and not for restricting the freedom of anyone.<sup>23</sup> For instance, the right to life is essential to every citizen and no one may be deprived to live happily or subjected to cruelty, torture and any form of human degradation. It is expressed that every human being has the inherent right to life; this shall be protected by law and no one shall be arbitrarily deprived of his life.<sup>24</sup> Similarly, the Constitution provides that *'every person has a right to life, and no one shall be deprived intentionally of his life save in execution of the sentence of a court in respect of criminal offence of which he has been guilty in Nigeria.'*<sup>25</sup>

The foregoing position of law is explicit on the protection of concept of life that every person is entitled to enjoy without restriction, except in the derogatory circumstances stated

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<sup>13</sup> Section 37, *ibid.*

<sup>14</sup> Section 38, *ibid.*

<sup>15</sup> Section 39, *ibid.*

<sup>16</sup> Section 40, *ibid.*

<sup>17</sup> Section 41, *ibid.*

<sup>18</sup> Section 42, *ibid.*

<sup>19</sup> Section 43, *ibid.*

<sup>20</sup> Section 44, *ibid.*

<sup>21</sup> Section 45, *ibid.*

<sup>22</sup> *Federal Republic of Nigeria v Ifeagwu* (2003) 5 S.C 252

<sup>23</sup> Section 3, Fundamental Rights (Enforcement Procedure) Rules, 2009

<sup>24</sup> Article 6.1, International Covenant on Civil and Political Rights 1966

<sup>25</sup> Section 33(1), Constitution of the Federal Republic of Nigeria 1999 (as amended)

by the law. The objective underscores foundation of freedom against slavery and guarantees peaceful existence, justice and equality.<sup>26</sup> In corollary to this, it is expressed that:<sup>27</sup>

*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.*

*Everyone is entitled to all the rights and freedoms set out in this declaration, without distinction of any, such as race, colour, sex language, religion, political or other opinion, national or social origin, property or other status.*

### **1.5 Human Rights Violations and Infringements**

The challenge of insecurity is enormous considering the political instability, civil unrest, insurgency and terrorism among other factors that are threatening the peaceful and corporate existence in Nigeria. There are cases and reports of human rights violations by the security operatives or state security agencies including the Nigerian army who are traditionally not mandated by the law to provide internal security but for many reasons, they are deployed in maintaining peace in some states like Adamawa, Borno, Kaduna, Plateau, Yobe and presently in Zamfara.

Emphatically, the Nigerian army is trained primarily for war against external aggression or protection of Nigerian sovereignty. But owing to inability of the Nigeria Police and other security agencies which appears incapable of containing the internal security challenges affecting Nigeria such as the Boko Haram insurgency or terrorism, it becomes inevitable to invite the army in support of other bodies in maintaining peace. In the course of duty, so many innocent citizens are losing their lives or detained or unlawfully arrested and subjected to various human degradation against provisions of fundamental rights guaranteed by the law. There were reports<sup>28</sup> of extra-judicial killings without recourse to legal process of investigation and arraigning any suspect to competent court for trial in line with the penal laws.

One of the human rights organs<sup>29</sup> reported that security operatives are responsible for serious human rights violations in response to Boko Haram insurgency particularly the

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<sup>26</sup>Hurst, H. *The Concept of Human Rights: International Human Rights, Problems of Law, Policy and Practice* (Aspen Publishers, 2006) p 31

<sup>27</sup> Article 1 & 2, Universal Declaration of Human Rights, 1948

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<sup>28</sup> Human Rights Watch 'World Report: Nigeria' (2003) <<http://www.hrw.org/world-report/2013/country-chapters/nigeria>> Accessed on 18/8/2018

<sup>29</sup> Human Rights Watch 'World Report: Nigeria' (2003) <<http://www.hrw.org/world-report/2013/country-chapters/nigeria>> Accessed on 18/8/2018

