NIGERIA'S HUMAN RIGHTS POSTURE FROM 1993-1998

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DECLARATION

I, ***EZIOLISA, PETER OKWUDILI***, hereby declares that this thesis was written by me. It was neither contracted to someone else to write for me nor was it copied from someone else's work. All books, journals, pamphlets, newspapers and magazines consulted have been duly acknowledge.

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CERTIFICATION

This thesis titled NIGERIAN'S HUMAN RIGHTS POSTURE FROM 199 – 1998 by EZIOLISA, PETER OKWUDILI meets the regulations governing th award of the Degree of Masters in International Affairs and Diplomacy (MIAD) o Ahmadu Bello University (ABU) Zaria, and is approved for its contribution tc knowledge and Literacy presentation.

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DEDICATION

This project is dedicated to God Almighty for his guidance and protection.

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ABSTRACT

The struggle for human rights should not be seen as a slim effort to preserve the dignity of the human individual only. Rather, it should be seen as part of a broader struggle for democracy which is recognized universally as a standard of human habitation. The struggle for human rights is therefore synonymous to the struggle against arbitrariness, authoritarianism and absolutism. The latter set of attributes stand in glaring characterisation of military rule which has, for most of Nigeria's post-independence existence being the dominant political form.

In this text therefore, while recognizing human rights as an indispensable principle of civilized human existence, focus is to examine the extent to which human rights has been violated in Nigeria by the military especially, Gen. Sani Abacha's regime. Accordingly, from the first chapter to the last, the issues of gross abuse or violations of human rights in Nigeria by the military, the reactions both within and outside the country are being treated to a likeable menu for a systematic appreciation of the subject matter. It is believed that Nigerian government should endeavour to focus its effort towairds improving the living conditions of people by providing opportunities for enjoying freedoms and rights of her citizens.

The judiciary, it was observed should help for the enthronement of democratic values by upgrading the overall ideological outlook guiding law and order in the country in order to meet certain minimum standards.

It is hoped that this study, although not fully exhaustive of the issues of human rights practice under General Sani Abacha's government may be quite interesting to readers.

CHAPTER ONE

Since the first and second world wars, there have been clamours for respect and recognition to the rights of human dignity. This includes all aspects of human rights such as fundamental freedoms as well as the right to development and women's rights. Indeed, respect for these rights has been recognised as an ingredient of the various international values.

Human rights are those rights which the international community recognizes as belonging to all individuals by the very fact of their humanity. These rights combine with traditional legal rights that were hitherto considered to be moral and political. Every legal system seeks to protect the essential rights of its subjects.[1]

The issue of human rights dates back to the 17th and 18th centuries when it was given its full recognition in the world of philosophy, politics and Law. In fact, these rights were proclaimed in spite of all obstacles in the assembles and parliaments all over Europe. They were also proclaimed in what Europeans called the "New World" as a result of "French Revolution" of 1789.

M. J. Connedy, in his LLM Thesis, 1983, disclosed that, "Some Jurists argued that the concept of human rights is not necessarily

Western or Judaco - Christian only.[2] According to the jurists, the concept of rights must be discovered in all the great moral documents of mankind. The idea that human dignity is always worth upholding is probably as old as mankind itself.

The development of human rights in the west was accelerated by the peculiar contradictions inherent wherever in society which was moving away from feudalism. Thus in Europe, the conflict of serf and Lord, of church and state and eventually the impact of the reformation, all served to act as catalysts. The main events that contributed immensely in the chances for the proclamation of human rights, the American Revolution of 1776 and the French Revolution of 1989.[3]

Limited progress was made after the first world war to protect and promote human rights. Thus the peace treaties provided for the protection of certain minorities in Eastern and Central Europe, especially in respect of their culture and languages.

The atrocities committed against the Jews by Nazi Germany caused a revulsion against the gross abuse of human rights and a determination to ensure their protection and promotion as a fundamental aspect of post - war governance for all peoples without discrimination. The United Nations Declaration of January 1, 1942 signed by Britain, China, USA, USSR, and twenty one other states

recognised the obligation of members to preserve human rights and justice in their own as well as in other land.

Thus the importance attached to the fundamental human rights by the commonwealth of Nations is evident in all its major Declarations, from Singapore (1971) to Harere (1991). They firmly supported the 1993 Vienna Declaration adopted by the World conference on human rights and went further to declare that democracy, development and respect for human rights and fundamental freedoms were interdependent and mutually enforcing, (Chief Emeka Anyaoku 1995).[4]

The constitution of the Federal Republic of Nigeria provides for fundamental human rights quite akin to that of American constitution and other countries of the world, and shows how wide the scope has become, such as right to life, right to dignity of human person, right to personnel liberty, right to freedom of thought, right to conscience and religion, right to freedom of expression including freedom to hold opinion and to receive and impact ideas and information without interference, right to freedom of assembly and associations, right to freedom of movement, right to freedom from discrimination on account of one's community, ethnic group, place of origin, sex, religion or political opinion.

It is pertinent to note that all over Anglophonic Africa, and in fact, almost all the continent of Africa, adopted new constitutions which guaranteed human rights as they became independent of their colonial masters.

However, upon all these adoptions and declarations, there are serious gross abuse of human rights in Nigeria. The height of which has resulted in a deep outerly by every meaningful Nigerian and consequently, questions are being raised from different quarters as to the rationale behind Nigeria's membership of these international communities as co-participants and adopters of human rights as a universal political values.

Some Nigerian Journalists have viewed the situation by saying that the myriads of human rights violations in the country is unfortunate. They asserted that "the entire structure seems .... dependent on these violations for its very survival in its present ugly form..... unable to curb or eliminate the material and non-material social pressures which encourage crime; the state..... and police officers.... consider the horrible condition in our society, in the prison a valid and legitimate means of discouraging crime". [5]

Nigerians awaiting trial are always visited with brutal treatment while new inmates in prison meet with violence. Consequent upon this,

the execution of innocent citizens, assassinations or attempted assassinations, through unlawful detention, mysterious deaths, police brutality were and are still constantly committed in Nigeria since the last two military regimes of Generals Ibrahim Babangida and Sani Abacha.

The execution of the Ogoni activists including Kenule Beeson Saro-Wiwa, left a sour taste in the mouth. As expected, the executions coming just as the common wealth members began sitting in Auckland, New Zealand, drew a lot of ire. Nigeria was promptly suspended from the body after a powerful speech by presidents Robert Mugabe of Zimbabwe and Nelson Mandela of South Africa. Various sanctions followed including the E. U. nations and the U. S., who had earlier recalled their envoys from Nigeria.

One aspect that called for stressing at this stage, is that human rights changed in their emphasis with the historical changes which affected economic, social, cultural and political life of every Nigerian. Therefore, different meanings of natural law were but the consequences of the different and changing conceptions of nature, and law. The 17th and 18th centuries populace demanded rights against the existing state. In our own century, there is less of such a demand against the state, it is rather, a claim upon the state.

However, it is researcher's concern to narrow the scope in order to trace the development of rights through the constitution as guaranteed to our subject matter: Nigeria's Human Rights Posture from 1993 to 1998, Abacha era.

1.1 STATEMENT OF PROBLEM

There have always been calls from different quarters by Nigerian populace, the Civil Liberty Organizations, Human Rights Monitor, and a host of others, Journalists, Legal practitioners, academics and various international organizations that human rights ought to be respected, protected and promoted in the country. That is to say, that human rights which the international community recognizes as belonging to all individuals by the very fact of their humanity, must be considered to be morals and political, all constraints to the practice must be removed.

It is therefore imperative to examine the nature and analyse the extent to which human rights have been violated in Nigeria during General Sani Abacha's regime (1993 - 1998). The problems such as the cases of mysterious deaths, assassinations or attempted assassinations torture, indiscriminate detention of innocent citizens have to be analysed. The effect of military governance in the political, social and economic lives of Nigerians.

