



## **A CRITIQUE OF SOME NIGERIA MUNICIPAL LAWS GUIDING THE CONDUCT OF THE POLICE AGAINST HUMAN RIGHTS' VIOLATIONS IN NIGERIA.**

By

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### **Abstract**

*There exist Nigerian municipal laws collectively-intended to ease the enforcement, promotion, and protection of human rights of individuals against violations by the Nigerian Police. It is therefore worrisome that despite the existence of these laws, some Nigerian Police officers have increasingly continued to violate citizens' rights in Nigeria like in other countries of the world. It is consequent on the above that this article undertook a contemporary discourse and critique of some Nigeria municipal laws guiding the conduct of the Nigerian Police against human rights' violations in Nigeria. It offered explanations and definitions of key words that would aid the better understanding of the article. In this wise, it defined human rights, fundamental rights, human rights' violations, and the police. It examined human rights in the Constitution of the Federal Republic of Nigeria 1999 and the African Charter on Human and Peoples' Right Act 1983. It highlighted the provisions of the Fundamental Rights (Enforcement Procedure) Rules 2009 and its comparative advantage over the Fundamental Rights (Enforcement Procedure) Rules 1979. It also, highlighted the powers of Police officers under the Police Act 2020. It examined the obligations of the Police under the Administration of Criminal Justice Act 2015. This article takes the stance that some of the provisions of these laws are not adequate, clear and precise. It identified some shortcomings in and outside these laws and offers recommendations, which, if implemented, could curb human rights' violations by the Nigerian Police.*

**Keyword: Human Rights, Human Rights' Violations, Law Enforcement Officers, Municipal Laws.**



## 1.0 INTRODUCTION

In Nigeria, just like in other advanced countries in the world, there are laws which make provisions guiding the conduct of the law enforcement agencies which includes the Police against human rights' violations of citizens. Among these laws which includes rules in Nigeria are: the Constitution of the Federal Republic of Nigeria (CFRN) 1999,<sup>1</sup> the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983 (ACHPRA)<sup>2</sup>, the Fundamental Rights (Enforcement Procedure) Rules, 2009 (the 2009 Rules)<sup>3</sup>, the Police Act (PA) 2020<sup>4</sup> and the Administration of Criminal Justice Act (ACJA) 2015<sup>5</sup> which is core to this article. These laws are collectively-intended to ease the enforcement, promotion and protection of human rights of individuals against violations by the Nigerian Police. It is therefore worrisome that inspite of the existence of these laws, some Nigerian Police officers have increasingly continued to violate citizens' rights in Nigerian like in other countries of the world<sup>6</sup>. For instance, on 25 December, 2022 a Nigerian Police officer shot and killed a pregnant female lawyer returning from an outing in Ajah, Lagos State, Nigeria<sup>7</sup>. Recently, the Nigerian Police arraigned 32 hungry minors for treason<sup>8</sup>. The arraignment of the minors on 1 November 2024 at the Abuja division of the Federal High Court, came after they were arrested alongside 44 other suspects as a fall-out of the 1 August 2024 End Bad Government Protest in Nigeria<sup>9</sup>. It was reported that the minors who are between the ages of 14 and 17, and other adults were seen carrying the Russian flags during the said protest<sup>10</sup>. Also, it was further reported

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<sup>1</sup> The Constitution of the Federal Republic of Nigeria (CFRN) 1999.

<sup>2</sup> The African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983 (ACHPRA), Cap A9 Laws of the Federation of Nigeria (LFN) 2004.

<sup>3</sup> The Fundamental Rights (Enforcement Procedure) Rules (the 2009 Rules), 2009.

<sup>4</sup> The Nigeria Police Act 2020, Cap P19 LFN 2004.

<sup>5</sup> Administration of Criminal Justice Act (ACJA), 2015.

<sup>6</sup> '2022 Country Reports on Human Rights Practices: Nigeria' <<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/nigeria/>> accessed 20 May 2024.

<sup>7</sup> 'Lagos Police Arrest Officer for Killing Pregnant Lawyer on Christmas Day' <<https://www.thisdaylive.com/index.php/2022/12/27/lagos-police-arrest-officer-for-killing-pregnant-lawyer-on-christmas-day>> accessed 9 May 2024.

