



POLAC
*Journal of International
Law and Jurisprudence*
(PJILJ)

Volume 3, Number 1, March 2022
ISSN: 2408-8634

A Publication of the Department of
International Law and Jurisprudence
Nigeria Police Academy
P.M.B. 3474, Wudil
Kano-Nigeria

IMPOSITION OF CURFEW AND HUMAN RIGHTS VIOLATION: AN EVALUATION OF SECTION 34 OF THE CONSTITUTION OF FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED)



Linda Malchit Daze*
WalmakGupar*
Yohanna Gloria Nakop***

Abstract

This paper was motivated by the desire to put a spotlight on the increase violation of human rights, particularly the right to the dignity of the human person guaranteed by the 1999 Constitution of the Federal Republic of Nigeria (as amended) in the guise of enforcing observance of curfews by law enforcement personnel. It focused on the legal basis for imposition of curfew in Nigeria and the violation of the right to human dignity by security personnel. The paper aimed at exposing the disequilibrium between imposition of curfew as a means of social protection and exposure of the society to grave danger as a means of ensuring compliance. It adopted the doctrinal approach alongside analytic and descriptive research types. The paper found that: there is a constitutional basis for imposition of curfews in Nigeria; the imposition of curfews does not derogate the right to dignity of the human person guaranteed by the constitution and that there is a competing interest between enforcement of curfews to protect the society and the protection of citizen's dignity during such enforcement. It recommended the constant training and retraining of security personnel on the need to achieve equilibrium between law enforcement and human rights as well as massive education of the public on the right to be treated humanely by law enforcement agents at all times; and reporting cases of human right violation to appropriate authorities such as the National Human Right Commission for redress.

*LL.M, B.L, LL.B (Ph.D. Candidate). Legal Practitioner and Part-Time Lecturer Plateau State Polytechnic, Barkin-Ladi. Email: lindadombin@gmail.com.

**LL.M, B.L, LL.B, DRS (Ph.D. Candidate).Lecturer, Faculty of Law, Taraba State University, Jalingo. Email: walmakgupar@tsuniversity.edu.ng or waldeenigeria@gmail.com

***LL.M, B.L, LL.B (Ph.D. Candidate).Legal Practitioner, Yohanna Datau & Co. Email: gloriayohanna38@gmail.com

1. Introduction

According to the study of Maslow's hierarchy of needs, the most immediate concern of people is physical safety from violence.¹ Sigmund Freud proposed that self-preservation is one of two instincts that motivate human behaviors.² Thus, man always feels the need to preserve humanity from any form of danger. Man has continued to evolve different strategies for the preservation of his species and the world at large. Within this natural instinct for survival, civilized nations and institutions have developed legal frameworks and mechanisms towards such preservation. This explains why several countries around the globe, Nigeria inclusive have codified principles relating to the preservation of life and the society at large. There are several treaties on the subjects of preservation of life and society.³ These instruments do not only protect from violence but any form of threat to the existence such as diseases.

Government demonstrates its respect for the human person by protecting interests relating to inviolability of the human person. Thus, the 1999 Constitution of the Federal Republic of Nigeria (as amended) protects some special interests called the fundamental human rights.⁴ Among these rights is the right to dignity of the human person.⁵ This right relates directly to the welfare and preservation of the human person. Nigeria equally has a robust mechanism for the protection of these rights including law enforcement agents, the courts and the National Human Rights Commission among others. However, it appears that one of the popular strategies often invoked by government for the protection of citizens – curfew – is yet to find a balance with the protection of the right to human dignity. The disequilibrium often arises in the methods employed by law enforcement agents in the enforcement of curfews. In this light, this paper examines the imposition of curfews and human rights violation with particular reference to the right to human dignity. The papers limited to the attitude and activities of law enforcement agents in the enforcement of such curfews. However, we shall first define and explain key concepts

¹Corporate Finance Institute 'Maslow's Hierarchy of Needs: A Framework for Human Motivation' <www.corporatefinance.com> Accessed 30/9/2021.

²VandenBos G. R.(Ed) *APA Dictionary of Psychology* 'self preservation' <www.dictionary.apa.org> Accessed 30/9/2021.

