

Enforcement of Human Rights and the Relevance of the United Nations in the 21st Century: A Synopsis of End SARS Protest.¹

Abstract

Law can only be potent to the extent of its fulfilment of its primal purpose which is to ensure a harmonious living amongst members of the society. The practical approach to fulfilling this purpose is regard for the fundamental human rights of all and sundry. This paper seeks through historical methodology to explore the concept of human rights, freedom of expression as a core basic human right of individuals, various institutions and enactment established to ensure and fulfil this mandate, the failures of these institutions and enactments especially as it relates to events in third world countries and most importantly the End SARS protest that rocked Nigeria West Africa. Data in respect of End SARS protest were collected based on evidential tailored research and recommendations ranging from independent investigatory body, proper sanction and enforcement amongst others are also critically discussed.

Keywords: End SARS, Protest, Human Rights, United Nations, Conventions

1. Introduction

History of Human Right and the United Nations

The dignity of Man is really a worth money cannot buy. Law recognizes this truism through the fundamental legal principle called Human Rights. The idea of human rights is as old as life itself just like the civil rights activist Martin Luther King Jnr. retorted that; “The first principle of value that we need to rediscover is this- which all reality hinges on moral foundations. In other words, that this is a moral universe, and that they are moral laws of the universe just as abiding as the physical law.”²

Therefore, man-made laws only reflect the idea of the nature of the universe through the concept of human rights. The term human rights were formally and universally recognized only after the formation of the United Nations (UN) in 1945. Human rights denote all those rights which are inherent in our nature and without which we cannot live as human beings. These are essential for individuals to develop their personality, their human qualities, their intelligence, talent, and conscience and to enable them to satisfy their spiritual and higher needs. Human Rights concept is a dynamic phenomenon which will find expanded expression and constantly cover new areas as human society continues to evolve to higher levels of development.³

The growth or emergence of the term human rights cannot be divorced from political happenings. One of the earliest enactments on human right the *Magna Carta* enacted in the year 1215 which gave the people new rights and made the king restrained by the law. Also, the 1628 Petition of Rights, 1776 United States Declaration of Independence which guaranteed the right to life, liberty and the pursuit of happiness for the American People, the 1789 Declaration of The Rights Of Man, and of the Citizen of France, the 1948 Universal Declaration Of Human Rights adopted by the United Nations expressly stating the fundamental human rights of all

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² <https://www.goodreads.com/quotes/tag/laws> > accessed on 9 September, 2021.

³ S Kaur. ‘Historical Development of Human Rights’. *Journal of Social Science Research*. 997.

people of earth.⁴ The Civil Rights Act of 1964 which was birth because of political struggles by various civil rights movement.

Upon the recognition of the concept of human rights in international law and politics, various countries of the world have in turn recognized the legal concept of human rights and have gone ahead to enact various Laws and Statutes that provides and enforces the virtues of human rights. Nigeria is not an exception to this development. Chapter IV Sec 33-44 of the 1999 Constitution provides for the human rights of the Nigerian people.⁵

The enactment of a Law goes in tandem with the authority issuing such laws which also makes provision for the enforcement of such laws. For law is only as purposeful as it can only be to the extent of its enforceability. The world as a reflection of the consciousness of Man has undergone various wars and political turmoil in all its effort to refine Man and influence the emergence of a true democratic environment where human rights are valued and acknowledged.

The United Nations an international organization came into force 24th October 1945, UN succeeded the League of Nations which existed to serve same purpose as the UN but ceased operations on 20th April 1946. The UN is an inter-governmental organization that seeks to ensure friendly relations amongst the Nations of the world and create and upheld a democratic environment where the principles of human rights strive. In essence, the United Nations serves as the political watchdog of the world.

According to the UN Charter of 1945, the preamble reads as follows:

‘we the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to re-affirm faith in fundamental human rights of Man and Woman and of nations large and small and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained and to promote social progress and business standard of life in larger freedom.

1.2 To these Ends

To practice tolerance and live together in peace with one another as good neighbors and to unite our strength to maintain international peace and security, and to ensure by the acceptance of principles and the institution of methods, that armed forces shall not be used, save in common interest, and to employ international machinery for the promotion of the economic, and social advancement of all peoples.’⁶

From the above preamble, the UN is an organization that’s superbly charged with the mandate of ensuring that the fundamental human rights of Men and Women, small or large nations are

⁴ [https:// www. Youth for human rights.org/what-are-human-rights background-of-human-rights. Html](https://www.Youthforhumanrights.org/what-are-human-rights-background-of-human-rights.html)> accessed on 9 September, 2021.