This problem is worth studying as human rights violations have become contentious globally and one which defines the extent to which the International Law as adopted by Nigeria and entrenched in her constitution can exert influence on present and subsequent government's major decisions. Furthermore, Nigeria prides itself as a model and talking on behalf of the African continent at large. There is need to find the extent to which the country has gone in practicing or abusing true democracy with the twin concept of respect of the rule of laws, the incident of dehumanization occasioned by torture and extra - judicial killings plaguing the country.

1.2 AIMS AND OBJECTIVES OF THE STUDY

The study will focus at examining the extent of human rights violations in Nigeria during the military government of General Sani Abacha (1993 - 1998) and analyse reasons for such occurrence in spite of the country's participation in the formulation and adoption of human rights charters. The lapses and impact of military governments towards the economic, social, cultural and political well - being of the nation, called Nigeria during the period under review shall be studied.

In doing so, the result may reveal certain issue responsible for gross abuses or violation of human rights in Nigeria by various military

regimes, especially Sani Abacha government. The consequence of this may be expected to stimulate further thought on the matter and may be used as a reference point for further inquires into Nigeria's human rights posture.

1.3 SIGNIFICANCE OF STUDY

Nigeria as a sovereign nation has affirmed that human rights were universal, individual, indivisible and interrelated, and has declared that democracy, development and respect for human rights as well as fundamental freedoms were interdependent and mutually enforcing.

It is pertinent therefore to assert that the goal of achieving national integration can only succeed if more efforts are made on how best to develop new agenda which can holistically respect and promote human rights in Nigeria and Africa at large.

It is also hoped that this study will advance our understanding of the concept of the subject matter and the way the Nigerian political system operates.

1.4 SCOPE OF STUDY

This study will try to examine the nature and extent to which Human rights has been violated in Nigeria, especially during General Sani Abacha's regime. It will also try to analyse the actions and

reactions of the international communities, and the effects of sanctions imposed on the country by the E.U., U.S., and the commonwealth of Nations during and after the period under review. (1993 -1998).

1.5 THEORETICAL FRAMEWORK

The concept of human rights refers to the relationship between individuals and the state, their rights to political participation, the freedom the individual should enjoy and their claims on the states, especially with regard to the provision of basic needs of life. Human rights as a social fact can be viewed as normative responses to experience of expression and domination. They represent minimum living standard for civilized humanity. They are won through struggle of the oppressed against their oppressors.

For the purpose of this study, 'Liberal theory' will be used for better understanding of the concept of rights. A considerable part of the controversy and conflict in our politics takes place under the rubric of rights. If we include the large number of well established and little-controverted rights and the many actions and interactions that their exercise involves, it is evident that in concerning ourselves with rights we take up a practice of great prominence in the moral and political life of contemporary societies.

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Leo Stauss among others, contends that right is one of the central concepts in the political philosophies that set the dominant tendency of modern moral and political thinking and practice in the west.[6]

The philosophies in question as referred by Richard Flathman, in his book called "The Practice of Rights", are those of Hobbes and Locks and the dominant tendency is liberalism is "A set of beliefs and practices that accepts the individuals understanding of himself and his interests and objectives and seeks to arrange moral and political life so as to allow him act on that understanding and successfully to pursue those interests and objectives".[7] From this perspective, rights are devices for guaranteeing the freedom and to act against the incursions both of political authority and of private persons and groups. Right became increasingly prominent as the liberal understanding that recommended them was adopted by an ever large part of the populace of western societies and United states of America.

Yet less favourable, explanation is provided by Marxism. Liberal theorists are said by Marx and Engels to have emphasised rights as part of their rationale for the emerging capitalist system and the entrepreneurial activities of the bourgeoisie. Initially intended to free the bourgeoisie from the restricting remnants of feudal structures, they

then served a progressive purpose.[8]

In Hobbes' words this right is the "Liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life, and consequently, of doing anything, which in his own judgment, and reason, he shall conceive to be the aptest means thereunto"[9]. In the state of nature - that is in circumstances in which there are no rules or laws - the right of nature is un-limited; it gives "every man a right to everything; even to one another's body".

The least we can say, then, is that moral and political life that includes what Hobbes calls the right of nature can be substantially different from moral and political life that lacks it. Rights are prominent in liberalism in part because they provide a means of protecting individual self-assertion and action; and the various types on rights that Hohfeld distinguished provide several distinct sorts of protections that are adaptable to diverse classes of actions and threats thereto.

The liberal principle demands respect for individuals and their efforts to pursue and satisfy interests and desires, objectives and purposes. A society in which this principle is widely accepted is at once less in need of and better prepared for rights than societies in which the principle has little or no standing. It is less in need of rights because

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acceptance of and respect for the principle already reduces unwarranted interferences with individual action and hence reduces the need for more elaborate moral and jural protection devices.

1.6 LITERATURE REVIEW

The most interesting and important attempt to resist political absolutism is that which asserts the existence of natural rights. This is the view that each man has certain inalienable rights which other man (and therefore the state) must respect and cannot assail (J.D. Mabbot).[9]

The theory has a more vigorous form, examplified in Locke, which gives the state the position duty of preserving these rights, but this advance leads at once to difficulties, for preservation and infringement are clearly inseparable.

There are a lot of writings on the evolution, development, theory and concepts of human rights. The general view of many scholars is that human rights covers all aspects of human endeavour, civil, political, social, economic and cultural. What is known as human rights today as a concept is a process that has gone through many stages of development. Human rights are inherent in man. The concept of human rights is now embodied in many legal systems of the countries in the world. The development of humans rights at both national and

international levels has resulted in a modern concept of human rights quite different from the philosophy of natural law of the 16th and 17th centuries.

Justice Kayode ESO, JSC, describes human rights as follows:

"It is a right which stands above ordinary laws of the land and which in fact is antecedent to political society itself. It is a primary condition for civilized existence and what has been done by our constitutions since independence is to have these rights enshrined in our constitutions to the extent of the non-immutability of the constitution itself".[10]

Professor Osita Eze viewed Human rights as:

"demand or claims which individuals or groups make on society some of which are protected by laws and have become part of the ex-lata while other remain aspirations to be attained in future".[11]

L. J. Manfarlane in the views defined human rights as:

"those moral rights which are owed to each man or woman by every man or woman solely by reason of being human"[12]

In the words of J.B. Mohammed, human rights is "Thus anchored on a belief in human dignity and the inherent equality of all persons.

They are universal, and apply to all persons without discrimination".[13]

U.O. Umozunike has asserted that "Human rights are those rights which the international community recongnises as belonging to all individuals by the very fact of their humanity. These rights, he argues, combine with traditional legal rights that were hitherto considered to be moral or political".[14] Every legal system seeks to protect the essential rights of its subjects.

What is the motion of human rights? L. A. Jinadu has the following answer: "The motion of Human rights as implying limits on the exercise of political power therefore, touches on crucial aspects of the structure of domestic and international politics: the relationship between the state and the individual; the tension between the state and the individual, the tension between sovereignty and internationalism or international accountability; the freedom of the individual and the environment necessary for the individual and the environment necessary for the individual to enjoy that freedom".[15]

Jinadu further stated that a basic underlaying focus in the rethinking is a concern with the individual as well as the assumption that the arbitrary exercise of governmental power must be condemned and checked. An important problem in this contemporary days, revolves essentially around the protection of the individual against

arbitrary rule.

David Owen in his discussion on human rights abroad, asserts that "The complex of human rights is morally indivisible. We must try and implement them all with equal vigour and determination"[16] He further stated that, while the rights to work, to eat, and to enjoy and adequate standard of living and the support of social services are fundamental, they can have little meaning or purpose in societies where life itself is cheap, where the rule of law is imperfect or arbitrary, or turns a blind eye to torture, where by the denial of freedom of thought and expression in all its forms man loses the full use of his reason - the faculty which above all distinguishes him as a human being.

1.7 RESEARCH QUESTIONS

7. What is the nature, type and extent of human rights violations in Nigeria?.
8. What are the reactions of the International organizations as well as the effects of sanctions imposed on Nigeria by the International community?.
9. What are feelings as well as reactions of the Nigerian masses to government actions or decisions which violate their fundamental human rights and freedoms?.