<sup>8</sup> A. Folorunsho and others, 'Outrage as Police arraign 32 'hungry' Children for Treason, Four Collapse' Punch (Lagos, 2 November 2024) <<https://punchng.com/outrage-as-police-arraign-32-hungry-children-for-treason-four-collapse/>> accessed 7 November 2024.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.



that the Nigerian Police arrested and detained the suspects without giving them proper food till the date of their arraignment which came after almost three months from the day they were arrested<sup>11</sup>. On the day they were arraigned, the hungry minors who looked malnourished and unkempt were seen scrambling for biscuit and water in the court premises in a video circulating on the social media<sup>12</sup>. While the suspects were being arraigned on the said day, four of the minors collapse in open court which led to the discharge of the four sick minors<sup>13</sup>. It is consequent on the above that this article undertakes a contemporary discourse and critique of some Nigeria municipal laws guiding the conduct of the Nigerian Police against human rights' violations in Nigeria. Prior to the above, it offers explanations and definitions of key words that would aid the better understanding of the article. In this wise, it defines human rights, fundamental rights, human rights' violations, and the police. It examines human rights in the CFRN 1999 and the ACHPRA. It highlights the provisions of the 2009 Rules and its comparative advantage over the Fundamental Rights (Enforcement Procedure) Rules 1979 (1979 Rules). It also, highlights the powers of Police officers under the PA 2020. It examines the obligations of the Police under the ACJA 2015. This article takes the stance that some of the provisions of these laws are not adequate, clear and precise. It identifies some short-comings in and outside these laws and offers recommendations, which, if implemented, could curb human rights violations by the Nigerian Police.

## 2.0 CONCEPTUAL FRAMEWORK

In this part of the article, the following concepts shall be explained: Human Rights, Fundamental Rights, Human Rights' Violation, and the Police.

### 2.1 Human Rights

Human rights are those rights that are inherent in all human beings, irrespective of their nationality, sex, race, ethnicity, religion, language, or other means of categorisation<sup>14</sup>. These rights, include but not limited to the right to life, as well as liberty of persons, the right to be free from slavery and torture, freedom to express ones opinion, the right to be educated and to work<sup>15</sup>. Every person is entitled to enjoy these rights without any kind of disqualification<sup>16</sup>.

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<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> O. Imoni-Ogbe and Henry Awodezi, 'Reflection on the Evolution and Continuous Violation of Human Rights in Nigeria' *Western Delta University Law Journal* [2024] 2(1) 2.

<sup>15</sup> See O. Imoni-Ogbe, 'Conundrum in Exercise of Right to Liberty in Nigeria: Not Yet Victory for Suspects' *KB Law Scholars Journal* [2024] 1(5) 59.

<sup>16</sup> Ibid.



## 2.2 Fundamental Rights

Abuza states that there are two types of rights<sup>17</sup>: fundamental rights or non-fundamental rights. Fundamental rights also known as basic rights are so important in the day to day living of every country's citizens<sup>18</sup>. These fundamental or basic rights as they are so called, are rights guaranteed or provided for in the highest law of a country, which is, the constitution<sup>19</sup>. These basic or fundamental rights can be seen in the constitution of every country, which make them enforceable rights that are guaranteed to all citizens and persons living in a country<sup>20</sup>. They are special human rights selected to be enjoyed by every citizen and person living in a particular country irrespective of their status<sup>21</sup>.

## 2.3 Human Rights' Violations

Human rights' violation is defined as any action or omission that violates a person's rights as guaranteed by national, State, and international legislation<sup>22</sup>. Human rights' violations may occur in a variety of ways, such as when people or organisations engage in acts of violence, abuse, or discrimination, or when the government enacts or formulates laws, policies, or other measures that restrict or deny human rights<sup>23</sup>. Human rights breaches may occur in a State directly or indirectly<sup>24</sup>. Violations might happen when the government of the State fails to stop violations or when the State engages in human rights' violation on purpose<sup>25</sup>. Various persons or group of persons, including the judges, prosecutors, Police, and other government officials, may be involved when a State commits human rights' violations. Human rights' violations may take two forms: non-violent and violent. The most prevalent kind of violent-violations of human rights are that committed by the Police. Police brutality is the most common kind of human rights' violation by the Police. It is noteworthy that a number of individuals and

<sup>17</sup> A. E. Abuza, 'Derogation from Fundamental Rights in Nigeria: A Contemporary Discourse' East African Journal of Science and Technology [2017] 7(1) 109.

