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Impact of African Union Commission on Human and People's Rights on Endsars Protest in Nigeria 2020-2021

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Abstract
The research investigated the impact of African union commission on human and people's rights on endsars protest in Nigeria 2020-2021. The work used descriptive research design and only secondary data were sources and used. The data collected were discussed qualitatively through content analysis. It was discovered that fundamental human rights were violated before and during the EndSARS protest; there is legality of EndSARS protested under Nigerian law; and there is no significant impact of African Commission on Human and Peoples Rights on the EndSARS protest. This work conclude that although the SARS has been disbanded by the Nigeria Police Force as demanded by the EndSARS protesters, the tendency for violent protests against police high-handedness will remain in Nigeria as long as the issues that fuelled the eruption of the mass mobilization persist. It was recommended that violation of fundamental human rights in Nigeria and other African countries should be approached with targeted sanctions by the African Commission for Human and Peoples Right for individuals and governments who are found guilty. Furthermore, institutions of governments locally and internationally such as the African Commission for Human and People's Rights and National Human Rights Commission must be alive to the performance of their constitutional duties. If the Commissions had done their jobs assiduously by investigating and prosecuting individuals involved in human rights abuses, the EndSARS protests would probably not have been necessary.

Keywords: African Union Commission, People's Rights, EndSars, National Human Rights Commission

Introduction

The universal declaration of human rights is the first global norm and document on promoting and protecting basic human rights from which other international human rights regulating instruments were carved out from. According to Johnson and Salau (2022), today, fundamental human rights violations are on the rise, almost taking the status of a national pandemic if not already done. These Fundamental Human Rights Violations are carried out principally by armed forces of the Federation emboldened by government negligence in giving total attention to these violations when they occur and which is in total violation of the 1999 constitution of Nigeria as amended, in violation of all known International human rights laws as well as regional rights laws and instruments especially the African Charter on Human and Peoples Rights. Such intended to be enforced by the African Union through the African Commission on Human and Peoples Rights, which she herself (Nigeria) had ratified in 1986 and purposefully enshrined into the constitution (Ozohu-Suleiman, 2021).

Most times, matters of breach in fundamental human rights laws and regulations by federal and state authorities are largely ignored and eventuality if it's being given attention it's being treated with levity as evidently witnessed during the EndSARS protest being the primary case in focus of this research work where serious and series of fundamental human rights were violated. It is because of the above reality and ugly scenario that the African Commission and Charter on Human and Peoples Rights became the institution and instrument of interest in this research work as its also basically concerned with the Promotion, safeguarding and implementation of treaties, rules and regulations centered on fundamental human rights (Olaigbe, 2021). The constitutional responsibility of every government in power is primarily to safeguard lives and properties of her citizens in full collaboration with other constitutionally established institutions, to aid the government to actualize this aim.

However, the spate of killings going on in the country unabated has contradicted this purpose. The armed forces of the State have been politicized and used for anti-masses and democratic acts that eventually culminate in fundamental human rights violations (Choudhury, 2022). The judiciary is the last hope of the common man. Its functions is to dispense justice to persons whose fundamental human rights have been violated. Unfortunately, this arm of government have been State Captured too through the over stretching powers of the executive, especially were high profile judicial officers of the highest courts are appointees of the Federal government and State government. This has become a breeding ground were loyalty and favoritism are considered over professionalism. Also, subjecting the judiciary to financial dependence on the executive has created more room for State sponsored Fundamental human rights violations and violators to escape the full wrath of the law. The founding members of the African Union had placed the peace and stability of the continent (Africa) at the fore front prior to any other business of the Union after achieving independence (Cilliers, 2021).

The charter contains the civil and political rights of every citizen not to the exclusion of the economic, social and cultural rights and is enforceable to the extent to which a member

country had ratified the charter which Nigeria had done (Stott, Ho, Radburn, Chan, Kyprianides & Morales, 2023). However, despite having ratified these landmarks of human rights continental document, Nigerians have continuously and in an alarming rate been exposed to one aspect of fundamental human rights violations or another ranging from extrajudicial killings, torture, forced disappearance, illegal extortion, and illegal detentions amongst other gruesome and despicable acts of fundamental rights abuses. In the face of all this the African Union Commission on Human and Peoples Rights not to the exclusion of the African Court of Justice and Human Rights have shown zeal towards enforcing the content of the Charter. But, are grossly handicapped following its inability to enforce sanctions on erring member country that are quick to play the Sovereignty clause if any sanctions were to be detailed out (Reicher, Stott, Cronin & Adang, 2022). This problem and shortfall on lack of enforcement powers of the African Unions Commission on Human and Peoples Rights have only emboldened more repressive governments hiding under the disguise of democracy to continually abuse and violate the rights of citizens who are become helpless when all internal/ domestic justice seeking measures must have been exhausted.

The resulting outcome or lack in addressing fundamental human rights violations, failure in promoting and enhancing protective measures is more human rights violations capable of degenerating into crisis, chaos or even coups gaining momentum on the African continent (Olawoyin, 2023). The EndSARS protest was another landmark event in the history of the country were the plea for promotion, protection and enforcement of fundamental human rights by Nigerians were met or rewarded with another series of fundamental human rights violation. This violation was aided by the Federal and State government who turned a blind eye to the evils of the Nigerian armed forces. The EndSARS protest had gathered momentum over the years following the atrocious acts carried out by members of the Nigerian armed forces more especially by the Special Anti-Robbery Squad (SARS), known for harassing citizens who dress in fashionable manner and alleged to be internet fraudsters popularly known as Yahoo boys SARS is notorous for illegal or unlawful arrest of citizens, arbitrary killings of innocent people, as well as forced disappearance of people taken into custody (Ojedokun, 2021). Citizens had become disenchanted, dissatisfied, scared, and alarmed having taken into notice the overwhelming silence of the Federal Government. This situation led to organized protest in form of a national outcry and was designed to take place across the 36 States of the Federation.