³ Examples include: International Convention on Civil and Political Rights 1966 and Convention on Economic, Social and Cultural Rights 1996

⁴Section 33-44 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

⁵*ibid* section 34

understanding of which is necessary to set the perspective of our discussion. Thereafter, the paper will categorize the different types of curfews and discuss the legal basis for imposition of curfews in Nigeria. Then it will evaluate the practices of security agents in the enforcement of curfews in Nigeria, especially during the recent COVID 19 nationwide curfew in the light of human rights violations.

2. Conceptual Clarifications

2.1 Curfew

Curfew imposition and lockdown regulations are the primary strategist adopted by the authority to restrict inessential movement and curb some challenges globally.⁶ According to the Cambridge Dictionary, Curfew means “a rule that everyone must stay at home between particular times, usually at night, especially during a war or period of political trouble”.⁷ Three points are instructive about this definition. The first is the fact that a curfew operates as a rule. That is, a principle or condition that customarily governs behavior.⁸ Being a rule also signifies that its imposition is official, usually by a recognized sovereign institution, body or person. Secondly, a curfew is a “sit-at-home” rule. In other words, it is a directive requiring a target group to remain indoors for a particular reason or reasons. Thus, it is restrictive in nature. It restricts the exercise of the freedom of movement and association guaranteed by the Constitution. Thirdly, the factor or factors behind impositions of curfews are usually unfavorable such as war, crisis or outbreak of contagious diseases. Thus, the purpose is to curtail a given situation in the common interest of the group. A good example is the recent curfew imposed by a number of nations around the globe including Nigeria to stem the worsening COVID-19 outbreak.⁹ Curfews may also be used to curtail violence.¹⁰

⁶ Eneyo. V.B, Oba D.O., Ochiche C.A., Esseini D.A. and Antai A.s. ‘Economic Impacts of Curfew Imposition on the Nightclub Industry in Calabar Metropolis, Nigeria. *African Journal of Hospitality, Tourism and Leisure* 2021, Vol. 10 No.3 955-971

⁷Cambridge University *Cambridge Dictionary of Philosophy* “Curfew” <www.dictionary.cambridge.org> Accessed 30/8/2021.

⁸Sally Wehmeier (Ed) *Oxford Advanced Learner's Dictionary* “Rule” <www.advanced.oxforddictionary.com> Accessed 30/8/2021.

⁹David J. Cennimo ‘Corona virus’ Corona virus disease (COVID-19) is an illness caused by novel Coronal virus which cause severe acute respiratory syndrome. Coronavirus 2 (SARS-CoV2; formerly called 2019-n CoV), which was first identified amid an outbreak of respiratory illness cases in Wuhan City, Hubei Province, China. It was initially reported to the World Health Organization (WHO) on December, 31, 2019. On January 2020 the WHO declared the COVID-19 outbreak a global health emergency <www.emedicine.medscape.com> Accessed 30/8/2021.

¹⁰Frank L. Manella ‘Curfew Laws’ *Sage Journals* (The Citizen Committee Youth, 1958).

There are certain types of curfews implemented at different places, which apply according to demographic locations. Thus, the following classifications: juvenile curfews, emergency curfews and business curfew may be highlighted.¹¹ Juvenile Curfews is used to restrict the time during which minors are allowed to be out in public. After the designated time, minors are prohibited from being on the streets or patronizing a business. The purpose of juvenile curfew is to prevent certain kind of activity considered harmful to minors. By reducing the number of youth on the street during certain hours, curfews are assumed to lower the risk factors associated with youth crime. In addition to preventing crime, the curfews are to protect youth from dangerous situations. Thus, in addition to preventing crime, curfews have been widely cited by policymakers as an effective tool for reducing crime.¹²

Emergency curfews are used during times of crisis, catastrophe or natural disaster to restrict movement for all citizens. Some historical reasons for emergency curfews include hurricanes, blizzards, wildfires, public riots, and crisis and diseases outbreak.¹³ Business curfews on the other hand involves the restriction of opening hours of certain establishments in some cities such as grocery stores, restaurants and liquor stores.¹⁴ Such curfews are typically imposed in areas with high levels of crimes, loitering and otherwise disorderly conduct. Government can choose to activate business curfews for selected period in response to criminal activity.¹⁵

It is clear from the above that curfews are used for prevention of crime; protection from victimization and disease control. They have been used "on and off" since the turn of the century by policymakers.¹⁶ They tend to receive increased attention when there is a perceived need for more stringent efforts at social control.¹⁷