10. What are the lapses on decision and policy making of Nigeria Military regime - in her relationship with other nations of the world?.

11. How could commonwealth of nations avert future occurrence of human rights abuses in Nigeria and other members.

1.8 METHODOLOGY

The study will consist of an extensive research into the development of Human Rights in Nigeria, abuses and reactions from both national and international organization, individuals as well as human rights activists. The study will also be based on the analyses of reference books, news editorials, columns, opinion letters or articles from newspapers and magazines and other relevant materials to the subject matter.

1.9 ORGANIZATIONAL LAYOUT

The study is divided into five chapters:-

Chapter one forms the general introduction of the work including some concepts, theoretical framework and Literature review.

Chapter two examines the historical background and development of human rights.

Chapter three deals with freedom of human dignity in Nigeria, practice and International commitments.

Chapter four takes an indepth study of Human rights abuses or violations in Nigeria and critically analyses it.

Chapter Five examines the issues which emerge from the discussions and make observations and suggestions which will be relevant in a work of this nature.

Finally, it is hoped that this study, although in no way exhaustive of the issues of fundamental human rights practice under General Sani Abacha government will be quite interesting to readers

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CHAPTER TWO

2.0 HISTORICAL BACKGROUND

2.1 NATURE OF UNIVERSAL HUMAN RIGHTS

Regardless of their ultimate origin or justification, human rights are understood to represent individual and group demands for the shaping and sharing of power, wealth, enlightenment, and other cherished values in community process, most fundamentally the value of respect and its constituent elements of reciprocal tolerance and mutual forebearance in the pursuit of all other values. Consequently, they imply claims against persons and institutions who impede realization and standards for judging the legitimacy of laws and traditions. At bottom, human rights limit state power.

Human rights are rights that belong to an individual as a consequent of being human. They refer to a wide continuum of values that are universal in character and in some sense equally claimed for all human beings.

It cannot be disputed that, like all normative traditions, the human rights tradition is a product of its time. It necessarily reflects the processes of historical continuity and change that, at once and as a matter of cumulative experience, help to give it substance and form.

2.2 THE ORIGIN OF THE CONCEPT OF HUMAN RIGHTS

The origin of the concept of human rights are usually agreed to be found in the Greco Roman natural - law doctrines of stoicism, which held that a universal force pervades all creation and that human conduct should therefore be judged according to the law of nature, and in the law of nations ("Jus Gentium) in which certain universal rights were extended beyond the rights of Roman citizenship. These concepts taught more of duties than rights, however, and allowed for slavery and serfdom.

It was during the period from the Renaissance until the 17th century that the beliefs and practices of society so changed that the idea of human rights could take hold as a general social need and reality. The writings of St. Thomas Aquinas and Hugo Grotius, as well as Magna Carta, the Petition of Rights of 1628, and the English Bill of Rights, all reflected the view that human beings are endowed with certain eternal and inalienable rights.

This modernist conception of natural law as meaning natural rights was elaborated in the 17th and 18th centuries by such writers as Rene Descartes, Gohfried Leibuiz, Benedict de Spinoza, and Francis Bacon. Particularly to be noted are the writings of the English

philosopher John Locke, who was perhaps the most important natural law theorist of modern times, including Denis Diderot, Voltaire, Montesquieu and Jean - Jacques Rousseau.

The struggle against political absolutism in the late 18th and the 19th centuries further advanced the concept of human rights. In view of this, freedoms were specified in a variety of historic documents such as The Declaration of the Rights of Man and of the Citizen (1789) and the Bill of Rights (1791) of the Constitution of the United States (1787).

The idea that natural - law is the foundation of human rights came under attack during the late 18th century by the proponents of utilitarianism. This assault continued into the early 20th century. But efforts to assert and protect the rights of humanity continued to multiply in one form or another - the abolition of slavery, labour laws; popular education, trade unionism, universal suffrage - during the 19th and early 20th centuries, and the notion of human rights had achieved universal acceptance, at least in principle, by the second half of the 20th century, following the fall of Nazi Germany (David Owen, 1978).[17]

The general agreement that all human beings are entitled to some basic rights marked the birth of the international and universal recognition of human rights. In the charter establishing the United Nations, all members were pledged to achieve "Universal respect for,

and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion,"[18] and the UN has continued to affirm its commitment to human rights, as regards to the Universal Declaration of Human Rights of 1948.

2.3 INTERNATIONAL CONCERN FOR HUMAN RIGHTS

International concern for human rights has also been evident outside of the United Nations. For example, the Conference on Security and Cooperation in Europe, which met in Helsinki in 1973-75, produced the Helsinki Final Act. Thus, at the outset of the Final Act adopted by the conference, in a Declaration of Principle Guiding Relations Between States, the participating governments solemnly declared: "their determination to respect and put into practice" alongside other "guiding principles, respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief" and "respect for equal rights of peoples and their rights to self-determination."[19]

Like the Universal Declaration of Human Rights and other such declarations of the UN General Assembly, the Helsinki Final Act, though not a treaty, has created widespread expectations about proper human rights behaviour, and consequently it has inspired and facilitated

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the monitoring of human rights policy.

2.4 REGIONAL DEVELOPMENTS

Action for the international promotion and protection of human rights has proceeded at the regional level in Europe, the Americas, Africa, and the Middle East. Only the first three regions have gone far to create enforcement mechanism within the framework of a human rights charter. The European Convention for the Protection of Human Rights and Fundamental Freedoms, which first met in 1950, eventually produced the International Covenant on Civil and Political Rights and the European Social Charter; in 1948, concurrent with its establishment of the organization of American States, OAS, the Ninth Pan-American Conference adopted the American Declaration on the Rights and Duties of Man, an instrument similar to, but coming a full seven months before, the Universal Declaration of the United Nations setting out the duties as well as the rights of the individual citizen in America.

The organization of African Unity in 1981 adopted the African Charter on Human and Peoples Rights, following numerous pleas by the UN commission on Human Rights, non-germental organizations and others dating as far back as 1961. The Charter became effective on October 21, 1986 after it was ratified by a majority of the 50 member

states of the OAU. Four distinctive features of the African Charter are especially noteworthy. First, it provides for economic, social and cultural rights as well as civil and political rights. Secondly, it recognizes the rights of groups in addition to the family, women, and children. The aged and the infirm are accorded special protection also, and the rights of peoples to self-determination is elaborated in the rights to existence, equality, and non-domination. Thirdly, it uniquely embraces two third-generation, or "solidarity", rights as belonging to all peoples" the rights to economic, social, and cultural development and the rights to national and international peace and security. Finally, it is so far the only treaty instruments to detail individual duties as well as individual rights - to the family, society, the state, and the international African community.

Nigeria as the 99th member of the United Nations is bound by the declarations to ensure the realization of the principles enunciated in the declarations and UN Charter. Also, Nigeria in 1983 ratified the African Charter on Human and Peoples' Rights which contains similar provisions in Articles 9. Furthermore, the Constitution of the Federal Republic of Nigeria provides for fundamental human rights quite akin to other countries of the world, and shows how wide the scope has become such as, right to life, right to dignity of human persons, right to

personal liberty, right to freedom of thought, right to conscience and religion, right to freedom of expression including freedom to hold opinion and to receive and impart ideas and information without interference, right to freedom of assembly and association, right to freedom of movement, right to freedom from discrimination on account of one's community, ethnic group, place of origin, sex, religion or political opinion.

2.5 DEVELOPMENT OF HUMAN RIGHTS

From the beginning of the decade developments in international affairs have helped to sharpen public concern in many different countries and continents about the condition of human rights worldwide. Since 1972, the Conference on Security and Cooperation in Europe process has placed human rights firmly on the agenda of East - West relations. There have been appalling violations of human rights in a number of countries of which as stated by David Owen (1978), Chile, Uganda, Cambodia, Ethiopia and of recent Nigeria are best known, but are far from being the only ones. Despite almost ceaseless political and diplomatic effort year in, year out, the middle east problem appears to be as intractable as ever. Apartheid in South Africa and the continuing denial of self-determination and democratic freedoms to the

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peoples of Southern Africa underline the extent to which these problems appears to be as intractable as ever. Apartheid in South Africa and the continuing denial of self-determination and democratic freedoms to the peoples of Southern Africa underline the extent to which these problems are problems of elementary human rights. The establishment of a dialogue between the advanced industrialised nations and those of the developing world reminds us that economic deprivation, and the disease and malnutrition which go with it, are an equally intolerable abuse of human dignity.