The protest was alarmingly and inhumanely disrupted in Lagos at the Lekki Toll Gate where the Lagos State Governor Mr. Sanwo-Olu had imposed a curfew. After sensing that the protesters were resistant to the curfew invited the armed forces who came in and shot at peaceful protesters and killed some protesters unlawfully, violating Chapter IV of 1999 Constitution as amended, all known international human rights treaties as well as the African Charter on Human and Peoples rights which she had ratified and sworn to uphold (Nnaedozie, 2021). This was sadly described by some analysts, international human rights bodies and agencies as well as foreign governments as barbaric, use of inappropriate force as well as an inhuman act. In the past the use of sanctions by multilateral platforms or organizations in deterring or punishing members who attempted breaching or breached the code of conducts had proved effective in regulating conduct of Member State (Erunke, 2022). However, the

African Union Commission on Human and Peoples rights is grossly lacking in the use of such sanctions against members who violate the Charter on Human and Peoples Rights especially states like Nigeria that ratified the charter and yet has a rich profile of fundamental human rights violations ably aided by the state and this has only emboldened the state to do more knowing that no drastic measure would be taken against her.

Adenrele & Olugbenga (2014) argued that human rights abuse in Nigeria is cancerous since individuals, groups and governments are part of it. He further stated that the ill act of human rights abuse has held the country back over the years and suggested for a collective effort in order to combat it. More emphatically, human rights violation in Nigerian democracy is perpetrated by the government; terrorist groups like Boko Haram, Herdsmen and Niger-Delta Militants; security agencies like the police, DSS, military and Joint Civilian Task Force (JCTF).Human rights abuse in Nigerian democracy come in the form of unlawful arrest and detention, extrajudicial killing, intimidation of political opponents, disobedience of court order and so on. Nonetheless, the government has greatly contributed to this ugly situation of human rights abuse, through what they do and what they fail to do cited in (Pulse Nigeria, 2020).

Literature Review

The Conceptualization of Human Rights

For Ake (1985), the issue of human rights cuts across ages and epochs - from the Greek world through the Roman, Medieval, Modern and Contemporary periods. And conscious and awareness of them continued to increase as the years go by, likewise their development and interpretation. Ojo (2006) was more specific in his attempt to trace the origin of the concept. For him, human rights are often traced to the stoics of the ancient Athens. Zeno who was the founder of the stoic school of thought propounded the theory of natural law under which human beings were supposed to have natural rights. To prevent the violation of these rights that were "immortal" in a sense, efforts were made to legislate against their violation with impunity.

Human rights are mostly viewed as the inalienable rights of people (Adenrele & Olugbenga, 2014). They are the legal entitlements which every citizen could enjoy without fear of the government or its fellow citizens. To Brandal, Bratberg and Thorsen (2013),

> *Human rights are those rights which cannot be said to have been given to man by man but are earned by man for being a human because these are necessary for his continuous happy existence with himself, his fellow man and for participation in a complex society (P.4).*

human rights are "rights which all human beings have by virtue of their humanity, such as the right to life, dignity of human person, personal liberty, fair hearing and freedom of thought, conscience, and religion. They provide a common standard of behavior among humanity. Human rights are "rights which all human beings have by virtue of their humanity, such as the right to life, dignity of human person, personal liberty, fair hearing and freedom of thought, conscience and religion. They provide a common standard of behavior among the international community" (Raimi et al, 2021). They are natural, rational, inviolable, and unalterable, the deprivation of which would constitute a grave affront to one's sense of justice. Rights, as

defined, are generally understood as, "moral-political claims which by contemporary consensus, every human being has or is deemed to have upon his society or government," claims which are recognized "as of right" and "not by love or grace or charity."

According to Aduba (2012), human rights as those rights that are the very nature of every human person, hence, they define and affirm their humanity, therefore, they exist to ensure that human rights remain sacred and guarantee that inhumanity and injustice are prevented or reduced.

The 1999 Nigerian Constitution (as amended) seemed to derive much from Iwe's content of human rights in stating its own fundamental human rights that apply to every Nigerian citizen. These are the fundamental rights as enshrined in the 1999 Constitution.

a) **Right to life:** Article 33 states 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 a criminal offence of which he has been found guilty in Nigeria.
b) **Right to dignity of human person:** Article 34 has it that every individual is entitled to respect for dignity of person and accordingly, no person shall be subjected to torture or to inhuman or degrading treatment. No person shall be held in slavery or servitude and no person shall be required to perform forced or compulsory labor.
c) **Right to personal liberty:** Article 35 requires that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law.
d) **Right to private life:** Article 36 prescribes that in the determination of civil rights and obligations including any question or determination by or against any government or another, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such a manner as to cure its independence and impartiality.
e) **Right to private and family life:** Article 37 says that the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.
f) **Right to freedom of thought, conscience and religion.** Article 38 states that every person is entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and the public or in private) to manifest and propagate his religion or belief in worship, teaching, practices and observance.
g) **Right to freedom of expression and the press:** Article 39 states that every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas, information without interference.
h) **Right to peaceful assembly and association:** Article 40 states that every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests.
i) **Right to freedom of movement:** Article 41 has it that every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof and no

citizen of Nigeria shall be expelled from Nigeria or refuse entry thereto or exits therefore.

j) **Right from freedom from discrimination.** Article 42 holds that a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of government, to disabilities or restrictions to which citizens of other communities, ethnic group, places of origin, sex, religious or political opinions are not made subject. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

History of Special Anti-Robbery Squad in Nigeria

The history and modus operandi of the Special Anti-Robbery Squad (SARs) is intractably linked with the general history of the Nigerian police. The nature and character of post-colonial Nigeria police, according to Alemika (1988) is a product of what was left to us during the colonial period. Colonial police were notorious for their ruthlessness, cruelty, incivility, and lack of responsibility when it came to persons who were thought to be resisting colonial policy (Alemika, 1988). Therefore, after independence, the post-colonial police continued with the pre-colonial police mode of operation in which police officers are more interested and preoccupied with protecting and defending a few powerful wealthy individuals in charge of the county's political and economic system through coercion and violence. As a result, the nature of policing in Nigeria was modeled after suppression and intimidation of perceived opposition elements and dissenting voices demanding for a better way of life for the citizenry (Alemika, 1988).