2.2 Human Rights

Human rights are the liberties and freedoms that belong to every

¹¹ Sithable Ncube 'Implementing a Curfew for Underage Teenagers for Disciplinary Act' www.coursehero.com Accessed 30/8/2021

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Elaine Molina 'The Deterrent Effect of Curfew Enforcement as Perceived by the Residents of the City of Valenzuela District: An Assessment' A Research Presented to the Faculty of the Criminal Justice Education. Our Lady of Fatima University. The Course Criminological Research and Statistics

¹⁶ Office of the Juvenile Justice and Delinquency 'Juvenile Justice Reform Initiatives in the States:1994-1996' www.gjdp.ojp.gov Accessed 30/8/2021

¹⁷ Ibid

person in the world from birth until death.¹⁸ They are those rights that inhere in the very nature of the human person.¹⁹ They are the claims and entitlements, which concentrate on the humanity of man and on man as a member of human kind.²⁰ Human rights are the rights one has because one is a human being. One is either a human being or not a human being and so has or does not have human rights. Human rights are owed by every person against the state and society that is, against the state and every other person.²¹ Legal scholars and jurists agree that human rights are natural to man, standing above society itself.²²

Human rights have become an international subject and have today attained the status of *jus cogens*²³ rule of international law.²⁴ Thus, Anan remarked that "Human rights are foreign to no culture and native to all nations, they are universal".²⁵ They have been described as the central moral issue in international relations as well as the currency of international moral discourse.²⁶

It is sometimes said that the concept of human rights is "the only political moral idea that has received universal acceptance".²⁷ They are recognized as inherent in man by virtue of birth. They represent demands or claims, which individuals or groups make on society or fellow individuals, some of which are protected by rule of law while others remain aspirations to be achieved latter.²⁸ They are universal, equal and inalienable and owned by every person against the state and every other person.²⁹

¹⁸ Equality and Human Rights Commission England, Scotland and Wales "Human rights" <www.equalityhumanright.com> Accessed 30/8/2021.

¹⁹ J Nnamdi Aduba *Introduction to Human Rights Law in Nigeria* (Innovative Communications, 2016) 3.

²⁰ Umuzurike Oji "The Concept of Human Rights (Akanu Ohafia Cooperative and Rural Development Centre, 2004) 9.

²¹ Ese Malemi *Administrative Law* (4thedn. Prinestone Publishing Co. 2012)126.

²² Manella Loc.cit.

²³ The principles which form the norms of international law that cannot be set aside.

²⁴ Matthew EnyaNwocha, Steve Ahamefula Amaramivo and Emmanuel Chinwake Ibezim 'The Jurisprudence of Human Rights in Global Context' (2021) 8(4)*International Journal of Social Sciences and Humanities Invention*. 6441

²⁵ Kofi Anan, Former Secretary-General of the United Nations Address at the University of Tehran on Human Day, 10 December, 1997.

²⁶ Martin Shupack 'The Churches and the Human Rights: Catholic and Protestant Human right views as Reflected in Church Statements' (1993)6*Harv. Hum. Rts. J.* 127, 127.

²⁷ Joy Gordon The Concept of Human Rights; the History and Meaning of its Politicization' *Brooklyn Journal of International Law* (1998) (23) (3)

²⁸ Igwe Onyebuchi, Matthew Enya Nwocha and Amaramiro A Steve ' Enforcement of Fundamental Rights in Nigeria and the Unsolved Issues of Poverty Among the Citizens: An Appraisal' *Beijing Law Review* (2019) (10) (1)

²⁹ Manella Loc.cit

As international law currently stands, states are the primary duty-bearers of human rights obligations. In principle, however, human rights can be violated by any person or group and in fact, human rights abuse committed by non-state actors are on the increase.³⁰ International rights treaties and customary law impose three obligations on states: the duty to respect, the duty to protect and the duty to fulfill. While the balance between these obligations may vary according to the rights involved, they apply to all civil,³¹ political, economic and cultural rights³². More so, states have a duty to provide a remedy at the domestic level for human rights violation. Examples of human rights include rights to life, right to freedom from torture and inhuman treatment, right to equal treatment before the law, right to privacy and right to freedom of thought, religion, opinion and expression among others.³³