All these things have raised the profile of human rights in international affairs and have compelled those who formulate foreign policy - at least in those democratic countries where public concern cannot be ignored by Governments - to give a higher priority than ever before to human rights.

This has been a sufficiently rapid, even dramatic, development to create the impression for some that peoples and Governments have only recently stumbled on the importance of human rights. The present debate, conducted both internationally and within our separate societies, about the nature of human rights and how they can be safeguarded and extended is in direct line of descent from the first questioning of the moral certainties of mediaeval man which marked the

beginning of modern times and which itself drew on an earlier classical tradition.

The belief , for instance, that certain rights are inalienable, guaranteeing the integrity of the person and the right to life itself, is central to humanitarian and democratic values today. But the same belief underpinned England's Bill of Rights in 1689, the American Declaration of Independence in 1776 and the French Declaration of the rights of man in 1789. All these constitutional landmark drew their intellectual inspiration a great body of 17th and 18th centuries thinkers such as Locke and the Rationalists in France; and all led to the further proposition, crucial to democratic society today, "that man's inalienable rights can only be guaranteed in a society in which political and civil liberties flourish such as freedom of thought, expression, association, movement and participation in the democratic process".[20]

Economic and social rights, which deservedly receive so much attention today and which the Western democracies are sometimes accused of neglecting, have also for long been in the mainstream of our societies development. The Declaration of the Rights of Man in 1793 provided for the right to education, while the development over more than a century of trade union rights, democratic socialism and a whole complex of social legislation, on which what is sometimes known as the

welfare state rests. The basic premise of fundamental and internationally agreed documents such as the United Nations Charter, the Universal Declaration of Human Rights, the International covenants of the United Nations, the European Convention of Human Rights, the African Charter on Human and Peoples Rights essentially is that human rights stand on values which are the property of all men and which transcend national frontiers. The main task is to devise the means by which respect for human rights can be more effectively guaranteed and enforced.

It is not surprising, therefore, that most African constitutional provisions on human rights bear a great resemblance to the rights enumerated in the Universal Declaration of Human Rights, itself an outcome of the efforts of the United Nations in the field of human rights, or to the rights guaranteed in the European Convention. Additionally, the jurisprudence of the former colonial powers, extended to the colonies, continues to influence and in some cases shape the legal philosophy of many, if not most, African countries. Furthermore, many of the African constitutions, especially the Francophone ones, refer expressly to the French Declaration of the Rights of Man and Citizen as well as the Universal Declaration of Human Rights (Osita Eze, 1984).[21]

At one time, Nigeria introduced a resolution in the United Nations General Assembly in favour of regional commissions on human rights. The Nigerian draft and the initiative, notwithstanding the 1976 ECOSOC Resolution, confirmed the original terms of reference of the regional commissions as agents for social and economic development which called for all the organisations and agencies in the system to work closely with the regional commissions to achieve overall economic and social development objectives at the regional level.

The relevant section of the Resolution adopted by 1971 Conference at Addis Ababa, which went further than the other declarations on the same subject by being more specific in its recommendations, read as follows:-

i. That an African Commission on Human Rights be established and charged with the responsibility of collecting and circulating information relating to legislation and decisions concerning human rights is annual reports devoted to the question of civil rights in Africa;

ii. that an African Convention on Human Rights be conducted;

iii. that every effort be made to harmonize legislation in the different African countries in this regard;

iv. that an Advisory Body be established to which recourse may be

heard for the interpretation of the terms of the African Convention on Human Rights.

v. that the various African states be urged to take speedy measures to accede to or rectify the International Convention on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights, the International Convention on the Elimination of all forms of Racial Discrimination and the OAU Convention governing specific aspects of refugee problems in Africa, and

vi. The Conference welcomes the recommendations of the afore said United Nations Seminar held in Cairo in 1969 entrusting the OAU with the establishment of a Commission for Human Rights for Africa and invites the OAU to hasten the implementation of the said recommendations taking account of existing international instruments that have been drafted by the United Nations in this connection.[22]

The history of the evolution of human rights, as already indicated, attests to the fact that qualitative changes in the sphere of human rights have often, if not always, resulted from struggles. Nigeria is not different. Acceptance of the consequence of the logic of the situation by the ruling class is only a reflection of enlightened interest in self

preservation. In time, the concessions of the ruling class will be displaced by human rights that correspond to the basic interests of the African masses at large and Nigerian citizens in particular (Osita Eze,1984).

2.6 HUMAN RIGHTS PROVISIONS IN NIGERIA

Several Nigerian constitutions made provisions for the fundamental human rights. The constitutions contain Human Rights provisions fashioned after the 1948 Universal Declaration of Human Rights and the 1950 European Convention on Human Rights which we mentioned earlier in this chapter. The Nigerian Bill of Rights is entrenched which provides for the following:

1. Freedom of expression.
2. Freedom of assembly.
3. Freedom of association.
4. Freedom of movement.
5. Freedom of life.
6. Freedom of ownership of private property.
7. Freedom from discriminatory treatment on account of race, sex, language , religion etc.
8. Freedom of determination of rights.

9. Freedom of rights to private and family life.
10. Freedom of right to personal liberty.
11. Freedom of conscience.
12. Freedom from slavery and forced labour.
13. Derogation from fundamental rights.

Inspite of these provisions in various Nigerian constitutions, the weaknesses of such provisions are seen in respect of lack of effective coercive machinery to enforce the human rights. This problem is also seen with the United Nations and Commonwealth of Nations respectively.

In this argument, L. Mikaelson raised three principal questions about human rights:

1. What rights and freedom are fundamental to such extent that they should be regarded as human rights?
2. How can states, in a binding manner, declare that they recognise certain rights and that they promise any one within their jurisdiction the right to enjoy these recognised rights and freedoms?
3. How can these defined and recognised rights be effectively protected?

In conclusion, he believes that human rights has some moral impediments hence the state or international bodies are quite able to abolish rights guaranteed without running the risk of sanction for such non-observation of rights, as was the case during late Gen. Sani Abacha's regime in Nigeria. [24]

A lot of criticisms have been advanced as being responsible for the failure of Nigeria to achieve its desired objectives especially, in the area of human rights and dignity in the country. In my own opinion, so many reasons are responsible. In Nigeria where a few hijack the economic or political power, does not guarantee rights to life, even ownership of property as has been witnessed in the refusal to requests for plots of land by certain citizens for development. More pathetic of all, is the destruction of life and property in certain parts of the country in form of religious crisis orchestrated by some influential people in that part of the country.

Therefore, the principal questions on human rights as posed by L. Mikaelson is better fully directed to Nigeria where they better be answered going by the vast recognition given to human rights by the country and gross abuse of human rights as against the Universal Declaration of Human Rights adopted by the country.

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CHAPTER THREE

3.0 INTRODUCTION

It is well established under the human rights law that all individuals are endowed with basic human rights which are inherent attributes of human dignity and which are recognised by virtue of international law that both recognizes and protects them. States, including Nigeria, in turn are obliged to ensure respect for those universally recognised human rights which are essential to the survival, dignity and well-being of all persons subject to their jurisdiction.

In this regard, all states members are mandated by Articles 55 and 56 of the United Nations endorsed by the Commonwealth of Nations, to "promote..... universal respect for, and observance of, human rights and fundamental freedoms for all ...."[25]

This chapter will try to examine the freedom of human dignity and practice in Nigeria as well as the international commonwealth.

3.1 FREEDOM OF HUMAN DIGNITY AND PRACTICE

The African Charter on Human and Peoples Rights was adopted in June, 1981. It entered into force in 1986 on 21st October, which is now know as African Day of Human and People's Rights. Over 40 African States, including Nigeria, have promised to respect the rights

it contains.