⁵ [https:// www. Lawhub.com.ng/fundamental-human-rights-under-the-1999 constitution.](https://www.Lawhub.com.ng/fundamental-human-rights-under-the-1999-constitution) > accessed on 9-September, 2021.

⁶ Charter of the United Nations and Statute of the International Court of Justice San-Franciso-1945 (Entry into force 24 October 1945).

well protected, and UN is also tasked with the responsibility of ensuring a conducive environment that allows for the implementation of treaty and other international laws.

Freedom of expression is an inalienable/fundamental right of an individual. Most importantly, the ability to be expressive is a natural integral part of human existence therefore any attempt to undermine this innate and inalienable right is not only unnatural but also undemocratic. Accordingly, an irrepressible avenue to exercise this freedom of expression is via peaceful assemblies or protests. In recognition of this fact, there are various international laws that provides for the right to peaceful assembly, the appropriate guidelines to be ensured by the law enforcement agencies during such assemblies and the limitations existing on the right to peaceful assembly.

Article 19 an organization concerned about defending freedom of expression and information defines a protest: A protest is the individual or collective expression of oppositional, dissenting, reactive, or responsive views, values, or interests. As such, a protest may encompass inter-alia: (1) Individual or collective actions, as well as spontaneous or simultaneous protest in the manner, form, and for the duration of one's choosing, including through the use of digital technologies. (2) An individual or collective expression relating to any cause or issues. (3) Actions targeting any audience, including public authorities' private entities, or individuals or the general public. (4) conduct or expression that may annoy or give offence to people who are opposed to the ideas or claims that a protest is seeking to promote, or conduct that temporarily hinders, impedes, or obstruct the activities of third parties (5) Actions in any locations, including public or privately owned places as well as online. (6) Actions involving various degree and methods of organizing including where there is no clear organizational structure, hierarchy, or pre-determined form or duration of protest.⁷

It is in furtherance of this, that some international legal instrument recognizes the right to protest and the scope in which it is permissible. Such instruments include: Universal Declaration Of Human Rights, The International Covenant On Economic, Social, and Cultural Rights of Regional Human Rights Standards, International Covenant On Civil and Political Rights (ICCPR), UN Basic Principles On The Use Of Force & Firearms by Law Enforcement Officials, The UN Code Of Conduct For Law Enforcement Officials, The Standards Elaborated By Special Procedure Of The UN Human Rights Council (namely the joint report of special rapporteurs on the proper arrangement of assemble)

Article 20(1) of the Universal Declaration of Human Right provides as follows:
has the right to freedom of peaceful assembly and association⁸

Article 21 of the International Covenant on Civil & Political provides thus:

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedom of others

⁷https://www.article19.org/data/files/medialibrary/38581/Right_to_protest_principles_final.pdf> accessed on 9 September, 2021.

⁸ Universal Declaration of Human Rights (Entry into force 10 December 1948).

Principles 12, 13, & 14, of the UN Basic Principles on the Use of Force & Firearms, by Law Enforcement Officials Provides as follows:

Principle 12: As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and Law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with the principle 13 & 14.

Principle 13: In the dispersal of assemblies that are unlawful, but non-violent Law enforcement agencies shall avoid the use of force or, where that is not practicable, shall reduce such force to the minimum extent necessary.

Principle 14: In the dispersal of violent assemblies, Law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.⁹

As recently as the 20th of July 2020, the Human Right committee of the UN in its 129th session adopted its general comment 37 on the right of peaceful assembly protected under Article 21 of the 1966 Covenant on Civil and Political Rights. The general comment elaborately and authoritatively enforced the provisions of Article 21 of the 1966 Covenant on Civil and Political Rights stating and legalizing various conditions that can lead to a protest, the rights that's expected to be enjoyed by these protesters and organizer of these protests before, during and after the protest, the general comment further impose restrictions on the State on how to deal with protesters and the appropriate conditions/requirement that the State must consider before declaring a protest unlawful.

No 6 of the General Comment provides thus:

Article 21 protects peaceful assemblies wherever they take place, outdoor, indoor, and online, in public and private spaces or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils, and flash mobs. They are protected under Article 21 whether they are stationary, such as pickets, or mobile such as processions or marches.