Therefore, the Special Anti-Robbery Squad which is one of the units within the Nigeria Police was created in 1992 by then Police Commissioner of Lagos State, Simeon Danladi Midenda. SARS was only active in Lagos for a decade but by 2002, it had spread to all the 36 states of the federation as well as Abuja, the Federal Capital Territory (News 24, 2020). The original purpose of creating this special unit was to tackle the rising cases of armed robbery, murder, kidnapping and other forms of crime in the commercial city of Lagos state. Over the years, it is obvious that SARs has deviated from its original mandate. It has become notorious for human right abuses of all kinds on members of the Nigerian public. According to the Amnesty International (2020), between January 2017 and May 2020, the SARS committed acts of extortion, torture, and ill treatment against the Nigerian public. As a result of the unwholesome activities of the SARS operatives and the inability of the Police leadership to tackle the cases of corruption, torture, harassment and other forms of human right abuses perpetrated by the SARs, there have been unwavering campaigns on the social media and other platforms against the unprofessional conduct of officers of the SARS.

In response to public outcry against its acts of brutality, the Police authorities promised that the SARS would be reformed and professionalized. For instance, the Amnesty International (2017) stated that in August 2015, the leadership of the Nigerian police declared that, in order to address accusations of SARS personnel violating human rights, they would implement changes that would reform the police. But as it later became obvious such promise was a ruse

and a decoy by the police authorities in Nigeria to merely calm frayed nerves. Consequently, collective accusations against the unscrupulous activities the SARS came to a boiling point on the 8th of October, 2020 in Lagos and later to other cities in Nigeria following weeks of outrage and frustration over recordings and pictures of police abuse, intimidation and extortion (Ojedokun et al, 2021). The peaceful protests which were later hijacked by hoodlums virtually paralyzed economic and social activities and attracted local and global attention.

The Birth of the EndSARS Protest

According to Wikipedia (2023), End SARS is a decentralized social movement, and series of mass protests against police brutality in Nigeria. The slogan calls for the disbanding of the Special Anti-Robbery Squad (SARS), a notorious unit of the Nigerian Police with a long record of abuses. The protests which takes its name from the slogan started in 2017 as a Twitter campaign using the hash tag #ENDSARS to demand the disbanding of the unit by the Nigerian government. After experiencing revitalization in October 2020 following more revelations of the abuses of the unit, mass demonstrations occurred throughout the major cities of Nigeria, accompanied by vociferous outrage on social media platforms. About 28 million tweets bearing the hash tag have been accumulated on Twitter alone. Solidarity protests and demonstrations by Nigerians in diaspora and sympathizers occurred in many major cities of the world.

The protests are notable for its patronage by a demographic that is made of entirely young Nigerians. The movement has since expanded to include demands for good and accountable governance. SARS officers have been alleged to profile young Nigerians, mostly males, based on fashion choices, tattoos and hairstyles. They were also known to mount illegal road blocks, conduct unwarranted checks and searches, arrest and detain without warrant or trial, rape women, and extort young male Nigerians for driving exotic vehicles and using laptops and i-phones. Nigerians have shared both stories and video evidence of how officers of SARS engaged in kidnapping, murder, theft, rape, torture, unlawful arrests, humiliation, unlawful detention, extrajudicial killings and extortion of Nigerian citizens. A large section of the victims of the abuses of SARS have been young male Nigerians.

A report from Shola Lawal and Monic Park which was published on the New York Times states as thus: “Lagos, Nigeria - with music playing and food being passed around, a festive atmosphere hung over the protest encampment on Tuesday night, despite the anger over police brutality that in recent weeks had driven youthful demonstrations that were the biggest Nigeria had seen in a generation (Dajo & Akor, 2021). As darkness fell, Nigerian flags were handed out among the thousands of people gathered there. Philip Agu, a sound engineer who had volunteered to run the huge speaker system, said a protest leader took the microphone and told the crowd that the police would likely arrive soon, but that if they sat down, sang the national anthem and waved their flags, they would face no danger. The speaker told the crowd, Mr. Agu recalled that all around the world, “no soldier can shoot any citizen holding their own national flag” (Okoye, 2021). Three hours later, dozens of people were hit by gunfire from security forces, some fatally, and images of bloodied protesters and their bloodied flags strewn on the ground flooded the social media accounts of millions of Nigerians. Survivors recalled a sudden shift from sitting peacefully to fleeing in panic.

Some said military and police units surrounded the demonstrators in the affluent suburb of Lekki, preventing them from leaving. “I thought I was going to die,” said Kolade Abiola Ahmed, his voice still quaking a day later. Soldiers and police officers opening fire on unarmed youths in an upscale neighborhood shocked the nation, even older citizens who recalled growing up under a series of military dictatorships (Nwabuoku et al, 2023). The protests over police brutality in the past two weeks had been larger and even more widespread than the last round of major demonstrations, in 2012, after the government stopped subsidizing fuel, but they had remained largely peaceful. Nigeria’s security forces have long been criticized for human rights abuses, particularly in the impoverished northeastern region, but there was a different set of victims this time. Many of the demonstrators have been middle-class, well-educated young people in the southern and central cities, better off than earlier generations, and too young to remember military rule that ended in 1999 (Asogwa et al, 2021). Their movement like Black Lives Matter in the United States has been youth-driven, mostly leaderless and propelled by social media - a nimble, amorphous force that has been hard to quell. On Tuesday, the security forces killed at least 12 people at demonstrations in the Lagos area, including 10 at Lekki, Amnesty International reported on Wednesday.