Festus Okoye (1999), says that one of the best things that happened to the human rights practice in Nigeria is the coming into force of the African Charter on Human and People's Rights (Ratification and Enforcement) Act Cap 10 Laws of the Federal Republic of Nigeria, 1990. [26]

According him, by this law, anybody that feels that any of the rights guaranteed under the Act has been violated can institute an action to redress the said wrong or violation.

Reacting on the adoption of the African Charter, the Amnesty International asserted that "African governments took an important step towards human rights protection in creating the Charter", but more important are the step they take to live up to their obligations under the Charter. This assertion by the Amnesty International is quite acceptable in view of the gross and widespread human rights, violations in Nigeria which has persisted for a very long time especially, during the military regimes of Generals Ibrahim Babangida and Sani Abacha accessioned by annulment of June 12, 1993 elections and struggle for democracy in Nigeria.

3.2 HUMAN RIGHTS UNDER GENERAL SANI ABACHA GOVERNMENT IN NIGERIA

The concept of human rights has become a prominent feature of Nigerian constitution since independence. The recent establishment by the Military administration headed, by Gen. Sani Abacha of National Human Rights Commission (NHRC) lend credence to fundamental human rights in Nigeria has become " National Commitment", it has even gone beyond that now to become an international obligation. This is so because Nigeria has incorporated the African Charter on Human and Peoples' Rights into her national laws through the enactment of the African Charter as stated earlier.

Nigeria has also ratified the International Convention on Civil and Political Rights which is an integral part of the International Bill of Rights which consists of the Universal Declaration of Human Rights 1948. Besides, the Universal Declaration has become binding on all modern nations by virtue of its being customary International Law and also constituting Jus cogens - supreme and binding (peremptory) norms of the international legal order.

That the Nigerian nation constitutes an important member of the international community is beyond argument. The furore generated in

the world arena by the Ogoni incident and the June 12 election annulment saga coupled with the attendant visits to the country by the United Nations representatives and rapporteur as well as the Commonwealth delegates show clearly that the whole world is keenly watching Nigeria especially in the implementation of human rights.

The military government of Gen. Sani Abacha has taken a bold step in the right direction especially, when it declared in the National Human Rights Commission Decree No. 22 that the Commission is mandated to deal with all matters relating to the protection of human rights guaranteed by the 1979 constitution as amended, the African *Charter of Human and Peoples' Rights, the Universal Declaration of* human rights the United Nations Charter and other international treaties to which Nigeria is a signatory.

However, it is one thing to guarantee human rights on the paper and another thing to really allow them to take full practical effect as earlier suggested by the Amnesty International. It would be recalled that one of the major problems that militates against the enforcement of human rights protection is some African countries as enshrined in (UDHR) has to do with the illegality of some of the governments which are expected to lead the crusade against human rights abuses or carry out the entrenchment.

It could hardly be otherwise hence such governments survived only by negating the principles of democracy. The bulk of these illegal and unrepresentative governments are the military dictatorship. For instance, in Nigeria today, the military had held sway for over 30 years of the 40 years of the nations existence as a sovereign state. The major source of human rights violations are essentially the myriads decrees, edicts, administrative orders, security and law enforcement agencies as well as government being neglect or indifference and legislation inherited from successive administrations.

This could take the form of arbitrary detention, dehumanising treatment, unwarranted arrests and harassment, proscription or forced closure of news papers, magazines, assassinations, attempted assassinations, torture, police brutality and so on.

Nigerian military regimes are characterized with serious human rights violations and constant siege on the citizenry executed by the systematic use of draconian military decrees and edicts, administration orders, security agents, special tribunals as well as arrests and detention without trial as was the special case of General Sani Abacha's regime.

The overall problem facing Africa is that the Rule of Law is far from being observed in most countries including Nigeria. There is also

the fact that not only has the sense of moral and ethical responsibility of leaders not been strengthened, but in many sectors it is facing a total breakdown.

Adama Dieng argues that " It is obvious that human rights are not protected simply by enunciation and proclamation public condemnation is not enough to stop further violations."[27] The only way to move from theory to practice is to set up some kind of implementation machinery for the protection of human rights. The universal declaration of human rights itself expresses this in its preamble when it requires human rights to be protected by the Rule of Law.

In the field of the application of the Rule of Law and in the protection of human liberty the national and international institutions are complementary to each other. Of course, the very best safeguard for the protection of and respect for personal liberty is an enlightened democracy. But even in such a system, abuses of power by the executive, by the administration or even by parliament, may and do occur... Accordingly, we have to recognize that no matter how democratic a state may be, it is nevertheless necessary to provide an effective machinery for the protection of the rights of the individuals.

Some people have asserted that the agitation by the minority ethnic groups in Nigeria played a significant role in the insertion of

fundamental rights provision in the independence constitution of the Federal Republic of Nigeria. Festus Okoye has said that there was no debate about this assertion, saying that it is a fallacy to insist and propagate the fact that fundamental rights came to be protected only on the basis of the agitation of the minority ethnic groups in Nigeria.[28]

The truth is that the struggle for fundamental rights and fundamental freedoms has been on before Nigeria got its independence. Nigerian nationalists and other independence and Liberation movements saw as well as read about the horror of the first and second world wars. Also, some of them imbibed and got influenced by the lessons of the American war of independence, the French revolution and the struggles of the Proletariat in the former Soviet Union. They then decided that former colonies are also entitled to the benefits of civilization and human freedom.

The intervention of the military in the political affairs of the country resulted in the change of norms of the Federal Republic of Nigeria. It also changed the face of human rights practice and litigation in Nigeria. The military saw some of the provisions of the constitution as an inhibition to the type of Nigeria and type of government they want to run.

However, the judiciary saw the danger of the military intervention in the constitutional evolution of Nigeria as the military became more repressive and assumed the powers of full dictatorship. Although, respite came in with the establishment of chapter IV of the 1979 Constitution which contains Nigeria's Bill of Rights and guarantees right to life, right to the dignity of human person up to right to private property.

Actually, a Constitution, in itself, is only one element and may be valueless unless it can be invoked and enforced. The reality of fundamental rights enforcement is however different. The fact is that the courts are not well equipped to cope with the volume of cases that come before them. Another issue that militates against the due protection of the fundamental rights of the people in Nigeria is governments undue interest in controlling the machinery of fundamental rights enforcement.

The International Commission of Jurists (ICJ) has defined the Rule of Law as:

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"The principles, institutions and procedures, not always identical but broadly similar, which the experience and traditions of lawyers in different countries of the world, often having themselves varying political structures and economic

backgrounds, have shown to be important to protect the individual from arbitrary government and to enable him to enjoy the dignity of man."[29]

Most complaints by the Nigerian people is that the law enforcement agencies are corrupt, inefficient and lack the milk of human kindness. They also complain that the law enforcement agencies do not respect the fundamental rights of the people as enshrined in various statutes, the constitution and other international human rights instruments. On the other hand, the government and the police express frustration at the slow pace of the judicial process and the fact that the court either do not appreciate their efforts at combating crime in the society or treat their efforts with disdain.

Some school of thoughts assert that it should be remembered too that while legal remedies are very essential, resorting to legal procedures to protect human rights is not the ideal remedy, it is rather the ultimate remedy.[30] It is the final remedy when a ruler, or a parliament, has already exceeded given powers or is working a tight rope between legality and illegality.

The establishment of the National Human Rights Commission (NHRC) is, no doubt, one of the initiatives designed by the government to consolidate the gains of human rights protection in Nigeria. But it

equally depends on the sincerity of the government to abide by its principles and objectives.

It is pertinent to note that in spite of the set out objectives and principles, the government and its agencies especially, the military regime of General Sani Abacha, seriuosly indulge in large threats and violations of human rights in Nigeria. The problem resulted in the suspension of our country by the Commonwealth of Nations and other international community as well as other organizations at the execution of Ogoni 9 and several other executive kullinge of innocent citizens.