<sup>18</sup> Ibid.

<sup>19</sup> D. Adu and E. Randle, 'Fundamental Human Rights Under the 1999 Constitution (As Amended)' <<https://www.mondaq.com/nigeria/human-rights/1221232/fundamental-human-rights-under-the-1999-constitution-as-amended>> accessed 4 January 2025.

<sup>20</sup> Ibid.

<sup>21</sup> Pediaa, <<https://pediaa.com/what-is-the-difference-between-human-rights-and-fundamental-rights/>> accessed 5 January 2025.

<sup>22</sup> See O. Imoni-Ogbe, 'The Concept of Right: A Critique of Some International Instruments Guiding the Conduct of Law Enforcement Officials against Human Rights' Violations' University of Benin Journal of Private and Property Law [2024] 8(1) 92.

<sup>23</sup> 'What is the Definition of Human Rights' <<https://www.quora.com/What-is-the-definition-of-human-rights-violation>> accessed 29 December 2024.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.



international organisations have attempted to define Police brutality. These individuals and organisations define Police brutality in a number of ways. According to the Amnesty International, 'the term "police brutality" is often used to refer to different human rights' breaches by the Police... which can include racial abuses, beatings, extra-judicial executions, torture, or indiscriminate control of riot by law enforcement agents during rallies'<sup>26</sup>. James Fyfe a Police Administrator and criminologist, and Jerome Skolnick an American jurist, define Police brutality thus:

Police brutality is defined as '...a conscious and purposeful (negative) action that a Police officer commits against suspects who are generally members of a powerless socio economic group'<sup>27</sup>.

In a nutshell, when individuals are treated fairly and humanely, their rights are safeguarded<sup>28</sup>. However, when people's basic moral rights are denied, it is a violation of their human rights<sup>29</sup>. It is, in a way, to treat people as if they are not fully-human and are not worthy of dignity and respect<sup>30</sup>.

#### **2.4 The Police**

The Police is 'the governmental department charged with the preservation of public order, the promotion of public safety, and the prevention and detection of crimes'<sup>31</sup>. The Police also means 'the officers or members of this governmental department known as the Police'<sup>32</sup>.

### **3.0 SOME NIGERIAN MUNICIPAL LAWS GUIDING THE CONDUCTS OF NIGERIAN POLICE AGAINST HUMAN RIGHTS' VIOLATIONS.**

This part of this article examines the usefulness and or the flaws of some Nigerian municipal laws protecting against human rights' violations.

<sup>26</sup> Amnesty International, 'Police Violence' <<https://www.amnesty.org/en/what-we-do/police-brutality/>> accessed 21 October 2022.

<sup>27</sup> 'Police Brutality' <<https://www.cliffsnotes.com/study-guides/criminal-justice/policeproblems/police-brutality>> accessed 10 January 2025.

<sup>28</sup> International Commission on Intervention and State Sovereignty, 'The Responsibility to Protect: Supplementary Volume to the Report of the International Commission on Intervention and State Sovereignty' <<https://idrc-crri.ca/en/book/responsibility-protect-report-international-commission-intervention-and-state-sovereignty>> accessed 2 January 2025.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> B. A. Garner (ed), Black's Law Dictionary (10th edn, Thomson Reuters, 2014) 1344.

<sup>32</sup> Ibid.



### 3.1 The Status of Human Rights in the Constitution of the Federal Republic of Nigeria 1999

The CFRN 1999 provide for the fundamental rights of citizens in its Chapter Four. It provides for the right to life<sup>33</sup>, right to dignity of persons<sup>34</sup>, right to personal liberty<sup>35</sup>, right to fair hearing within a reasonable time<sup>36</sup>, right to privacy of persons<sup>37</sup>, right to freedom of thought, conscience and religion<sup>38</sup>, right to freedom of expression and the press<sup>39</sup>, right to freedom of association and peaceful assembly<sup>40</sup>, right to freedom of movement<sup>41</sup>, right to freedom from discrimination<sup>42</sup>, right to own and acquire property in any part of Nigeria<sup>43</sup> and freedom from acquiring a person's property compulsorily without compensation.<sup>44</sup>

It should be noted, however, that these rights above are not absolute, as the CFRN 1999 provides that some of these rights above can be derogated from<sup>45</sup>. Rights such as right to privacy of persons, right to freedom of thought, conscience and religion, right to freedom of expression and the press, right to freedom of association and peaceful assembly, and right to freedom of movement, can be derogated from<sup>46</sup>. Nonetheless, in order for such derogations to be justified, it must be in the interest of defence, public safety, public order, public morality, public health or for the purpose of protecting the rights and freedom of other persons<sup>47</sup>.