“These shootings clearly amount to extrajudicial executions,” said Osai Ojigho, the group’s director for Nigeria. “There must be an immediate investigation and suspected perpetrators must be held accountable through fair trials.” The government did not give casualty figures, but a police officer under the Lagos State Command Area Alpha headquarters, who was at the scene of the killings, told The New York Times on Wednesday that at least 11 people had been killed (Ochi & Mark, 2021). On Wednesday, some of the protesters were out in the streets again, violating a 24-hour curfew imposed the day before and newly aware that they could be risking their lives. Plumes of smoke rose from at least three buildings, including one that houses TVC News, which stopped broadcasting. Sporadic gunshots could be heard around Lekki and Yaba, districts 20 miles apart, separated by a lagoon. Calling themselves the “SoroSoke” or “speak up” generation in the Yoruba language widely spoken in Lagos, the nation’s largest city, the protesters have insisted that a notorious police unit, the Special Anti-Robbery Squad, be disbanded, and it’s most brutal officers prosecuted (Aidonojie et al, 2022). The unit, known as SARS, has earned a reputation for abusing, torturing and even killing young people; an Amnesty report in June referred to its “horrific reign of impunity.”

Origin of the African Charter on Human and People Rights

The context from which the African Charter emerged requires to be briefly addressed. Post-colonial Africa in the 1960s and early 1970s was notorious for its excesses in human rights violations perpetrated by several leaders in defiance of the rule of law (Nnaedozie, 2021). The exact figure of those who lost their lives during that period would never be known, but hundreds were brutally massacred, and thousands crossed borders to save their lives. Other dictators such as Mobutu Sese Seko in Zaïre (now Democratic Republic of Congo) moved in to exercise unlimited power at the expense of their population’s development and welfare, leaving a legacy of human rights violations in their wake. Military coups followed one another in countries such as Nigeria, engendering civil wars and uprisings. It was also a time when the Cold War between East and West was at its peak (Erunke, 2022). The OAU, set up in 1963,

stood by and watched silently, fettered by its conservative interpretation of national sovereignty and territorial integrity, which was the main argument to explain its inaction, even when massive violations were committed. It considered human rights to be in the realm of domestic matters, internal to the country concerned. Discussions concerning the adoption of a treaty dealing with human rights for Africa started at a Congress of African Jurist in Lagos, Nigeria, in 1961.

The idea was further considered by French-speaking jurists in Dakar, Senegal, in 1969. Such a document became pressing in the light of egregious violations being witnessed across the continent (Ojedokun, Ogunleye & Aderinto, 2021). "Real impetus" was gained during the OAU's 16th Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979. The OAU adopted a decision requesting its Secretary General, Edem Kodjo, to organize a meeting entrusted with the preparation of a preliminary draft of the envisaged treaty. A first draft, reflecting the history, values, traditions and economic needs of the continent, was produced by a selected group of jurists from November 28 to 7 December 1979, exhorted by Senegal's President Leopold Sedar Senghor to be inspired by "those of our traditions that are beautiful and positive" while constantly keeping in mind "our values and [the] real needs of Africa". The second draft of the Charter was prepared in Banjul, The Gambia, in June 1980 and in January 1981. This is why the document is also known as the Banjul Charter (Iyorza & Nsa, 2020). On 27 June 1981, at its 18th General Assembly Meeting in Nairobi, Kenya, the Heads of State and Government of the OAU adopted the African Charter on Human and Peoples' Rights. It came into force on 21 October 1986.

While all the members of the African Union have adhered to the African Charter, its domestication; hence applicability by national laws, still remains an issue. It is left to the discretion of states parties to decide how to give effect to treaties in their national law. Some countries, like Namibia, include provisions defining the role of international law at the national level (Raimi, Okoyen, Tuebi, Raimi, Funmilayo, Oluwakemi & Joseph, 2021). South Africa mandates courts to take international law into consideration when interpreting its Bill of Rights. The Preamble to the 1992 Constitution of the Malagasy Republic adopts the African Charter and declares it to be an integral part of its law (Dambo, Ersoy, Auwal, Olorunsola, Olonode, Arikewuyo & Joseph, 2020). Among the 'dualist countries', Nigeria has enacted legislation to incorporate the African Charter into its national law. However, the African Commission holds the view that states are bound by ratification of the Charter, no matter what their system is, and

> *... any doubt that may exist regarding [a party's] obligations under the Charter is dispelled by reference to Article 1.*

It also held that if a country (in the instant case, Nigeria) wanted to rescind its obligations by withdrawing its ratification, it would have to go through an "international process involving notice" and that it "cannot negate the effects of its ratification of the charter through domestic action".

The Extent Fundamental Human Rights Were Violated During the EndSARS Protest

Incidences of human rights violations such as right to life, freedom of movement, freedom of association among others were committed by officers of the Nigerian Police Force on EndSARS protesters in various States of Nigeria. This is despite the fact that protests are an

important aspect of the legal, political, economic, social and cultural life of all countries (Uwandu, 2020). Protests have in the past sparked constructive social change and bolstered human rights security and they continue to help define and secure public space around the world. Protests help citizens become more informed and they improve representative democracy by allowing them to participate directly in government activities (Javed, 2020). Individuals and organizations can use them to voice their opposition and concerns, exchange ideas and counter-ideas, expose governance flaws and openly demand that authorities and other powerful institutions address problems and accept accountability for their actions.

This is especially critical for people who do not get their voices heard or who are excluded. Protest is defined as 'contentious politics' or 'contentious actions' in the case of claimants, or those claiming to represent them, dependent on non-institutional ways of contact with elites, opponents, or the State to some extent (Charles, 1996). It is also defined as 'public group activities that use conflict politics to apply tension to a specific purpose in attempt to sway public opinion'. Protest is a non-traditional style of political participation. They go on to suggest that citizens are becoming more critical of politicians and that this criticism is constantly manifested in protest, which could explain why there is now a flood of study and theory claiming to address the issue. It's called 'high-risk political behaviour'. However, protests and social movements are normal and 'inherently political' and that they have become 'an accepted aspect of citizens' political activities' (Schussman & Soule, 2005).