Nigeria has a robust legal regime for the protection of human rights. This include the 1999 Constitution of the Federal Republic of Nigeria (as amended), the African Charter on Human and People Rights ratified in 1983, African Charter on the Rights and Welfare of the Child, ratified in 2001, African Youth Charter ratified 2009, OAU Convention Governing specific Aspects of Refugee Problems in Africa ratified in 1986, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) ratified in 2012 and Protocol to the African Charter on Human Rights and Peoples Rights on Rights of Women in Africa (Maputo Protocol) ratified in 2004 among others.³⁴

2.3 Meaning of 'Human Dignity' under Section 34 of the Constitution

Section 34(1) of the 1999 Constitution of Nigeria guarantees the right to the dignity of the human person in the following words:

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

1. No person shall be subjected to torture or to inhuman or degrading treatment.

³⁰IPU and Office of the United High commissioner for Human Rights *Human Rights Handbook for Parliamentarians* N.26 (c) Inter-parliamentarian Union 26 www.resourcecenter.avethechildren.net> Accessed 30/8/2021

³¹ Ibid

³² Ibid

³³Hunan Right Careers "Examples of Human Rights" <www.humanrightcareers.com> Accessed 30/8/2021

³⁴Edefe Ugbeta 'Human Rights Protection in Nigeria: Reflections on the Legal Regime, Identified Weaknesses and Need for Reform' <www.researchgate.net> Accessed 30/8/2021

2. No person shall be held in slavery or servitudes; and
3. No person shall be required to perform forced or compulsory labour

In *Uzonkwu v Ezeoha*,³⁵ the Court of Appeal stated that the acts which the constitution regards as opposite to the word "dignity" are those adumbrated under sub-paragraphs (a), (b) and (c) above. Accordingly, the word "dignity" is *ejusdem generis*³⁶ to the specific acts mentioned in those sub-paragraphs and as such, a court of law has no jurisdiction to go outside the clearly enumerated acts in its interpretation. This position was maintained by the same court in *Owo v Oko*.³⁷ According to Ogbu, this position put the right to human dignity within a very narrow compass.³⁸ The African Charter on Human and People's Rights³⁹ also guarantees the right to human dignity in the following words:

Every individual shall have the right to respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel inhuman or degrading punishment and treatment shall be prohibited.

The use of the word "particularly" in the definition above suggest that the specific acts listed are not exhaustive examples of acts that are opposite of dignity. In fact, it allows for a more expounded interpretation of the provision to include acts not specifically enumerated there. A second important point to note in the definition is the prohibition of "...all forms of exploitation...". Assuming the word "particularly" does not appear in that provision, this phrase would suffice for a maximum expanded definition. It is necessary to briefly consider the meaning of the specific acts mentioned in the Constitution that amount to abuse of human dignity.

According to the Black's Law Dictionary, torture means "the infliction of intense pain to the body or mind or to punish, to extract a confession or information, or to obtain sadistic pleasure".⁴⁰ By this definition, it is clear that what amounts to torture is not restricted to

³⁵(1991) 6NWLR (Pt. 200) 708.

³⁶A rule of constitution that general words (as in statute) that follow specific words in a is must be construed as referring only to the types of things identified by the specific words
<www.en.academic.com> Accessed 3/9/2021.

³⁷(1996) 6 NWLR (Pt.456) 589.

³⁸Osita Nnaman iOgbu *Human Rights Law and Practice in Nigeria* (2nd Revised Edn. Vol. 1 Snaap Press Ltd. 2013) 160.

³⁹Article 5.

⁴⁰ Bryan A. Garner (Ed) *Black's Law Dictionary* (9th edn. Thomas Reuters,1999)

what is physically done to a person but extends to a state of mind created which causes pain to the victim.

Torture has also been defined as:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purpose as obtaining from him or a third person information or a confession, committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.⁴¹

This definition like the former recognizes the fact that torture can be physical or mental. The use of the word "intentional" shows that the act is calculated by the perpetrator to inflict pain on the victim. Any act done intentionally against the person of an individual which falls short of the accepted standard for treating human beings is an inhuman treatment. The word "degrade" or "degradation" implies "a reduction in rank, degree or dignity".⁴² Thus, any treatment or act that is calculated to reduce the dignity of a person is a degrading treatment. Slavery means a civil relationship whereby one person has absolute power over another and controls his or her life, liberty, and fortune.⁴³ Lastly, labour is "forced" or made "compulsory" when it is demanded and gotten against one's will.⁴⁴

3. Legal Basis for Imposition of Curfew in Nigeria

There is no statute enforceable in Nigeria that directly provides for imposition of curfew, which has become a common practice with both military and civilian regimes. The legal basis for the practice has been section 305 of the Constitution. Invoking this section implies suspension of sections 40 and 41 of the Constitution, which provide for Nigerians the right to freely assemble and movement respectively thus:

40 Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests.