The majority of Nigerians are largely illiterates and very ignorant of their rights. Besides, superstition, ignorance and poverty have added more limiting factors. All these elements together impede the enforcement of the abuses that have been the bane of Nigerian citizen since the promulgation of Decrees that are so draconian that at the whims of the Inspector General of Police or the Chief of General Staff, a person merely suspected of a security risk sometimes without satisfactory reason will be incarcerated for a long time.

It must be stated that when a country practices true democracy with the twin concept of respect of the rule of law, the incident of dehumanization occasioned by torture and extra-judicial killings are far fetched.

In our society, the long military rule has frightened us so much that we were reduced to robots, and fear itself becomes so endemic that it does occur to a good number of our people to rush to court and seek redress (Justice Pats Acholonu, 1999).

Justice Acholonu in his text on "Human Rights in the next millennium", the Nigerian experience, says that "the advocates of the respect for human rights and dignity in this country like Chief Gani Fawehinmi in particular, Femi Falana and Olisa Agbakoba suffered imprisonment countless times because they were loud in condemning a seeming endless arrests and detention of people without a reasonable cause."[31]

According to Acholonu, another constraint is apathy in most places in Nigeria, the recourse to court to fend off the incipient attitude of dictators which give rise to the abuse of human rights not been very encouraging.

Nigerian government by its various declarations and adoption of human rights should make known to the public these and other examples of earnest endeavours to adopt an integrated approach to human rights especially when it is being abused or violated by any government or agencies. It would certainly be in line with the human rights units principal aim of developing awareness.

On the other hand, Nigerian government should endeavour to maintain its leadership role in Africa by setting examples of leadership quality in terms of respect for fundamental human dignity, advancement of democracy and developmental considerations. This will form the basis of its policy on human rights as well as help stamp out the abuse of human rights not only in Nigeria, also in other countries of Africa where reports on human rights violations have reached such an alarming rate.

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CHAPTER FOUR

4.0 INTRODUCTION

The African Charter on Human and Peoples' Rights imposes a duty on states to promote and ensure that the rights and freedoms as well as the corresponding obligations contained therein are understood. This objective is to be achieved or attained through teaching, education, their publication, and respect for them. Human rights promotion, nevertheless, has the merit of sharpening the consciousness and is ultimately likely to lead to demands for an effective guarantee of human and peoples' rights.

It is universally agreed that General Sani Abacha regime did a lot of damage to the country during his five years of grotesque dictatorship. From political assassinations, attempted assassinations, extra judicial killings, incessant arrests and detentions of innocent citizens of the country.

This chapter will discuss extensively on different forms of human rights abuses or violations in Nigeria and critically analyse the consequences and how it affects human rights protection and promotion in the country. The quality of leadership in Nigeria will be studied in analysing human rights practice in Nigeria.

QUALITY OF LEADERSHIP IN NIGERIA

The quality of leadership in Nigeria is rather that which emerged from the colonial legacy. This could be buttressed by the fact that colonialism gave birth to the present 'Nigeria' in 1914 through the amalgamation of the regions, the North, East and the West. Invariably, the leadership which ought to be charismatic in nature and serving, rather become repressive, subjective and exploitative that is detrimental to the protection and preservation of the fundamental human rights and freedom in Nigeria.

Justice Aniagolu, a legal practitioner has blamed the military for the Nigeria's socio-economic problems. According to Aniagolu "within the military control of governance, Nigeria had sunk from the position of being the giant of Africa to one of the poorest 13 nations in the world".[32]

S. C. Ukpabi believed also that the military emerged as an off-shoot of colonialism with its exploitative nature. The creation of class in Nigeria was the greatest weapon colonialists found most effective. According to Ukpabi, the quality of leadership and governance given by the indigenous bourgeoisie is to perpetuate as well as maintain the international status quo. Said Ukpabi, "we fail to realize that our claims

to being the greatest African country and leader, - claims which were neither matched by political stability and cohesion at home nor by dynamic foreign policy".[33] The claim by Nigerian leaders is absolutely exaggerated and totally lacked merit because the type of leadership we have seen in the country is selfish oriented under which auspices, human rights protection and promotion cannot thrive.

4.2 STATE OF HUMAN RIGHTS IN NIGERIA

It is generally agreed that Nigeria as a sovereign state operates federal system of government in which the Rule of Law is hold supreme. The priority of the pre-colonial Nigeria was stability, protection and promotion of human rights. But this priority was thwarted by pro-colonial government of Nigeria. Since independence, there has been cases of bastardization of human rights in Nigeria from civilian to military governments.

The state of human rights in Nigeria from independence to date is violation on a large scale. The establishment of Decree No. 2 and 13 by General Ibrahim Babangida was seen as plan by his regime to seriously infringe on the fundamental rights and freedoms of Nigerian citizens. The establishment of Decree No. 24 tagged "Special Powers" metamorphosed from the 1960 'Preventive Detention Act'. In 1984, just

as a terminology, the Act was at emergence of another military regime called 'The State Security (Detention of Persons), Decree No.2 by Gen. Muhammadu Buhari's regime.

The continuation of the exploitative and deprivation of fundamental human rights and freedom is explained by C. Ubani of the Civil Liberty Organization (CLO) when he made reference to Decree No.2. He says that "upon coming to power in 1985, the Babangida regime won popular support by promising to respect and promote fundamental human rights. Gen. Babangida in assuming office, failed to abrogate Decree No.2. Not only that, he went further to sharpen the cutting edges of this monstrous decree. There is no doubt therefore that this decree has been indiscriminately and arbitrarily used in denying many Nigerians their fundamental rights to personal liberty and freedom".[34]

The Rule of Law in the country is sympathetically messed up with by the enactment of Decree No. 9 by Gen. Ibrahim Babangida in 1990 in which all the miliary Governors were protected from civil or criminal liabilities for any action they may take in their personal or official capacity during their tenure of office. In conclusion, the decree has adversely affected the Bill of Rights, chapter IV of the Nigerian constitution. It therefore means that the decree has made court actions

ineffective as no citizen can challenge an action emanating from it and subsequently, no court has the jurisdiction to inquire into or adjudicate in actions taken according to this decree.

The success of the Nigerian military governments to render impotent the country's judicial system whose primary aim and objective is to protect and promote human rights account for all the inhuman treatments of universal man in Nigeria. The common view and practice of "Ouster clause section 4 Decree NO.2" states:

1. *"No suit or other legal proceedings shall lie against any person for anything done or intended to be done in pursuance of Decree No. 2*
2. *That chapter IV of the constitution of the Federal Republic of Nigeria 1979, is hereby suspended for purposes of this decree, and any question whether any provision thereof has been or is being, or would be contravened by anything done or proposed to be done shall not be inquired into in any court of law, and according to section 219 and 259 of that constitution shall not apply in relation to any such question".*[35]

This has greatly affected the rights of Nigerians to participate in their own government hence freedom of speech and association are not

protected. The situation deteriorated as the media and right of expression of opinion and criticism of the government policies were subjected to witch-hunting, closure and arrests of media personnel as well as other opinion leaders in the country who criticize government activities.

A. B. Iweka says "that free discussion and dissemination of ideas and opinions is quite indispensable to democratic government".[36] According to Iweka, the primary meaning of democracy is that all those affected by a decision shall participate in it. A means by which the society as a collection of individuals can participate in government, freedom of expression enables people to be well informed and educated about the affairs of government in order to form and express intelligent opinion on such matters.

The importance of the freedom of the press and expression cannot be over-emphasized when consideration is given to the American Constitution where it was given preferred status above other fundamental rights including right to life. The priority accorded it, is predicted further on the belief that free discussion exposes corruption, abuse of office and other wrong-doings and enables the conditions in industry to be discussed.

It is therefore against the backdrop that the United Nations Organization (UN) established in 1945, has one of its cardinal objectives as the promotion of human rights and press freedom. In the resolution of the UN General Assembly on the 10th of December, 1948, the Universal Declaration of Human Rights was proclaimed:

> *"On common standard for achievement for all peoples and all nations". The preamble of the declaration states in part:*
>
> *... recognition of the inherent rights of the equal and inalienable rights of all members of the human family and peace in the world...*[37].