No 7: In many cases, peaceful assemblies do not pursue controversial goals and cause little or no disruptions. The aim might indeed be for example, to commemorate a national day, or celebrate the outcome of a sporting event. However, peaceful assemblies can sometimes be used to pursue contentious ideas or goals. Their scale or nature can cause disruptions for example of vehicular or pedestrian movement or economic activity. These consequences whether intended or unintended, do not call into question the protection such assembly enjoys. To the extent an event may create such disruptions or risks, these have to be managed within the framework of the covenant.¹⁰

The international provisions that has strengthened the right to peaceful assembly can't be overemphasized, even at the regional level, African Charter on Human and People's Right. Article 1 provides as follows:

⁹ UN Basic Principles on the Use of Force & Firearms by Law Enforcement Officials. (Entry into force 1990).

¹⁰ General comment 37 on the right of peaceful assembly adopted on its 129th session on 20th July 2020.

Every individual shall have the right to assemble freely with others. The exercise of this rights shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics, and rights and freedom of others.¹¹

2. Enforcement of Human Rights & the Relevance of the UN in the 21ST Century: A Synopsis of the end SARS Protest.

The potency of law is to a large extent hinged on its applicability and enforcement as it relates to all people subject to that law. Since the emergence of the UN, it can as well be argued that prevailing situations have portrayed the weakness of the UN when it comes to enforcing sanctions in events of breach of various international laws and treaties.

Chapter 1, Article 2(3) & (4) Of the UN provides thus:

All members shall settle their international disputes by peaceful means in such a manner that international peace and security and Justice are not endangered.

All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the purpose of the United Nations¹²

The above provisions simply connote the protection and recognition of the territorial integrity of member states and making unlawful any form of unauthorized invasion against a member State.

The killing of Mummaur Gadaffi and the invasion of Libya by the North Atlantic Treaty Organization (NATO) even though the invasion was because of the implementation of the United Nations Security Council Resolution of 1973 is a clear breach of the fundamental human rights of Mummar Gadaffi himself and the sovereign nation of Libya.

Libya was invaded on the 19th of March 2011, in the guise of ending a civil war precipitated by rebels who are anti-gadaffi and against the national forces of Gadaffi's regime and a further intent of the UN security council was to "have an immediate ceasefire in Libya, including an end to the attacks against civilians, which it said might constitute crimes against humanity"¹³

The important question remains, why didn't the UN adopt the same peace initiative process it currently support in addressing the rebels' groups plundering the various regimes in the Democratic Republic Of Congo (DRC), THE Congolese government initiated a disarmament, demobilization, and community reintegration process and this disarmament initiative was backed and supported by the United Nations Organization Stabilization Mission in the DRC¹⁴.

Whereas in Libya, the country was externally invaded, the airspace was breached, and the Libya leader paraded and killed like a common thief. This is not only appalling but a display of double standard by the UN which is expected to uphold democratic principles. Another

¹¹ <https://www.rightofassembly.info/country/Nigeria>.> accessed 9 September, 2021.

¹² Charter of the United Nations and Statute of the International Court Of Justice. SAN-FRANCISCO 1945 (Entry into force 24 October 1945).

¹³ https://en.m.wikipedia.org/wiki/2011_military_intervention_in_libya > accessed 9 September, 2021.

¹⁴ <https://www.aa.centri/en/ac-armed-groups-agree-to-end-hostilities-in-dr-congo/1976763>> accessed 9 September, 2021.

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reason Libya was invaded was to stop the attacks against civilians which the UN said might constitute crimes against humanity. The United States of America (USA) have perpetuated horrible crimes against humanity and yet no single sanction issued against them.

The invasion of Haiti which began on July 28th 1915 is a clear example of this violation of human rights. During the occupation of Haiti, human right abuses were committed against the native Haitian population, such as censorship, creation of concentration camps, forced labor, religious persecution of Haitian Vodou, torture. ¹⁵ According to Haitian American academics Michel- Rolph Trouillet, about 5,500 Haitians died in labor camps alone. ¹⁶ Haitian historian Roger Gaillard, estimated that in total, including rebel combatants and civilians at least 15,000 Haitians were killed throughout the occupation. ¹⁷

Furthermore, US invasion of Vietnam and the gross violation of fundamental human rights were all a violation of the Laws of War and indeed a crime against humanity. Nick Turse in his book ‘‘kill anything that moves’’, reported that relentless drive toward higher body counts, a widespread use of free-zones, rules of engagement where civilians who ran from soldiers or helicopters could be viewed as Viet Cong and a widespread disdain for Vietnamese civilians led to massive civilian casualties and endemic war crimes inflated by the US troops.¹⁸

All these events raise questions about the actual capacity, willingness, and piousness of the UN in upholding and enforcing fundamental human rights especially in respect to third world nations. This led to the important question of why the UN has been sterile in addressing the End-SARS-Protest killings that happened in Nigeria West Africa.