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army when many communities were raided in 2012, residential homes burnt and citizens not connected with any offence were executed. Nigeria police was implicated in committing human violations including extra-judicial killings, torture, arbitrary arrests and extortion of money from innocent citizens.<sup>30</sup> The police routinely solicit bribes from victims or complainants to investigate or drop criminal investigations. The concerned authorities were reluctant to prosecute members of security operatives suspected to have killed 130 people during 2008 sectarian violence in Jos, Plateau state, and soldiers suspected to have massacred more than 200 people in 2001 at Benue state or soldiers suspected to be involved in complete destruction of Odi town in Bayelsa 1999.<sup>31</sup>

A similar report<sup>32</sup> revealed a shocking video footage about gruesome images of human rights violations perpetrated by the Nigerian army. It shows terrific images of helpless citizens being slaughtered and dumped in mass graves. The footage supported many incidences and complaints by the civil society groups and organisations on multiple war crimes, loss of lives and damaged scores of homes and other buildings.<sup>33</sup> The report identified a rifle with 81BN/SP/407 which according to military source attached to support company of 81 Battalion based in Borno state.<sup>34</sup> The military round-ups in Bama town, near Maiduguri and other places revealed over 600 people were killed in various locations as independently confirmed by the detainees that witnessed the execution.<sup>35</sup>

The incidence of killing 8 civilians squatting in Apo, Gudu district Abuja perpetrated by the security operatives also corroborated the reports that links Nigerian army, Department of State Services, Police in complicity of committing human rights abuses that led many citizens dead, cruelty and human degradation.<sup>36</sup> The incident that was investigated by the Human Rights Commission in Nigeria found out that the victims have no apparent link with any insurgency or terrorists group in Nigeria as alleged by the security agents.<sup>37</sup>

Other complaints bordering on human rights abuses happened at the points of investigation and detention of suspects by the security operatives. There were complaints against

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<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Amnesty International 'Nigeria: Gruesome Footage Implicates Military In War Crimes' (2014) <<http://www.amnesty.org/en/for-media/press-release/nigeria>> accessed 18/8/2018

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> National Human Rights Commission 'Report on the Alleged Killings of Squatters at Apo/Gudu District Abuja' (2014) <<http://www.nigeriarights.gov.ng/blog>> accessed 18/8/2018

<sup>37</sup> Ibid.

unlawful arrests, and detention of innocent citizens without clear evidence of crime. Many suspects were detained and awaiting trial for many years without proper investigation or prosecution by the concerned authorities.<sup>38</sup> Suspects were denied rights to access counsel, fair hearing while in detention and many suspects experienced various types of torture like water boarding, gassing, electric chair, hanging, frog jump, crawling in gutters and many forms of inhuman treatment by the army, or police workshops and department of state detention centres. In many judicial cases, victims of human rights violations were uncovered in the course of trial when many confessional statements obtained by the security operatives at the point of investigation shows that they were obtained by coercion, torture, intimidation and undue influence.<sup>39</sup>

It is emphasised that the foregoing dimensional abuse of human rights contravened established provisions of international convention as well as the local legislation in Nigeria that prohibits any form of inhuman degradation, cruelty or torture or related infringements of rights that may be necessary incidental. The law provides that:<sup>40</sup>

Every individual is entitled to respect for the dignity of his person, and accordingly

- (a) *no person shall be subjected to torture or to inhuman or degrading treatment;*
- (b) *no person shall be held in slavery or servitude; and,*
- (c) *no person shall be required to perform forced or compulsory labour.*

In support of this constitutional provision, the international convention on human rights states that right to human dignity may not be compromised to any emergency, justification of state authority or order from superior officer to victimise any citizen. The rights to human person are derived from inherent dignity bestowed on humanity that ought to be respected at all times. It was further expressed that<sup>41</sup> ‘*no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment*’ and that international convention against torture clearly mandated its members that:<sup>42</sup>

1. *Each state party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction,*
2. *No exceptional circumstances whatsoever, whether a state of war or*

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<sup>38</sup>Wakaso, A. ‘Nigeria’s Human Rights Abuses on the Increase’ (2013), Thisday Newspaper 14<sup>th</sup> August, 2014

<sup>39</sup> Ibid.