Also, the CFRN 1999 provides that measures can be taken that derogate from the provisions on the right to life or the right to personal liberty during the period of emergency<sup>48</sup>. However, for such measures to be justifiable, the measures should be reasonably justifiable for the purpose of dealing with the situation that exist during such period of emergency<sup>49</sup>. It should be noted that the CFRN 1999 has not

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<sup>33</sup> The CFRN 1999, s 33.

<sup>34</sup> *Ibid.*, s 34.

<sup>35</sup> *Ibid.*, s 35.

<sup>36</sup> *Ibid.*, s 36.

<sup>37</sup> *Ibid.*, s 37.

<sup>38</sup> *Ibid.*, s 38.

<sup>39</sup> *Ibid.*, s 39.

<sup>40</sup> *Ibid.*, s 40.

<sup>41</sup> *Ibid.*, s 41.

<sup>42</sup> *Ibid.*, s 42.

<sup>43</sup> *Ibid.*, s 43.

<sup>44</sup> *Ibid.*, s 44.

<sup>45</sup> *Ibid.*, s 45.

<sup>46</sup> *Ibid.*, s 45(1).

<sup>47</sup> *Ibid.*, s 45(1)(a).

<sup>48</sup> *Ibid.*, s 45(2).

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



defined what interest is of 'defence, public safety, public order, public morality, public health and the situation that exist during such period of emergency as used in section 45(1)(a) and (2) of the CFRN 1999<sup>50</sup>. The researcher is of the view that these undefined interests have vested wide and unchecked discretion on officers of the NPF, which is more often than not likely to be misused and abused, and thereby leading to the violation of the rights of Nigerian citizens.

Again, the CFRN 1999 provides that 'nothing shall authorise any derogation from the right to life, except in respect of death resulting from acts of war' and that 'nothing shall authorise any derogation from the provision of section 36(8)' of the CFRN 1999<sup>51</sup>. Chapter Four of the CFRN 1999 concludes by providing that 'any person who alleges that any of his fundamental rights has been, is being, or is likely to be contravened in any State may apply to the High Court of that State or any Federal High Court within such State for redress'<sup>52</sup>. Additionally, The CFRN 1999 in its section 46 provides that 'the Chief Justice of Nigeria may make rules with respect to the practice and procedure of the High Court'. This rule will be discussed in the next sub-heading of this article.

More importantly, the CFRN 1999 specifically provides for the powers of the Police in sections 214 to 216 and by implication provides for the PA 2020. The PA 2020 provides for the powers of the Police and respect for the rights of citizens by officers of the NPF<sup>53</sup>. These provisions, individually, work to ensure that the human rights of the Nigerian citizens are protected by the law, and Police officers are made to be aware of the limits to their powers to ensure that they do not act *ultra vires* their powers. Also, apart from the provisions above, section 29 of the PA 2020, also, provides that:

A police officer may detain and search any person whom he reasonably suspects of having in his possession or conveying in any manner anything which he has reason to believe to have been stolen or otherwise unlawfully obtained<sup>54</sup>.

It should be noted that the PA 2020 has not defined what is 'reasonable' in the provisions above. This has created difficulty in the determination of what is a reasonably justifiable law limiting the protection of human rights of Nigerian citizens in section 29 of the PA 2020. In addition, the CFRN 1999 makes

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<sup>50</sup> Abuza (n 17).

<sup>51</sup> The CFRN 1999, s 45(2); and section 36(8) of the CFRN 1999 provides that: 'No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed'.

<sup>52</sup> The CFRN 1999, s 46(1).

<sup>53</sup> The PA 2020, s 7.

<sup>54</sup> *Ibid.*, s 29.



provision for the protection of the right to life<sup>55</sup>. However, it makes it clear that the right is not absolute. For example, section 33(2) of the CFRN 1999 declares that:

A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary:

- (a) for the defence of any person from unlawful violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
- (c) for the purpose of suppressing a riot, insurrection or mutiny<sup>56</sup>.