End SARS protest is a protest that started as a form of online protest against the defunct Special Anti-Robbery Squad (SARS) in the year 2017, the defunct group was an arm of the Nigerian Police Force notoriously known to commit various forms of atrocities and human right abuses against the civilian population, which ranged from extra judicial killings, extortion, rape, and torture. However, on the 4th of Oct 2020 the protest from online activism spread like wildfire to involve physical participation in various region of the country because of a video that went viral showing the defunct SARS officers dragging two men from a hotel and shooting one of them outside. The intensity and massive participation of the country’s youth in the protest finally led to the disbandment of the SARS by the Nigerian Police Force. However, the demand of the protest extended to good governance, a proper responsive government, and a comprehensive reform of the Nigerian Police Force.

On 11th October, SARS was disbanded. However, on 20th October 2020 between 6:45pm and 9:00pm, the Nigerian army and police reportedly killed at least 12 peaceful protesters and left several injured in Lekki and Alausa in the cosmopolitan city of Lagos. The security forces without warning fired on thousands of people who were peacefully calling for good governance and an end to police brutality. On that day alone, 38 people allegedly died across Nigeria. The

¹⁵ B Jean-Phillipe, ‘January 25, 2016 Massacre perpetuated in the 20th century in Haiti’. *Science. Po*, 2016, 3.

¹⁶ Ibid, n 15.

¹⁷ Ibid, n 15.

¹⁸ T Nick. *Kill Anything that Moves: The Real American War in Vietnam*. (Metropolitan Books, 2013) 12.

Nigerian government after the whole escapade froze protest leaders bank account and fined news agencies who diffused videos of the shooting.¹⁹

From the observation of the incidences that occurred during the End SARS protest, from the killings to the freezing of account of protesters, various fundamental questions remained unanswered. In a democratic system of government, are military officers (Soldiers) expected to be in a peaceful assembly of protesters? Does their jurisdictional function extend to observing a peaceful protest? When we have the police and other para-military bodies.

According to the provisions of the Armed Forces Act, Sec.1 (3) provides thus:

The armed forces shall be charged with the defense of the Federal Republic of Nigeria by Land, Sea, and air and with such other duties as the National Assembly may from time to time prescribe and direct by an Act

Sec. 8(3) provides thus:

In this section, operational use of the armed forces includes the operational use of the armed forces in Nigeria for the purpose of maintaining and securing public safety and public order²⁰

Nothing in the above provisions and in the entire Armed Forces Act empowers the armed forces to observe or be around during a peaceful protest. The End SARS protest did not in any way undermine public safety and public order at least before the Lekki toll gate massacre, so what must have warranted the presence of military officers in the assembly of peaceful protesters. This is unconstitutional and undemocratic!

The Nigerian 1999 Constitution under sec. 40 recognizes the right of every person to a peaceful assembly and to freely associate with other persons.²¹ In 2007, a court of appeal in the case of *All Nigerian People's Party V Inspector General of Police* squashed a provision of the 1979 Public Order Act which appears to negate the provision of sec 40. The court held that:

The Public Order Act should be promulgated to complement sections 39 and 40 of the Constitution in content and not to stifle or cripple it. A rally or placard carrying demonstration has become a form of expression of views on current issues affecting government and the governed in a sovereign state. It is a trend recognized and deeply entrenched in the system of governance in civilized countries. It will only be primitive but also retrogressive if Nigeria continues to require a pass to hold a rally. A leaf must be borrowed from those who have trekked the rugged part of democracy and are now reaping the dividend of their experience.²²

Furthermore, what is the importance or essence of the recently adopted document General comment 37 of peaceful assembly on human rights by the committee of the UN which was adopted in its 129th session on 20th July 2020? Whereby, a provision of the document No 78 under the duties and powers of Law enforcement agencies provides thus:

¹⁹ <https://www.amnesty.org/en/latest/campaigns/2021/02/Nigeria-end-impunity-for-police-violence-by-sars-endsars>. > Accessed 9 September, 2021.

²⁰ Armed Forces Act 1994.

²¹ 1999 Constitution, sec.40.

²² <https://www.rightofassembly.info/country/nigeria>.> accessed 9 September, 2021.