Whether the protests are against a government policy on university education, fuel price increases, or other government policies, incidents of forcible dispersion by security services occur, people have been gruesomely killed and others have sustained lasting injuries as a result of similar events (BBC, 2020). In Nigeria, individuals use political power to persecute and suppress their opponents. The Public Order Act was used by governors and their accomplices to frighten protestors who were against them, but it was also used to protect those who were protesting against their opponents (Bamgboye & Chuks, 2014). What began as a protest by young Nigerians against the feared police Special Anti-Robbery Squad (SARS) turned into a venue for the youth to vent their frustrations with Nigeria's ruling class and demanded change. The protests in Lagos were met with a police crackdown, with government buildings set ablaze and stores looted by hoodlums who hijacked the peaceful demonstrations.

The looting and mayhem spread fast across the country (Omilana, 2020). Several warehouses across the country containing covid-19 relief items were looted, bringing the misery of many Nigerians to the fore once more. The demonstrations did not just target the Special Anti-Robbery Squad. It's the outpouring of bottled-up rage at the government's dehumanizing policies as well as mismanagement, injustice, famine and sky-rocketing high energy and fuel prices. Nigeria is known for being one of the world's poorest country despite her abundant resources (The Conversation, 2020). Approximately 70% of the population is under the age of 30; in the second quarter of 2020, 21.7 million people were unemployed, with 13.9 million of them being teens. As a result, government policies that have resulted in labour scarcity and sustainable sources of income disproportionately harm young Nigerians. Other factors include political officials lavish lifestyles.

'Sorókèwerey', a Yoruba term that loosely translates as 'speak up stupid,' has become another iconic word linked with the protests (Tayo, 2020). It is directed to the government and the

leadership of the police force and it is a demand that SARS be disbanded immediately, that victims be compensated and that concrete measures be made to end police violence. A curfew was imposed ahead of the protests on October 20, 2020 at the Lekki toll plaza in Lagos. Governor of Lagos State, Sanwo-Olu issued a statement urging 'peaceful protestors and residents' to adhere to the curfew and stay at home. Security forces opened fire on non-violent protestors at the toll plaza without notice, according to Amnesty International, killing at least 12 people and injured many more (Obiezu, 2020). Sanwo-Olu said that the forces were outside his authority claiming that they were dispatched by Buhari. According to Amnesty International, government officials cut off the electricity and removed CCTV cameras from the Lekki toll gate where EndSARS protesters had been camping for two weeks, in an obvious attempt to hide evidence.

As in earlier cases reported by Amnesty International, several of those slain and injured were purportedly taken away by the military. On Instagram live, a musician named DJ Switch videotaped demonstrators being shot and wounded by Nigerian military officers, attracting international attention to the problem (Ani, 2020). The Economic Community of West African States (ECOWAS) also urged11 Nigeria's leadership to start a discourse as soon as possible in order to find a peaceful settlement. The African Union (AU) has asked Nigeria to launch an investigation to guarantee that those responsible for violent acts are brought to justice. The International Criminal Court (ICC) Prosecutor has also called for 'calm and restraint.' The African Commission on Human and Peoples' Rights expressed serious concern about reports of the use of excessive force by the police (Duerksen, 2021). The Nigerian military's killing of protesters raised attention to the military's participation in protests as well as how and when they can interfere.

The Nigerian military's major function is enshrined in the CFRN. The principal responsibility of the armed forces according to section 217 of the Constitution is to safeguard Nigeria from all types of foreign aggression and insurgency. As a result, they are under no responsibility to interfere with peaceful protest by Nigerian citizens demanding the enforcement of their fundamental rights. Unless there is a violent attempt to overthrow the government, the army has no business engaging in civil protests. The social contract theory emphasizes the existence of government and its authority to act on behalf of the people, primarily for their welfare and security (Ojedokun et al, 2021). The Nigerian military's (as an agency of the State) indiscriminate killing of unarmed peaceful protesters undermined this and brought to the fore the fundamental right to life contained in the Nigerian Constitution. The act was barbaric and a heinous act of killing unarmed innocent protesters in Nigeria in the twenty-first century calls for critical questioning. We strongly condemn the military's use of live ammunition in the killing of unarmed protesters at the Lekki toll plaza. Those responsible should be held accountable to the full extent of the law (Okoye, 2021). When it comes to the use of guns, security forces should exercise extreme caution. Nigerians have the right to peaceful demonstrations. This is a fundamental right that the government must uphold and safeguard at all costs.

Table 1: Constitutional fundamental human rights that were violated before and during the #EndSARS protest

Freedom of Expression	**Section 39 CFRN; art 9 ACHPR art 19 UDHR**	**These provisions grant every Nigerian the freedom to receive and express their opinions, ideas and information. It also grants them the right to establish and operate any medium used in disseminating information in Nigeria subject to the regulations of wireless broadcast**
Right to Life	Section 33 CFRN; art 4 ACHPR; art 3 UDHR	Everyone has a right to life, and no one must be deprived of his life intentionally. The exceptions to this right are: 1) a valid death sentence by a court of law; 2) where a person dies during the use of reasonable force while engaging in self-defence, and 3) where a person dies while affecting a lawful arrest or suppressing a riot, mutiny or insurrection provided reasonable force is used
Freedom of Association	Section 40 CFRN; art 10 and 11 ACHPR; art 17 and 20 UDHR	Every Nigerian is entitled to form or join any association of people in Nigeria in support of his interest
Right to Dignity of Life	Section 34 CFRN; art 4 ACHPR; art 1, 4, 5 and 6 UDHR	Every individual is entitled to dignity and respect. He is entitled to be free from slavery and torture
Right to Liberty	Section 35 CFRN	Every Nigerian has the right to personal liberty, and no person should be deprived of this right except: 1) in the execution of a criminal sentence by a court of law; 2) for failure to comply with an order of a court; 3) in bringing him before a court; 4) in preventing him from committing an offence; 5) where he is reasonably suspected of committing an offence; and 6) for care and treatment for persons with infectious disease, unsound mind or addictions
Freedom of Movement	Section 41 CFRN; art 12 ACHPR; art 13 UDHR	Every Nigerian has the right to move anywhere in Nigeria. This right however, does not apply where a person has been lawfully sentenced to imprisonment or restricted by a court of law

Source: Chisom (2021)

Table 2: Victims of SARS and Human Rights Abuse before the #EndSARS Protest.