Again, the provisions of the CFRN 1999 above do not define such force as is reasonably necessary. Therefore, such force as is reasonably necessary lies within the discretion of the Police and other security officials. The conferment of discretionary powers on public officers is susceptible to misuse, as has been the case with Police officers since the time of colonial rule in Nigeria. This is a major challenge to the protection of human rights against violations by the Nigerian Police officers.

### **3.2 The African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983**

Nigeria became the first country in Africa when it domesticated the African Charter on Human and Peoples' Rights 1981 (1981 Charter) 1983<sup>57</sup>. In Nigeria, apart from treaties on labour and employment<sup>59</sup>, the dualist system in operation entails that treaties can only be applied if they are domesticated through an Act of the National Assembly<sup>60</sup>. The 1981 Charter remains the only wholistic human

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<sup>55</sup> The CFRN 1999, s 33.

<sup>56</sup> The CFRN 1999, s 33(2).

<sup>57</sup> F. Viljeon (ed), *International Human Rights in Africa* (2nd edn, Oxford University Press, 2012) 1.

<sup>58</sup> The CFRN 1999 (third Alteration Act) 2010, s 254(2).

<sup>59</sup> E. Egede, 'Bringing Human Rights Homes: An Examination of the Domestication of Human Rights Treaties in Nigeria' *Journal of African Law* [2007] 51(2) 249; A. Enabulele 'Implementation of Treaties in Nigeria and the Status Question: What Nigerian Courts' *African Journal of International and Comparative Law* [2009] 17(2) 326; and the CFRN 1999, s 12(1).

<sup>60</sup> E. O. Ekhaton, 'The Impact of the African Charter on Human and Peoples' Rights on Domestic Law: A Case study of Nigeria' <<https://core.ac.uk/download/pdf/158350272.pdf>> accessed 20 December 2024.



rights treaty that has been incorporated as a domestic law in Nigeria. This domestication is what is now known as the 'African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983'<sup>61</sup>. The ACHPRA confirmed the Long Title in its provision thus:

As from the commencement of this Act, the provisions of the African Charter on Human and Peoples' Rights which are set out in the Schedule to this Act shall, subject as there under provided, have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria<sup>62</sup>.

In *Abacha v Fawehinmi*<sup>63</sup>, the Supreme Court of Nigeria confirmed that the ACHPRA is part of Nigerian law, and courts must enforce it. The ACHPRA provides among others for such rights such as: freedom against discrimination<sup>64</sup>, right to life<sup>65</sup>, right to dignity of person<sup>66</sup>, and the right to liberty and security of person<sup>67</sup>. Other rights, include freedom of conscience, profession and religion<sup>68</sup>, freedom to receive information and express opinion<sup>69</sup>, the right to freedom of association and assembly<sup>70</sup>, and freedom of movement, which includes freedom of an individual to leave and return to his own country<sup>71</sup>.

### 3.3 The Fundamental Rights (Enforcement Procedure) Rules 2009

The Fundamental Rights (Enforcement Procedure) Rules 2009 (2009 Rules) was made in furtherance of section 46(3) of the CFRN 1999 by the then Chief Justice of Nigeria, IdrisLegboKutigi<sup>72</sup>. The 2009 Rules make provisions for the

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<sup>61</sup> ACHPRA.

<sup>62</sup> Ibid., s 1.

<sup>63</sup> *Abacha v Fawehinmi* [2000] (Pt 660) 228, Supreme Court (SC), Nigeria.

<sup>64</sup> ACHPRA, art 2.

<sup>65</sup> Ibid., art 4.

<sup>66</sup> Ibid., art 5.

<sup>67</sup> Ibid., art 6.

<sup>68</sup> Ibid., art 8.

<sup>69</sup> Ibid., art 9.

<sup>70</sup> Ibid., art 10 & 11.

<sup>71</sup> Ibid., art 12.