Law enforcement officials should seek to de-escalate situations that might result in violence. They are obliged to exhaust non-violent means and to give a warning if it is absolutely necessary to use force, unless doing either would be manifestly ineffective. Any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution, and non-discrimination applicable to article 6 and 7 of the covenant, and those using force must be accountable for each use of force. Domestic legal regimes on the use of force by law enforcement officials must be brought in line with the requirements posed by international law guided by standards such as basic principles on the use of force and firearms by law enforcement officials and the UN Human Rights guidance on less-lethal weapons in law enforcement.²³

The gross abuse of fundamental human rights that occurred during the End-SARS protest is so debasing considering the fact that it happened in a democratic atmosphere and it happened in the 21st century, where human consciousness is evolving towards the need to grapple with in depth exploration of the universe and the world we live in and not stifle our reasoning with how to solve problems of basic needs like food, housing, clothing which were actually the primal basis of the End- SARS protest and yet the UN kept mute about the whole incident and took no slight effort to make necessary sanctions.

Apparently, it can be argued that the End-SARS protest is a domestic affair and by virtue of Article 2(7) of the UN Charter the body is not expected to be involved in the domestic affairs of another country.²⁴ If the UN cannot intervene where there is a clear and massive breach of fundamental human rights of the citizens of a democratic country then what's the importance and purpose of the preamble to the UN Charter which says:

To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of man and woman and of nations large and small and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained and to promote social progress and better standards of life in larger freedom.²⁵

If the UN cannot intervene where there is a gross abuse then what is the essence of Conventions such as International Covenant on civil and political rights, Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, UN Basic Principle on the Use of Force and Firearms by Law Enforcement Officials, the UN Code of Conduct for Law Enforcement Officials etc. all these provisions primarily borders on issues within the domestic affairs of country, and where there is a breach of any of these provisions, the UN either a report is made to the body or not is expected to independently conduct an investigation and make sanctions where appropriate.

In the face of gross violation of fundamental human right in a democratic government, and all the UN will clamor for is just the condemnation of the action and still calling for the perpetrators of the of the evil act (the Nigerian government) to investigate these incidents and

²³ General comment 37 on the right of peaceful assembly adopted on its 129th session on 20th July 2020.

²⁴ Article 2(7) nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

²⁵ Charter of the United Nations and Statute of the International Court Of Justice. SAN-FRANCISCO 1945 (Entry into force 24 October 1945).

hold the perpetrators accountable.²⁶ This position held by the UN is clear foul of the fundamental principle of law which says *Nemo Judex In Causa Sua* (You cannot be a judge in your own case) calling on the Nigerian government to investigate an act also perpetrated by the Nigerian Government makes impotent the actual function of the UN which is supposed to be an independent watchdog and upholder of democracy. This also brings to question the possibility of the emergence of a true democracy.

3. Recommendations & Conclusion

The UN is a body made up of numerous member states and by virtue of this, it is regarded as an impartial independent body that assembly all nations of the world together to ensure a just, fair and democratically principled world. The UN must go beyond just making statements that borders on condemnation of a breach of fundamental human rights and also making the government who perpetrated the breach to also investigate why such breach occur, justice will never be served through this approach. Rather, the UN should establish an independent investigative body comprising of officials from the government, witnesses, and victims, national and international observers all whom will be party to the case and even employ electronic media and footages in reaching an impartial conclusive report as expected of a true independent investigative body.

The UN should melt out sanctions where appropriate which may include ordering home country to award compensation to victim's family and making sure it is enforced. Arraigning individuals responsible for gross abuse of fundamental human rights before the International Court of Justice (ICJ), freezing the accounts and properties domicile abroad of any government official responsible for perpetuating gross abuse of human rights, ensuring a true recovery and assimilation of survivors back into the society and on a general note ensure equality in the distribution of the world's resources as this is one of the primal causes of civil unrest poverty and hunger.

Furthermore, it is appalling that in a democratic organization like UN, supreme power is only rotated amongst 5 member country who are designated as permanent members. China, France, Russia, United Kingdom, United States. Whereas of all the 54 countries in Africa, none has a say or a position in the UN Security Council permanent membership. It will be appropriate a permanent is abolished and all member States have equal voting rights and power which cannot be vetoed by another country.

Conclusively, the sustainable development goals of the UN will only be a paper tiger if proper and practical steps or approach are not adopted. The world is abundantly blessed and resultant effect of poverty, hunger, and economic inequality in our world should not be an issue at all, if the UN were alive to her primal functions.

²⁶ <https://news.un.org/en/story/2020/10/1075842> > accessed on 9 September, 2021.