<sup>40</sup> Section 34(1) CFRN, 1999

<sup>41</sup> Article 5, Universal Declaration of Human Rights 1948, which is in parrimateria with Article 7, International Covenant on Civil and Political Rights

<sup>42</sup> Article 2, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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*a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture,*

3. *An order from superior officer or a public authority may not be invoked as a justification of torture.*

It is imperative to explain that the prohibition of torture, cruel or human degradation protected in Nigeria<sup>43</sup> provides a mandatory duty on the concerned authority to observe as word 'shall' which appears in that provision suggests that no circumstances may avail any authority to compromise the rights to human dignity guaranteed by the law. This provision provides a mandatory position that guarantees human dignity against torture and other forms of inhuman treatment than the international convention which suggests discretionary duty considering the use of the word 'may'.

It is deducible from plethora of judicial pronouncements that Nigerian security agents are deeply involved in the complicity of human rights abuse. In *Abacha v Fawehinmi*<sup>44</sup> where the respondent, a legal practitioner in Nigeria, was arrested without warrant or any cause at his residence by the men that identified themselves as police and state security services (SSS) agents. He was detained without being informed the offence he committed and not taken to any court for trial. He sought the leave of court to enforce his fundamental rights against unlawful arrest, detention and denial of fair hearing contrary to chapter of IV of the Constitution as well as the African Charter on Human & Peoples Rights. The respondent was granted the reliefs he sought by the court. Similarly the *Malizu's case*<sup>45</sup> was, inter alia, held that there was clear violation of the applicant's fundamental rights by ill-treatment, unlawful detention and denial of fair hearing accorded to every citizen and immediate release of the applicant was ordered including substantial cost and damages.<sup>46</sup>

### **1.6 Enforcement of Human Rights**

The fundamental rights guaranteed by the CFRN 1999 are to be enforced before the High Courts in Nigeria by any person that is aggrieved or deprived from enjoying same. The law states '*any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that state for redress*'.<sup>47</sup> It is also imperative to state that the international bills, declarations or

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<sup>43</sup>Section 34(1), CFRN 1999

<sup>44</sup> (2000) 6 NWLR (Part 660)

<sup>45</sup>*Blessing Malizu v Assistant C. O. P* (2002) 7 NWLR (Part 767) 527

<sup>46</sup> See Similar judicial decisions in *Mohammed Sani Abacha v The State* (2002) 9 MJSC 1 SC/290/2001,

*Olisa Agbakoba v Director State Security Services & Ior* (2003) 10 WRN 93

<sup>47</sup> Section 46, CFRN 1999



charter earlier highlighted are applicable and enforced in Nigeria provided that Nigeria is signatory to such bill or convention which must have been domesticated in Nigeria. The constitution provides that:<sup>48</sup>

- (1) *No treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.*
- (2) *The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative list for the purpose of implementing a treaty.*

In view of the effect of the foregoing provision, some of the international human rights bills were domesticated in Nigeria like African Charter on Human and Peoples' Rights (Ratification & Enforcement) Act.<sup>49</sup> Further more, the law vested the Chief Justice of Nigeria with powers of making rules regulating the procedure of enforcing fundamental rights before the High court and<sup>50</sup> in pursuance of this delegated powers, the fundamental enforcement procedure rules were made for the litigants and aggrieved persons.<sup>51</sup> The rules simplified the mode of commencement of human rights actions arising from unjustifiable abuse, infringements or violations. It provides that any group, institution, advocate or individual or state organ may bring human right suit in accordance with the provisions of chapter IV of the constitution and international bills, or conventions which may be domesticated or enacted by the legislature in Nigeria.

### **1.7 Limitation of Human Rights Action**

There are certain circumstances that may warrant the observance or application of human rights to be restricted. For instance, human rights may be derogated in the event of state of emergency imposed on any state affected by violent civil unrest, war, insurgency or uprising for the purpose of restoring and maintaining peace or peaceful co-existence in Nigeria. The law stipulates that:<sup>52</sup>

- (1) *Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society-*
  - (a) *in the interest of defence, public safety, public order, public morality or public health; or,*
  - (b) *for the purpose of protecting the rights and freedoms of other persons.*

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<sup>48</sup> Section 12, CFRN 1999