<sup>72</sup> The CFRN 1999, s 46(3). It provides that: 'The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section'. The purpose of the section is provided for in section 46(1) of the CFRN 1999 thus: 'Any person who alleges that any of the provisions of this Chapter (IV) has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress'.



procedure to be taken by an individual in the enforcement of his fundamental rights<sup>73</sup>. The 2009 Rules provide that any person whose fundamental rights in Chapter Four of the CFRN 1999 or the ACHPRA 'and to which he is entitled, has been, is being, or is likely to be infringed, may apply to the court in the State where the infringement occurs or is likely to occur, for redress<sup>74</sup>'. The 2009 Rules provide for how an action can be commenced<sup>75</sup>, limitation of action<sup>76</sup>, proceedings<sup>77</sup>, service of processes<sup>78</sup>, and amendment of statements and affidavits<sup>79</sup>. Also, the 2009 Rules make provisions for consolidation of numerous applications which relates to the one infringement<sup>80</sup>, preliminary objections<sup>81</sup>, the effect of not complying with the Rule<sup>82</sup>, how a proceeding can be quashed<sup>83</sup>, and order which the court may make<sup>84</sup>. It further provides for hearing of applications<sup>85</sup>, the rights of any other non-party to an application to be heard<sup>86</sup>, committal for contempt<sup>87</sup>, and transitional provisions<sup>88</sup>.

It should be noted that the 2009 Rules repealed the Fundamental Rights (Enforcement Procedure) 1979 Rules (1979 Rules). Obviously, there are some significant provisions that are favourable to human rights violation victims under the 2009 Rules when compared with the 1979 Rules. For instance, unlike the 1979 Rules, no leave is required to commence a fundamental right enforcement action in the 2009 Rules<sup>89</sup>. Also, unlike the 1979 Rules, *locus standi* is not required to commence litigations of public interests that have to do with human rights as no human rights suit can be struck-out for a lack of *locus standi* in the 2009 Rules<sup>90</sup>. The 2009 Rules therefore allow 'human right activists, advocates or

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<sup>73</sup> Preamble to the 2009 Rules.  
<sup>74</sup> The 2009 Rules, order II, rule 1.  
<sup>75</sup> Ibid., order II.  
<sup>76</sup> Ibid., order III.  
<sup>77</sup> Ibid., order IV.  
<sup>78</sup> Ibid., order V.  
<sup>79</sup> Ibid., order VI.  
<sup>80</sup> Ibid., order VII.  
<sup>81</sup> Ibid., order VIII.  
<sup>82</sup> Ibid., order IV.  
<sup>83</sup> Ibid., order X.  
<sup>84</sup> Ibid., order XI.  
<sup>85</sup> Ibid., order XII.  
<sup>86</sup> Ibid., order XIII.  
<sup>87</sup> Ibid., order XIV.  
<sup>88</sup> Ibid., order XV.  
<sup>89</sup> The 2009 Rules (n 145).  
<sup>90</sup> Preamble to the 2009 Rules, para 3(e).



groups as well as NGOs, to institute human right applications on behalf of any potential applicant<sup>91</sup>. However, the researcher is of the view that the said provision appears to be inconsistent with the provisions of section 46(1) of the CFRN 1999, which clearly provides that only persons who alleges that any of the provisions of Chapter Four of the CFRN 1999 'has been, is being or likely to be contravened in any State in relation to such person may apply to' the court for redress. The researcher, therefor, recommends that the said section 46(1) of the CFRN 1999 should be amended to include 'human right activists, advocates or groups as well as NGOs', as persons or groups that can institute human right applications on behalf of human rights' violation applicant. Again, unlike the 1979 Rules, the 2009 Rules provide for the front-loading of evidence together with written addresses at the point of filing an application. This will no doubt speed-up the application of an applicant seeking to enforce his fundamental rights.

### 3.4 Police Act 2020

The powers of Police officers are contained in Part Four of the PA 2020<sup>92</sup>. On the general duties of the Police, the Act provides that:

The Police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act<sup>93</sup>.

The powers of Police officers, according to the PA 2020, include conducting prosecution<sup>94</sup>, power to arrest, power to arrest<sup>95</sup> without warrant in possession<sup>96</sup> and power to summon suspects<sup>97</sup>. They, also, include power to grant bail to persons arrested without warrant<sup>98</sup>, power to search, power to detain and search<sup>99</sup> suspected persons<sup>100</sup>, and power to take fingerprints<sup>101</sup>.

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<sup>91</sup> Ibid.

<sup>92</sup> The PA 2020, ss 23-30.

<sup>93</sup> Ibid., s 4.

<sup>94</sup> Ibid., s 23.