Names of Victims	Age	State	Date Killed	Nature of Death
Daniel Adewuyi Tella	27	Lagos	07/02/2006	Graduate of Banking and Finance arrested on his way home in FESTAC. Died in police custody
Godgift Ferguson Ekerete	24	Rivers	03/07/2008	Killed in Mile One Police Station in Port Harcourt
Tony Oruama	21	Rivers	03/07/2008	Killed in Mile One Police Station in Port Harcourt
Harry Ataria	26	Rivers	03/07/2008	Killed in Mile One Police Station in Port Harcourt
Mbakwe Oruama	20	Rivers	03/07/2008	Killed in Mile One Police Station in Port Harcourt
Emmanuel Egbo	15	Enugu	25/09/ 2008	Playing with his fellow children and was unarmed when killed by SARS
Chika Ibeku	29	Rivers	09/04/2009	First arrested and detained at Omoku Police station, then transferred to Port Harcourt. To date, their whereabouts is unknown
Gabriel Ejoor	23	Rivers	09/04/2009	Arrested with Chika Ibeku
Precious Odua	21	Rivers	09/04/2009	Arrested with Chika Ibeku
Owoicho	29	Rivers	09/04/2009	Arrested with Chika Ibeku
Christian Onuigbo	28	Abuja		Shot by the police while parking his car in Jiwa
Kolade Johnson	22	Lagos	31/03/2019	Killed by police stray bullet
Mus'ab Sammani	22	Kano	4/12/2019	Shoot by the police over an argument between him and a Keke driver that bashed his car
Chima	N/A	Rivers	23/12/2019	Arrested by the police in Port Harcourt and was tortured to death
Kazeem Tiamiyu	21	Ogun	22/02/2020	Assistant Captain of Remo Stars Football Club harassed and killed by SARS
Tina Ezekwe	16	Lagos	14/05/2020	Secondary school student that was shot and killed by two police officers at the Iyana-Oworo area of Lagos State
Chibuike Daniel Ikeaguchi	20	Rivers	19/09/2020	Upcoming music artiste. Went to visit his friend at Elelenwo area of Obio Akpor Rivers State but was killed by SARS on his return

Source: Adopted from the reports of Amnesty International (2006, 2008, 2009, 2018, 2019 & 2020) and prepared by the authors.

Table 3: Victims of #EndSARS Protest and Abuse of Human Rights during the Protest.

Names of Victims	Source	State	Date Killed	Nature of Death
Unnamed	Harvard Human Right Review	Delta	3/10/20	Report of the unprovoked shooting of a boy on the street of Delta State, whose car was snatched by SARS official
Jimoh Isiaka	Human Right Watch	Oyo	10/10/20	He was killed by a stray bullet while the police were dispersing protesters in Ogbomosho
Unnamed	Vanguard Newspaper	Ondo	11/10/20	The police shot tear gas and live bullets to disperse protesters, killing about 4 persons
Unnamed	Amnesty International	All	12/10/20	Amnesty International reported that the police killed about 10 persons in one week during the protest
Unnamed	Nairametrics	Abuja	12/10/2020	As the protesters were heading towards Force HQ, the police attacked them using teargas, water cannons and gunshots, slashing car tyres, seized phones and arrested others
Unnamed	Nairametrics	Rivers	12/10/20	The banning of protest by Governor Nyesom Wike, thus stopping the planned protest on Tuesday of that week

Unnamed	Nairametrics	Lagos	13/10/20	As the police dispersed protesters in Surulere, one person was killed, and others were arrested and kept in police stations
Unnamed	ThisDay Newspaper	Abuja	14/10/20	An order from the CBN to various banks not to allow their platforms to be used for raising funds
Unnamed	ThisDay Newspaper	Abuja	15/10/20	The announcement by the Federal Capital Territory Administration that all demonstrations have been banned after a wave of #EndSARS protests in various cities
Unnamed	Nairametrics	Lagos	20/10/20	Peaceful protesters were allegedly shot at by the Nigerian military at the Lekki Tollgate, in which 49 persons were alleged to be killed
Unnamed woman	Human Right Watch	Oyo		A woman was severely beaten with a stick by the police, fracturing her skull
Ikechukwu Ilohamauzo	HRW		12/10/20	Police opened gunfire to disperse protesters, killing 55-year-old IK
Unnamed	HRW		12/10/20	Police arrested dozens of protesters, who were refused access to their lawyers but were released following the intervention of some prominent political office holders

Research question three: To what extent does legality of EndSARS is protest under Nigerian law?

The Impact of African Commission on Human and Peoples Rights on the EndSARS Protest

The African Commission of Human and People's Rights condemned the cases of police brutality in Nigeria which leads to EndSARS (Aidonojie et al, 2022). The commission through its Country Rapporteur for the Federal Republic of Nigeria, Commissioner Solomon Ayele Dersso, and the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, Commissioner Maria Teresa Manuela, made the call following the expression of public outrage about the human rights violations by operatives of the Special Anti-Robbery Squad (SARS) of the Nigerian Police Force. In a statement issued in response to the ongoing #EndSARS protest, the commission noted that though the Nigeria government has announced the dissolution of SARS, it is concerned that there has been lack of real reforms which has led to continuous violation of human rights overtime (Johnson & Salau, 2022).

"The commission welcomes the announcement of the Government of Nigeria to dissolve of the SARS, which creates the basis for taking the necessary measures to address the human rights violations by SARS that triggered the protests and the calls for ending SARS (Choudhury, 2022). "In this respect, the Commission expresses its concern about the alleged human rights violations committed by this unit including harassment, unlawful arrests, torture and extra-judicial killings. "The Commission is further concerned that while this is not the first time that steps have been initiated to disband or reorganize the SARS there has been a distinct lack of real reform, resulting in continued impunity for human rights violations and a perpetuation of patterns of abuse" (Reicher et al, 2022). The commission also advised that the federal government should, "initiate comprehensive reform to address the serious gaps in the policies, laws, regulations and guidelines regulating the conduct of law enforcement institutions, including in terms of the use of force, in the doctrine and training of members of law enforcement institutions and in the mechanisms for monitoring and investigating the conduct of law enforcement institutions for their compliance with human rights principles and standards (Olawoyin, 2023).