<sup>49</sup> Cap. A9, Laws of the Federation of Nigeria 2004

<sup>50</sup> Section 4(3), CFRN 1999

<sup>51</sup> Fundamental Rights (Enforcement Procedure) Rules, 2009

<sup>52</sup> Section 45, Constitution of the Federal Republic of Nigeria 1999

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(2) *An Act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods emergency, of measures that derogates from section 33 or 35 of this constitution; but no such measures shall be taken in pursuance of any such Act during periods of emergency save in the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency.*

*Provided that nothing in this section shall authorise any derogation from the provisions of section 33 of this constitution except in respect of death resulting from acts of war or authorise any derogation from the provisions of section 36(8) of this constitution.*

The limits set out by the foregoing provision does not envisage taking away the rights of citizens by dehumanising, killing, causing grievous injury, torture, unlawful arrest, detention or terrific kinds of inhuman treatment. It is understood that in cases of emergency contemplated by the constitution, certain restrictions affecting movement of persons and properties are allowed by the law to be carried out by security operatives, but such security measures are to be exercised reasonably in the interest of peace, public safety, morality and health of other citizens.

The courts made several pronouncements on the circumstances that could derogate rights of citizens or otherwise. In one of human rights action(s),<sup>53</sup> the court held that the rights of citizens guaranteed by the constitution are qualified because they protected by local laws; however, the rights are not absolute and may be restricted in circumstances of ensuring public interests, safety and morality. Similarly, human rights may not be infringed in the situation of emergency, public interests and safety as held in Kalu's decision.<sup>54</sup>

In *Daniel Jagaba v Nigerian Army and 2 ors*<sup>55</sup> the applicant seeks declaratory and damage reliefs against army officers that beats and wounded him severely. The applicant sustained serious injuries that led him to hospital. In defence of the suit, the respondent challenged the competence of the court to try the matter and relied on provision of law which states that:<sup>56</sup>

*No action, prosecution or other proceedings shall lie against a person subject to service law under this Act for an act done in pursuance or execution or intended execution of this Act or any regulation, service duty or authority or in respect of an alleged neglect or default in the execution of this Act, regulation, duty or authority, if it is done in aid to civil authority or in execution of military rules.*

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<sup>53</sup> *Federal Republic of Nigeria v Daniels* (2011) LPER CA/L/136/2009

<sup>54</sup> *Kalu v Federal Republic of Nigeria & Others* (2012) LPELR-CA/A/224c/2009

<sup>55</sup> FHC/ABJ/CS/711/2011

<sup>56</sup> Section 239, Armed Forces Act, Cap. A Laws of the Federation of Nigeria 2004

In deciding the matter the court examined the foregoing provision alongside other constitutional positions on the supremacy of the constitution, jurisdiction of the courts in Nigeria to decide actions affecting rights and obligations and the extent circumstances when citizens' rights could be derogated. It was held that the provision of constitution is supreme law in Nigeria and therefore it's binding on all persons and authorities throughout the Federal Republic of Nigeria.<sup>57</sup> On this premise, the defence of the respondent could not avail the Army because, every organ or individual shall act or operate within the parenthesis of the constitutional provision to the effect that any action or law that contravenes the said provision shall be null, void and of no effect to the extent of its inconsistency. In same vein, the constitutional provision which provides restrictions on human rights creates a proviso that expressed '*...but no such methods shall be taken in pursuance of any emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists in that period of emergency*'.<sup>58</sup> Thus, no law exempts anybody or authority from liability where the citizens' rights are violated unless any action is justifiable depending on the situation of every case.

It is essential to emphasise that certain degree of sex oriented life is regulated as crime in Nigeria which prohibits gay marriage, same sex marriage and offences against natural order like homo sexuality and lesbianism. The law postulates that:

*A marriage contract or civil union entered into between persons of same sex:*

(a) *is prohibited in Nigeria, and;*

(b) *shall not be recognised as entitled to benefits of valid marriage.*

*A marriage contract or civil union entered into between persons of same sex by virtue of a certificate issued by a foreign country is void in Nigeria, and any benefit acquiring therefrom by virtue of the certificate shall not be enforced by any court of law.*