<sup>95</sup> Ibid., s 24.

<sup>96</sup> Ibid., s 25.

<sup>97</sup> Ibid., s 26.

<sup>98</sup> Ibid., s 27.

<sup>99</sup> Ibid., s 28.

<sup>100</sup> Ibid., s 29.

<sup>101</sup> Ibid., s 30.



It should be noted that there is a Police Amendment Act 2024 which increased the service years of police officers from 35 years to 40 of service, and from 60 to 65 years of age, as the case may be.

### 3.5 The Administration of Criminal Justice Act 2015

The ACJA 2015 is a milestone enactment in Nigeria that aims to reform the country's criminal justice system. The Act was signed into law on 13 May 2015, and it repeals the Criminal Procedure Code (CPC) and the Criminal Procedure Act (CPA). It is designed to ensure the promotion of effective and efficient administration of criminal justice, protect the rights of victims, suspects, and defendants, while ensuring that the justice system is not only fair but also transparent, and accountable<sup>102</sup>. The Act aims to achieve these objectives by introducing reforms in the area of police investigation, prosecution, trial, and sentencing.

#### a. Key Provisions of the ACJA 2015:

- i. **Arrest and Detention:** The ACJA 2015 regulates the power of arrest and detention, emphasising the need for warrants of arrest and protecting the rights of suspects<sup>103</sup>.
- ii. **Bail:** The Act liberalizes the bail system, allowing for more flexible and discretionary bail conditions<sup>104</sup>.
- iii. **Police Investigation:** The ACJA 2015 introduces reforms in police investigation, including the use of electronic recording devices, forensic analysis, and the requirement for Police Officers to provide suspects with written statements of their rights<sup>105</sup>.
- iv. **Prosecution:** The Act enhances the role of prosecution requiring them to disclose evidence to the defence and to provide written statements of their case<sup>106</sup>.
- v. **Trial:** The ACJA introduces reforms in trial procedures, including the use of technology to facilitate testimony and the protection of vulnerable witnesses<sup>107</sup>.
- vi. **Sentencing:** The Act provides for more flexible and discretionary sentencing options, including community service and restorative justice<sup>108</sup>.

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<sup>102</sup> The ACJA, s 1.

<sup>103</sup> Ibid.,ss 4-7.

<sup>104</sup> Ibid.,ss 165-171.

<sup>105</sup> Ibid.,ss 15-18.

<sup>106</sup> Ibid.,ss 35-37.

<sup>107</sup> Ibid.,ss 154-164.

<sup>108</sup> Ibid.,ss 401-405.



- b. Innovations and Reforms of the ACJA 2015:**
- i. ***Presumption of innocence:*** the ACJA 2015 reinforces the presumption of innocence, emphasising that a suspect is innocent until proven guilty<sup>109</sup>.
  - ii. ***Protection of vulnerable witnesses:*** The Act provides special protection for vulnerable witnesses, including children, victims of sexual assault and persons with disabilities<sup>110</sup>.
  - iii. ***Use of technology:*** The ACJA 2015 encourages the use of technology to facilitate the administration of justice, including electronic recording devices, video conferencing and digital evidence<sup>111</sup>.
  - iv. ***Restorative justice:*** The Act introduces restorative justice as an alternative sentencing option, emphasising the need for offenders to make amends to their victims and the community<sup>112</sup>.
- c. Implications and Challenges of the ACJA 2015:**
- i. ***Implementation:*** The ACJA 2015 requires significant changes in the practices and procedures of law enforcement agencies, courts, and other stakeholders.
  - ii. ***Training and capacity building:*** The Act requires training and capacity building for law enforcement officers, prosecutors, judges, and other stakeholders to ensure effective implementation.
  - iii. ***Infrastructure and resources:*** The ACJA 2015 requires significant investment in infrastructure and resources, including technology, facilities, and personnel. For example, there exist only one forensic laboratory and digital centre in the Federal Capital Territory, Abuja and none in States of the Federation of Nigeria<sup>113</sup>. In addition, there are very few Police contingent with electronic equipment that would aid the Police to receive confessional statements by electronic means as provided in the Section 15(4) ACJA. These are challenges that may hinder the realisation of the objectives of the ACJA 2015.
  - iv. ***Cultural and attitudinal changes:*** The Act requires cultural and attitudinal changes among stakeholders, including a shift from punitive to restorative justice approaches.