"The African Commission avails itself to accompany Nigeria in its effort to ensure compliance with the standards of the African Charter, on the basis of the foregoing, by its law enforcement institutions. Many of today's human rights documents have their origins in papers like the Magna Carta of 1215, the English Bill of Rights of 1689 and the French Declaration on the Rights of Man and Citizen of 1789 (Erunke, 2022). The Declaration of Independence of the United States of America proclaimed that 'life' is one of the inalienable rights, meaning that all people have the right to live and/or exist, and that governments have the responsibility to protect their citizens' inalienable rights. In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights and it states in article 3 that 'everyone has the right to life, liberty and the security of person'. In 1950, the Council of Europe adopted the European Convention on Human Rights and it states in article 2 that 'everyone has the right to life, liberty and the security of person' (News 24, 2020).

Similarly, the African Charter on Human and Peoples' Rights (ACHPR) and the United Nations Convention on the Rights of the Child (UNCRC) affirmatively provide for the right

to life in articles 4 and 6(1) and (2), respectively. This could also be exemplified by the African Commission for Human and Peoples' Rights' finding in Organisation Mondiale Contre La Torture Association Internationale des Juristes Democrates) Commission Internationale des Juristes (C.I.J) Union Interafricaine des Droits de l'Homme/Rwanda, where the Commission found that the massacre of a large number of Rwandan villagers by the Rwandan Army, as well as the numerous reported extrajudicial executions for reasons of ethnic group membership, were a series of violations of the right to life enshrined in article 4 of the African Charter on Human and Peoples' Rights (Asogwa et al, 2021). In many aspects, there has been a shift away from this traditional perspective toward a more liberal and expansive view that does not regard a violation of one's right to life in terms of death. This can be explained in a few ways.

The European Court of Human Rights decided in Makaratzis v. Greece18 that the use of potentially deadly force by the police against the applicant was a violation of his right to life, despite the fact that he survived the injuries for which the Greek government was responsible (Nwabuoku et al, 2023). Furthermore, the African Commission on Human Rights declared in World Organization against Torture, Lawyers' Committee for Human Rights, Jehovah Witnesses, Inter-African Union for Human Rights/Zaire, that arbitrary arrests, detention and torture violated the right to life in article 4 of the African Charter on Human and Peoples Rights. It has even been held that the Turkish government violated the deceased's right to life by failing to conduct a thorough investigation into the cause of death (Cilliers, 2021). In the Juvenile Re-education Institute case, the Inter American Court of Human Rights declared that the right to life and the right to humane treatment require the State to not only respect them (negative obligation), but also to take all appropriate measures to protect and preserve them (positive obligation).

The right to life is a fundamental human right according to the Inter-American Court of Human Rights in the case of the Street Children. All rights become useless if it isn't honoured. In essence, the fundamental right to life comprises not only the right of every human being not to be arbitrarily deprived of his or her life, but also the right to access to the conditions necessary for a dignified living (Adenrele & Olugebga, 2014). States must ensure that the conditions necessary to prevent violations of this fundamental right are created. As a result, States must take whatever steps that are necessary to create an adequate statutory framework to deter any threat to the right to life; to establish an effective system of administration of justice capable of investigating, punishing and mitigating any deprivation of life by State agents or individuals; and to protect the right not to be denied23 access to conditions that may be life-threatening.

Theoretical Framework

Structural Functional Theory

Structural functional theory was developed by Talcott Parsons (1902-79). Other contributors to this theory include: Auguste Comte, Herbert Spencer and Emile Durkheim. According to functionalism, society is a system of interconnected parts that work together in harmony to maintain a state of balance and social equilibrium for the whole. For example, each of the social institutions contributes important functions for society: Family provides a context for

reproducing, nurturing, and socializing children; education offers a way to transmit a society's skills, knowledge, and culture to its youth; politics provides a means of governing members of society; economics provides for the production, distribution, and consumption of goods and services; and religion provides moral guidance and an outlet for worship of a higher power (Ritzer, 2012).

The functionalist perspective emphasizes the interconnectedness of society by focusing on how each part influences and is influenced by other parts. Functionalists use the terms functional and dysfunctional to describe the effects of social elements on society. Elements of society are functional if they contribute to social stability and dysfunctional if they disrupt social stability. Some aspects of society can be both functional and dysfunctional. For example, crime is dysfunctional in that it is associated with physical violence, loss of property and fear. But according to Durkheim and other functionalists, crime is also functional for society because it leads to heightened awareness of shared moral bonds and increased social cohesion (Harlambos & Holborn, 2005; Ritzer, 2012). Functionalists posit that there is value consensus in every social reality.

They believe that there is general agreement by members of a society on what is desirable, worthwhile and worthless. People share consensus on the values, norms and beliefs of a society. A high degree of consensus in a society whether it is democratic or communist binds members together to form an integrated and cohesive unit. Functionalists also assume that societies and phenomena are pervaded by stability. The theory assumes that a certain degree of order and stability is necessary for the survival of social system. Functionalists downplay the conflict in society between classes and believe that once norms and values are maintained, the society would be conflict free (Ritzer, 2012).

Justification of the Theory

The theory works on the assumption that each part cannot be understood in isolation until it is seen or explained in relation to the other parts. Thus the essence of each part such as the liver cannot be understood until it is looked at in terms of how it relates with the heart and the brain to keep the whole body as one. The theory also works on the assumption that each society has certain needs in that there are a number of activities that must be carried out for social life to survive and develop. In the structural functional model, individuals carry out each of these tasks in various institutions and roles that are consistent with the structures and norms of the society. One of the avenues for fulfilling this function is through the functionality of the Nigeria Police as an agency saddled with the mantle of fighting crime as it relates to the well being of the people and economy in general. Applying this theory to the topic under study, the EndSARS protest affected not just the SARs arm of the Police but the entire Police, Nigerians and the Economy.