This is one of the landmark legislation in Nigeria passed against some human rights groups aspiring for legitimacy to maintain same sex marital relations and civil unions as prohibited. The philosophy of this legislation is timely in view of fostering peace and harmonious relationship in the Nigerian society. It is understood that same sex relation is not suitable for African descent, community or society that warrant legitimising such oriental institutions as advocated by the adherents or aspirants of the rights. Thus, the same sex union prohibition is advocated by the popular view that legitimizing such institutions goes

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<sup>57</sup> Section 1(1), CFRN 1999

<sup>58</sup> Section 45(2) Constitution of the Federal Republic of Nigeria 1999

against the cultural belief, traditions, morality and faith of the African society and Nigeria. Thus, allowing such institutions may create chaotic atmosphere in the society.

## **1.8 Conclusion**

This research paper discussed the concept of human rights and theoretical framework explained in literature which consequently led to the struggle of protecting the rights universally and locally. Thus, the rights endowed to humanity are protected by the law to ensure freedom, justice and equality in human society. Without legally backing the human rights through the international bills, convention, charters or local laws, they could not be realistic, enforced or enjoyed. In other words, human freedom will not be guaranteed, as weak will be overpowered, and many people will be bondage of slavery. The society may be chaotic against peaceful co-existence as the inhuman activities will prevail over liberty social existence. Despite the giant strides made at the international and local level, the rights are being abused and violated by the state organs in Nigeria that require the following recommendations for repositioning the humanities in the service of peace and national integration in Nigeria:

1. The need to harmonise the two procedural laws, the Criminal Procedure Code applicable to northern states and Criminal Procedure Act applicable to southern states of Nigeria into one Criminal Procedure for Prosecution of Crime guiding the institution of criminal proceedings with clear provisions stating the rights of any suspect of crime from the point of arrest, investigation, interrogation and trial. This is essential to the criminal justice system as the method of investigation was not clearly regulated by the procedural laws in Nigeria. In practice, the procedures relating to mode of arresting a crime suspect, investigation and certain procedures in criminal proceedings or trial in Nigeria are rather obsolete or negate the principles of fair hearing and human dignity. Thus, the mode of obtaining confessional statement at the point of investigation ought to be expunged from the procedural laws because it creates an avenue for the law enforcement agents to be torturing or beating a suspect until he admits committing an alleged offence even though he may be innocent.
2. It must be clear from the procedural law that no investigating officer should volunteer to make any statement on behalf of any suspect, rather the suspect should be given access to his counsel or any independent person he trusted to write or make a

statement for him. The investigation agents should make their independent investigation, report and observations at the scene of crime for obtaining prima facie evidence or clear proof. It is imperative to state that Nigerian criminal justice is operating accusatorial system where a suspect is presumed innocent until the contrary aspect is proved,<sup>59</sup> therefore; the burden of proof is on the prosecution and not on the suspect to prove his innocence.

**3.** It is important to expunge the First Information Report procedure of instituting criminal proceeding in northern states of Nigeria at the lower court. The states should employ lawyers in justice departments and law enforcement agencies investigation units with facilities of instituting direct charges before a competent court. The mode of instituting criminal proceeding by way of First Information Report is occasioning usual delay in criminal proceedings where suspects may be taken to incompetent courts for offences which they lack powers to try thereby resulting to lengthy years awaiting trial.

**4.** The state organs, law enforcement agents should be equipped with modern facilities in crime combatting, control and management. It is most essential to deploy monitoring cameras, devices and forensic methods of investigation in line with modern trends of combatting crime. Offences like, Terrorism, Genocide, Armed Robbery, Pipeline Vandalisation are better controlled and prosecuted by means technology against the archaic mode of stop and search exercise in Nigeria. It is understood that the mode of tracking down suspects by security checkpoints creates a room for corruption when innocent citizens are exploited by the security operatives, or being killed or tortured in many ways.

**5.** To a legislation for prosecuting any law enforcement agent that violates human right of any citizen and to make them pay compensation for their actions.

**6.** Reviewing the foregoing areas will facilitate in restoring and strengthening peaceful co-existence and justice.

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<sup>59</sup> Section 36 Constitution of the Federal Republic of Nigeria 1999

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