Flowing from the above, the ACJA 2015 is a significant reform legislation that aims to transform the Nigerian criminal justice system. The Act introduces innovative provisions and reforms that promote efficient and effective

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<sup>109</sup> Ibid., s 2.

<sup>110</sup> Ibid., ss 154-164.

<sup>111</sup> Ibid., ss 15-18, 154-164.

<sup>112</sup> Ibid., ss 401-405.

<sup>113</sup> See N. D. Nte, 'An Evaluation of the Challenges of Forensic Investigation and Unresolved



administration of justice, protect the rights of suspects and victims, and ensure that the justice system is fair, transparent, and accountable. It should be noted, however, that the implementation of the ACJA 2015 requires significant changes in practices and procedures, training and capacity building, infrastructure and resources, and cultural and attitudinal changes among stakeholders. Again, it should be added that some of its provisions are inadequate to address the challenges associated with human rights' violations by the Police. For example, Section 18(a)(f) and 52 of the ACJA 2015 having also provided that a Police officer can arrest a person without warrant upon reasonable ground that the person has committed an offence, the ACJA has not also defined what ground is reasonable in effecting an arrest without warrant in the said provisions.

#### **4.0 OBSERVATIONS/FINDINGS**

The following were observed/found in the course of this research:

- i. Section 29 of the PA 2020 having provided that a Police Officer can detain and search a person upon reasonable suspicion that such a person has committed an offence, the Act has not defined what is reasonably justifiable in the said provision. This may give the Police Officers a wide and unchecked discretion which may lead to human right violation of the Nigerian citizens.
- ii. Section 33(2) of the CFRN 1999 having provided that a Police Officer can deprive the Nigerian citizen of his right to life with the use for such force as is reasonably necessary in the defence of a person, property, to effect lawful arrest, to prevent escape of a suspect and for the purpose of suppressing riot, the Constitution has not defined what is reasonably justifiable in the said provision. This may also, give the Police Officers a wide and unchecked discretion which may lead to human right violation of the Nigerian citizens.
- iii. Section 18(a)(f) and 52 of the ACJA 2015 having also provided that a Police officer can arrest a person without warrant upon reasonable ground that the person has committed an offence, the ACJA has not also defined what ground is reasonable in effecting an arrest without warrant in the said provisions. Again, this may give the Police Officers a wide and unchecked discretion which may lead to human right violation of the Nigerian citizens.
- iv. There exist only one forensic laboratory and digital centre in the Federal Capital Territory, Abuja and none in States of the Federation of Nigeria.
- v. There are very few Police contingent with electronic equipment that would aid the Police to receive confessional statements by electronic means as provided in the Section 15(4) ACJA. This may pose difficulty in the realisation of the said provision of the Act.



## **5.0 RECOMMENDATION**

Flowing from the observation/findings above, the following are the recommendation of this article:

- i. The PA 2020 should be amended in its Section 29 to clearly define what would create a reasonable suspicion that would empower a Police Officer to detain and search a person without warrant.
- ii. The CFRN 1999 should be amended in its Section 33(2) to clearly define such force as is reasonably necessary in the defence of a person, property, to effect lawful arrest, to prevent escape of a suspect and for the purpose of suppressing riot.
- iii. The ACJA 2015 should be amended in its Section 18(a)(f) and 52 to clearly describe or define what ground is reasonable in effecting an arrest without warrant.
- iv. The NPF should establish forensic laboratory and digital centre in every State Command of the Federation so as to aid and speedy-up forensic analysis in investigations.

## **6.0 CONCLUSION**

This article undertook a contemporary discourse and critique of some Nigeria municipal laws guiding the conduct of the Nigerian Police against human rights' violations in Nigeria. It offered explanations and definitions of key words that would aid the better understanding of the article. In this wise, it defined human rights, fundamental rights, human rights' violations, and the police. It examined the CFRN 1999 and the 1983 Charter. It highlighted the provisions of the 2009 Rules and its comparative advantage over the 1979 Rules. It also, highlighted the powers of Police officers under the PA 2020. It examined the obligations of the Police under the ACJA 2015. This article takes the stance that some of the provisions of these laws are not adequate, clear and precise. It identifies the shortcomings in these laws and offered recommendations, which, if implemented, could curb human rights' violations by the Nigerian Police.