Nigeria as the 99th member of the United Nations is bound by the declaration to ensure the realization of the principles enunciated in the declaration and UN Charter. Nigeria also in 1983 ratified the African Charter on Human and Peoples' Rights which contains similar provision in Article 9.

4.3 REACTIONS ON HUMAN RIGHTS ABUSE UNDER GENERAL SANI ABACHA'S REGIME

Many Nigerian citizens thought that the military government of Gen. Sani Abacha was the messiah the country needed for its survival especially, when they thought that the government had taken a bold

step in the right direction when it declared in the National Human Rights Commission that the Commission is mandated to deal with all matters guaranteed by the 1979 constitution as amended, the African Charter and the Universal Declaration of Human Rights and other international treaties to which Nigeria is a signatory.

During Gen. Sani Abacha's government, Nigeria was devastated with a lot of problems. Gross and widespread of human rights violations in Nigeria have persisted for many years against a background of pro-democratic struggle or opposition of military government. Disappearances, and extrajudicial executions in particular have been reported with increased frequency since Abacha regime 1993 up to 1998.

For over four years these abuses were highly concentrated in the Southwest of the country where since late 1985 the Civil Liberty Organization and other Human Rights Activists have been engaged in torture, human degradation and detention. In the face of these escalations, the military government gave extraordinary powers to the security forces and grave human rights violations have resulted and the security forces increasingly appear to believe they can commit abuses with impunity.

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Ray Ekpu, (1999) says "that in fact, 1993 - 98 remains the darkest spot on the nation's canvas, a period in which a ruler wreaked, rather unconsciously, the greatest evil on the greatest number of his people. In his judgement, "this is no attempt to demonize Abacha but no one in his right senses can canonize him. He was truly evil,"[38] he concluded.

L. A. Jinadu, (1980) in his book, Human Rights and U. S.-African Policy, under President Carter asserted that in much of contemporary Africa, the developmental imperative is often used to justify gross violations of human rights and the doctrine of one-party rule is depended on the ground that it reflects pre-colonial political forms.[39] In recent years, human rights issues have dominated inter-African relations. These issues have usually been regarded as extremely sensitive ones, particularly since they bear on the sanctity of inherited colonial territories and what are regarded as domestic issues in the politics of individual independent African countries.

Human Rights Watch, a well known and highly respected international organization, has just published a book cataloguing human rights violations that occur in the process of oil exploration and production in the Niger-Delta by major multinational oil companies and the Nigerian state. The Niger Delta is graphically described in the book

as being - "the site of major confrontations between the people who live there and the Nigerian government security forces, resulting in extrajudicial executions, rapes, arbitrary detentions, and draconian restrictions on the rights freedom of expression, association and assembly (The News, August 16, 1999, P.47).[40]

The book explains that human rights abuses in the oil producing communities, ecological disasters and degradations have continued unabated and the basic situation in the Delta area remains unchanged.

Auselun Okolo, et al (1995), believe that Nigeria's pariah status, arising from the poor handling of the political crises and an irredeemably negative human rights records are now weighing adversely on its fortunes. According to them, "all major investments from abroad and even those from within now find a safe haven in South Africa and Ghana instead of a troublous Nigeria".[41]

TELL Magazine, in its editorial, (November 27, 1995) lamented "that Nigeria is today a pariah state, isolated, poor and looking very small, from the recent hanging of Ken Saro - Wiwa, renowned writer and Ogoni minority rights campaigner, and eight other kinsmen of his". It referred to the hanging of the Ogoni 9, "as the greatest show of insensitivity by the Abacha junta to minority and human rights, if it were not already regarded as the greatest political blunder in all the 35 years

of Nigeria's history as an independent nation".[42]

The magazine explained that Sani Abacha's regime refused to recognize the high ground in terms of principle, morals, and of course, the inalienable rights of man, on which the Ogoni struggle, which Saro-Wiwa championed, is being fought. In the magazine's point of view, "it rides brutally against settled convictions such as equality and equity in a federation where no group ought to have claims or pretensions to colonial suzerainty".[43]

Ima Nibora, (1995) in his report over the Ogoni executions, says that "the Abacha junta decision to execute Saro-Wiwa and his compatriots right in the middle of the Commonwealth Conference at Auckland, New Zealand, amounted to throwing down the gauntlet of defiance. He further described it as a slap in the face of the world in response to a casual slap in the junta's wrist over human rights abuses and its many arbitrary ways, (TELL November 27, P.12).[44]

Reacting, the Anglican Archbishop of Lagos, Rev. Abiodun Adetiloye, was rather ecclesiastical. Bishop Adetiloye declared further saying "I hold and believe that the almighty Creator is not on holidays. He is very much in control of events and situation throughout the world. It is true that you cannot make an omelette without breaking an egg. It may turn out that the killing of Saro-Wiwa and eight others may be part

of the Almighty's own way of answering the prayer of Nigerians.....This may be in God's own providence, and our farewell to dictatorship".[45]

A Civil Liberties Organizations (CLO) report on the state of Human Rights in Nigeria, edited by Ola Akinfenwa in Weekend Vanguard (January 6, 1996, P.7) states that "the year in review, 1994, perhaps, is the worse for journalists in Nigerian history".[46] It claimed that the atmosphere under which the press thrived in 1994 remained as bad as that of 1993. Individual freedom of expression suffered severe curbs. The report also disclosed that the academic sector is not left out, because it has its own share in the human rights abuses. It points to police brutality during students demonstration.

Willy Eya, (1999) explained that the right to life in the country was insufficiently protected and deaths continue to occur in custody under unexplained circumstances in our prisons. He lamented that the use of excessive force by security forces has resulted in extra-judicial killings in different parts of the country.[47]

Commenting on the Death Penalty, Funsho Ilori (1998) in his write up in the Legal Rights Monitor explained that Death Penalty also offends Natural law and the fundamental rights to life. According to Mr. Ilori, since life is natural, the use of death penalty to terminate it, is unnatural and therefore uncalled for. He further asserted that "Death

penalty is a deprivation of the fundamental rights of life and dignity of human persons".[48]

The cold-blooded murder of chief Alfred Rewane in October, 1995, one of Nigeria's foremost nationalists and a known opponent of Gen. Abacha government, is seen by many Nigerians as a politically motivated act to forestall mounting opposition spear-headed by NADECO. The gruesome assassination has once more underscored the porous security situation in the country.

Under these conditions, reports of gross human rights violations by the military regime of Gen. Sani Abacha and of political violence more generally reached a peak in 1997. In the South-south and South-west in particular, thousands of people disappeared or were victims of extrajudicial executions.

In spite of Nigeria's courageous decision of June, 1998 creating the permanent international criminal court which represents a milestone in our common determination to fight the scourge of genocide, war crimes and crimes against humanity, much of humanity has remained impoverished and deprived of real benefit of more advances. Addressing the 55th session of the United Nations Commission on Human Rights in Genera on April 1, 1999, the Minister of Foreign Affairs, Ambassador I. C. Olisaemeka has re-affirmed Nigeria's

commitment to the goals and values of the universal declaration of human rights. He said that the century that is coming to an end has manifested the nobility to attain human dignity as reflected in the values and principles of the declaration.[49] Furthermore, he asserted that the promotion, protection and enjoyment of human rights constitute an investment and an insurance for global peace and security, adding that the creation of a conducive environment for the enjoyment of these rights in the political, social, economic and cultural holds cannot be over-emphasized.

However, deaths by inexplicable causes swept through Nigeria in the last 23 months via the death of Abacha junta on June 8, 1999 snapping abruptly the lives of its top-class men and leaving its surviving citizens perplexed and searching for answers, to the confounding mystery. Meanwhile, the establishment of Human Rights Abuse Judicial Commission, headed by retired Justice Chukwudifu Oputa adds some credence to the determination of the government to unravel past human rights abuses and hopefully bring the perpetrators to answer to ..... charges under a due judicial process.