The Police is supposed to work for the betterment of the populace but its inability to provide security for all and sundry, prompted the protest. Thus, the theory explains the role the EndSARS protest plays in ensuring reforms in the Nigerian police force for a better security architecture and robust economic development. From the functionalist perspective therefore, the EndSARS protest which is an agitation in relation to the function of the police as an agency is likened to a structure that contributes to smooth functioning of the Nigerian economy by

ensuring a better police with government agencies, ministries and departments. As the body has essential organs, each with a specific function in the body, just like other institutions of the family, economy, politics, education and religion, police as an organization in the society also has its own function to perform. Its working will help maintain the smooth functioning of other institutions in the society and particularly the smooth functioning of the economy.

Therefore, the EndSARS protests was a movement spearheaded by Nigerian youths to demand an end to torture, brutality, extortion, extra-judicial killings and other forms of abuses by the SARS. Since its formation in 1992, the SARS have been accused of abuses and attempts at reforming the SARS in the past did not yield the desired results. It was therefore through the EndSARS protests that years of oppression and maltreatment of members of the Nigerian public by the SARs was dismantled. THE theory also posits that it is not enough to identify the source of oppression and domination in the society but solutions to the problem must also be clearly outlined, In line with this tradition, the EndSARS protesters did not only demand the cessation of the SARs but also outlined the strategies that could lead to the reform of the entire Nigeria Police. The EndSARS protesters requested for the training of ex-SARS officials and an improvement in the welfare of the operatives of the Nigerian police in general.

Methodology

The researcher employed the following methods for the purpose of this study.

- **Research Design:** Ex-post facto research design was employed for the study. This is to enable the researcher use secondary sources of data for the study.
- **Source of Data:** The data were collected through secondary sources.
- **Data Analysis:** For the purpose of this study, the researcher employed content and documentary analysis. This is true because the study is based on secondary data only.

Conclusion

Fundamental Human rights are the utmost prerogative of every democratic government in power to protect and not to destroy. Nigeria nascent democracy is laced with litany of woes on fundamental human rights violations with little or no accountability. The memory of EndSARS cannot be forgotten so easily in Nigeria. This is because many youths who involved in the protest were killed. However, African commission for human and people's right have not done much for the protection and promotion of citizens' right especially as it concerns EndSARS in Nigeria. The commission had failed woefully to save its already battered image when it failed to properly investigate the EndSARS protest and massacre in Nigeria at the Lekki toll gate to be precise on the 20$^{th\ of}$ October 2020 where innocent lives were wasted and severe injuries obtained by the protesters who were mainly youths. The 20$^{th\ of}$ October 2020 EndSARS protesters massacre had caused a total collapse of the already diminishing trust the citizens had for those in authority.

The Protest was a campaign against the unlawful or extrajudicial killings of Innocent Youths as guaranteed by the 1999 Nigerian constitution as amended which unfortunately gave room for gruesome death of innocent Youths indicating another flagrant and deliberate violation of the Nigerian Constitution the ground norm and legal custodian/safeguard of citizens' fundamental human rights. This work conclude that although the SARS has been disbanded

by the Nigeria Police Force as demanded by the #EndSARS protesters, the tendency for violent protests against police high-handedness will remain in Nigeria as long as the issues that fuelled the eruption of the mass mobilization persist. Conclusively there's more to be done than one could imagine on the urgent need to put reforms in place to aid curtail this ugly act of fundamental human rights violations with impunity by governments and this will yield desired results if political will is there.

Recommendations

Based on the findings, this work recommends that.

1. Violation of fundamental human rights by Nigeria and other African countries should be approached with targeted sanctions by the African commission for human and peoples right for individuals and governments who are found guilty.
2. Institutions of governments locally and internationally such as the African commission for human and people's rights and National Human Rights Commission must be alive to the performance of their constitutional duties. If the Commissions had done their jobs assiduously by investigating and prosecuting individuals involved in human rights abuses, the #EndSARS protests would probably not have been necessary.
3. It is important for the Nigeria Police Force and the Police Service Commission (the government agency charged with the responsibility of disciplining erring police officials) to create adequate awareness and make more open and accessible to the public, the available internal channels through which members of the public can easily file complaints and seek necessary redress against police personnel abuse of power, and any unjust treatment suffered in the hands of law enforcement officials.
4. Experience has shown that after protests, most of the agitations of social movements are not honored by people who are supposed to implement such demands. This work recommends that since the #EndSARS protesters made five demands to the government, conscious efforts must be made by young people in collaboration with African commission for human and people's rights and other civil society organizations in Nigeria to ensure that their demands are fully implemented.
5. It is important for the Nigeria Police Force to introduce body-worn cameras as part of the professional kits of its personnel so as to be able to adequately deter them from being high-handed and/or engage in some other unethical conducts in the discharge of their responsibilities. If police officials are adequately discouraged from engaging in acts constituting human rights violation, the outbreak of violent protests against police brutality and abuse of power would be low. Finally, it is necessary for the Nigeria Police Force to strategically partner with the Police Service Commission and the Ministry of Police Affairs to design effective frameworks through which police – public relationship can be significantly improved. If this is achieved, the tendency for police–citizen encounters to degenerate into violent confrontations will become minimal.

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Appendix

CERTIFICATION OF CORRECTIONS: EKWEBELEM, CHIKA PASCHAL IMSU/18/MSC/11761

This is to certify that the candidate named above with dissertation titled "**role of the African Union Commission on human and people's rights: a study of the EndSARS protest 2020-2021**" has corrected the defects noted in his work during the internal defence.
On the basis of this, we certify that he can move on to the next level.

1. **Dr. Onyeiwu Emmanuel** **Sign:_____** **Date:_____**

2. **Dr. Anthony Offiah Sign:_____** **Date:_____**