Our security agents should undergo proper re-orientation and be made to realize that they were not recruited to destroy people but to protect the society and must as much as possible, as is done in

countries with long history of democracy and respect for the rule of law resort at all times to the court and not take law into their hands.

We shall begin to give governance a human face by having the following Decrees repealed in our political system: State security (Detention of persons) Decree No.2 of 1984, Petroleum production and Distribution (Anti-sabotage Decree No. 35) of 1975; the offensive publication Decree No. 35 of 1993; Robbery and firearms (Special provisions) Decree No.3 of 1984; Exchange control (Anti-sabotage) Decree No. 7 of 1984; Special Tribunal (Miscellaneous offences) Decree No.20 of 1984; Treason and other offences (Special military Tribunal) Decree no.1 of 1986; Failed Bank (Recovery of Debts) and Financial malpractice in Banks Decree No. 18 of 1984, National Drug Law Enforcement Agency (Amendment) Decree No. 33 of 1990.

The practice of holding charges what is normally embarked by the police at the moment should entirely be stamped out in this new political dispensation. Any act which has the effect of causing the breach of ones human right without due regard to the constitution and the rule of law should not be allowed by alert public in this country to find its way again in our statute book or practiced by the security agencies.

Arrest and detention must be in accordance with the laid down rules and applicable law that can be found in a truly democratic civilized society. In matters relating to enforcement of fundamental right the court should be liberal as we enter the next millennium realising that people who are in chains cannot be truly productive.

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CHAPTER FIVE

5.0 SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 SUMMARY

From the study, it has been shown that several Nigerian governments especially the military regimes of Generals Ibrahim Babangida and Sani Abacha grossly abused the fundamental rights of the Nigerian citizens in so many ways ranging from arbitrary detention, dehumanizing treatment, unwarranted arrests and harassments, proscription of or forced closure of media houses, assassinations or attempted assassinations, torture, police brutality etc.

The military governments have been seen to be peculiar with serious human rights violation and constant siege on the citizenry through the use of draconian decrees and edicts, administrative orders, security agents, special tribunals to mention but a few.

The long military rule in our society has frightened us so much that we have lost total direction and fear itself has become so endemic as asserted by Justice Pats Acholonu in this study. Nigerian government should endeavour to make public its various declarations and adoption of human rights in order to adopt an integrated approach to human rights especially when it is being abused or violated by any

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government or agencies as in line with the human rights unit's principal aim of developing awareness.

Richard P. Claud rightly gave the kind of practical human rights obtainable in the globe as, "the diverse beliefs of nations and classes, the world division, and the racial rivalry reflect in various system of law and politics all give changing meaning to such phrase as 'human rights and fundamental freedom".[50] Claud maintained that, it is economics and political squamble that has disintegrated the international community, and which invariably, has frustrated the rights of universal man.

The relationship between the military and the press has been described as strange bedfellows, sworn enemies and cat and mouse. More aptly, it has been a hunter-prey relationship, one characterised by harassment, intimidation and victimisation. Comfort Obi, editor TSM, whose publisher, Chris Anyanwu has been sentenced for 15 years but later granted amnesty believes that "this is a devastating blow on press freedom".[51] The new development in her opinion places the Abacha regime as the worst government since independence in terms of media - government relationship. The Abacha regime tried to match Babangida's legacy of press oppression unleashed through the instrumentality of decrees which he churned out as frequently as he

deemed fit.

That constitution and supremacy of the law are made object of cynosure, and as such are not guarantees of human rights protection and promotion in this part of the continent. Equality, liberty and perfectionism are hypothesis, therefore, Nigeria military governments mostly pursued the shadow instead of the substance.

5.2 CONCLUSION

A common belief tells us that there is a remedy to every situation. There is no situation or phenomenon that is absolute. What was experienced in the country about incessant abuse of human rights by the military regimes especially, that of General Sani Abacha, has been described as very unfortunate.

The international system becomes abuzz, dramatically so, with condemnation and the rejection of Nigeria and its authoritarian regime by people and nations who were only yesterday our close friends, many of whom we had proudly shared strong historic ties with. From one national capital to the other, there is an unprecedented global outrage, much of it deserved against the hanging of Ken Saro-Wiwa, renowned writer and Ogoni minority rights campaigner, and eight other kinsmen of his.

By that very act, the world sees the General Sani Abacha regime much in the light of a coarse person, much in the light of a regime with sensibilities as pristinely unrefined as those of ruling brutes of the stone age. TELL Magazine in its editorial of November 27, 1995 describes the rise of the military in politics in Nigeria "as simply worsened scenario, throwing up men like gods who are above the law and cannot be held accountable for their deeds".[52] The accompanying larger-than-life corruption, the gross ineptitude, the deification of mediocrity as a state policy, the sweeping underground of dissent, the militarisation of political structures and the atomisation of society have all but given rise to a personal dictatorship that is vacuous as it is sterile and bereft of profit.

At a time and in an age when the awesome achievements of dictatorships, the world over, no longer justify this outdated form of government, our military's despotism is on the rise without as much offering a sop such as enlightenment or even progress. Thus, a country with 28 years of peace and which is proud possessor of vast reserves of oil fully in exploitation is broke and owing some $32 billion. It's economy has collapsed, causing a once promising people and the largest black nation on earth to be reduced to the world's 13th poorest, and to the status of some noisy, wretched pauper gone astray.

5.3 RECOMMENDATIONS

It is worrisome that some cases of human rights abuse which were prevalent during the Gen. Sani Abacha era are still noticeable. This is notwithstanding the fact that the scale of the current rights violation is lower and less flagrant . Going by the report released last February, 2000 by the Department of State of the United States of America, there would seem to be no substantial improvement yet on the methods of arrest and detention, and some instances of extra-judicial killing. It is to be expected that the report of the Justice Oputa panel on the issue will unearth more evidence and offer the government strong grounds for taking necessary steps to move Nigeria from the league of countries with abysmal records in this respect.

Owing to the long years of military rule, the breaches in fundamental rights are many and varied, but the condition of the prisons tops the chart. The prisons are overcrowded, some by as much as 500 per cent. They live under sub-human conditions with chronic shortage of food and medical facilities. These horrors lead to avoidable deaths. What obtains in the over 100 prisons in Nigeria is an intolerable disregard for the minimum standards prescribed by the United Nations.

If the situation of prisons can be attributed to deterioration of facilities and technical difficulties in the judicial system, the police handling of cases leaves room for improvement. There is fear that police still arrest innocent persons at random under the pretext that the victims are criminals. This is contrary to chapter four of the 1999 constitution which deals with fundamental human rights. Even when the law makes provision for the security forces to effect arrests without warrants in some special and sensitive cases, it nonetheless stipulates that the accused be made privy to the offence for which he/she is charged. This simple rule is not being followed and so, it would appear that the old, bestial methods still apply. This is nothing in our present circumstances to justify this.

The government itself has not faired better than its predecessors in ensuring the sanctity of the rights of citizens. The frequency of human rights violation even by the present civilian government may be low compared to what obtained under Abacha regime, but it appears only the target has shifted. Whereas public figures opposed to Abacha's despotism were the butt of attack, now the poor are the victims. The use of state power in the country has been notoriously suppressive of the poor and vulnerable in society.

All this points to the need for an overhaul of the various institutions that are responsible for the protection of human rights and social justice. The major institutions are the police, the judiciary, the ministry of Justice and the prison services. The symbolism of the transfer of power may indicate a movement away from the days when autocratic methods were considered normal. It is not realistic to expect that the change of government will suddenly imbue the personnel in the institutions with compassion and humane behaviour. Law enforcement agents, in particular, need re-orientation on the importance of up holding human dignity in the discharge of their duties.

For the judiciary to help the enthronement of democratic values, the overall ideological outlook guiding law and order has to be upgraded to meet certain minimum standards. On its part, the government should focus its effort on improving the living conditions of people by providing basic amenities and expanding opportunities for enjoying freedoms and rights guaranteed by the constitution and international conventions to which Nigeria is a signatory.

ENDNOTES

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