41 (i) every citizen of Nigeria is entitled to move freely throughout

⁴¹Article 1, Untied Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment. Adopted 10th December, 1984.

⁴²Garner Op. cit 488.

⁴³Harper Collins (Ed) Collins Dictionary "Slavery" www.colinsdictionary.com Accessed 3/9/2021.

⁴⁴ Garner Op. cit.

Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereby or exit there from.

Section 45 of the Constitution creates exceptions to the above provisions in the following words:

Nothing in sections 37, 38, 39, 40 and 41 of the Constitution shall invalidate any law that is reasonably justifiable in a democratic society.

(a) In the interest of defence, public safety, public order, public morality or public health, or

(b) For the purpose of protecting the rights and freedoms of other persons.

These exceptions provide support for the provision of section 305 which is as follows:

(1) Subject to the provisions of this constitution, the President may by instrument published in the Official Gazette of the Government of the Federal issue a proclamation of a state of emergency in the Federation or any part thereof.

(2) The President shall immediately after the publication, transit copies of the Official Gazette of the Government of the Federation containing the proclamation including details of the emergency to the President of the Senate and the Speaker of the House of Representative each of whom shall forthwith convene or arrange for a meeting of the House of which he is President or Speaker, as the case may be, to consider the situation and approve the proclamation.

(3) The President shall have power to issue a proclamation of a state of emergency only when

(a) The Federation is at war;

(b) The Federation is in imminent danger of invasion or involvement in a state of war;

(c) There is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security;

(d) There is clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extra ordinary measures to avert such danger;

(e) There is an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or section of the community in the Federation;

(f) There is any other public danger which clearly constitutes threat to the existence of the Federation; or

(g) The President receives a request to do so in accordance with the provisions of subsection (4) of this section.

It is necessary to reproduce the above lengthy quotation to point out who the Constitution vests the powers to declare a state of emergency under which imposition of curfews finds constitutional refuge. Although it is argued that the expression "state of emergency" and curfew refer to distinct situations, which we agree,⁴⁵ we submit that the latter is clearly one of the remedies that may be resorted to under a state of emergency depending on the situation at hand.

Gleaning from section 305, the power to impose a curfew resides with the President of the Federation though its exercise is subject to the approval of the Senate and House of Representative. Secondly, the circumstances under which such powers may be exercised are clearly spelt out in section 305(3) (a)-(g). Third, the procedure for the exercise of such power is provided for. We will limit our discussion here since our interest is simply to determine the legality of curfews in Nigeria. We submit further that even if section 305 were not to exist in the Constitution, section 45 would suffice as a legal basis to impose curfews.

A state governor can initiate the process of invoking a state of emergency provided he enjoys the support of the State House of Assembly. This is provided for in subsection (4) of the section 305 thus:

The Governor of a state may, with the sanction of a resolution supported by two thirds majority of the House of Assembly, request the president to issue a Proclamation of a state of emergency in the state when there is in existence within the state any of the situations specified in subsection (3) (c), (d) and (e) of this section and such situation does not extend beyond the boundaries of the state.

The reasons for imposition of curfews under section 305 (1), (2) and (3) and section 305 (4) are the same and in both cases, the power to make such imposition resides with the President alone. However, for the purpose of curtailing infectious diseases, state Governors can rely on the Quarantine Act⁴⁶ to make necessary proclamations which may include imposition of curfew to prevent its introduction into or spread in Nigeria as well as the transmission from Nigeria.⁴⁷ In 2020 when the novel COVID-19 hit the globe, most states of the federation

⁴⁵James Kanyip 'Proclamation of State of Emergency in Nigeria: A Constitutional Flaw' <www.jkanyip.com> Accessed 3/9/2021.

⁴⁶Cap Q2 Laws of the Federation of Nigeria, 2004.

⁴⁷Ibid Preamble and sections 4 and 8.

relied on sections 2 and 8 of the Quarantine Act in their declaration of lockdowns.⁴⁸

4. Imposition of Curfews and Violation of Human Dignity

Here, we shall examine the different actions of security agencies during curfews, especially the recent COVID national lockdown vis-à-vis the constitutional protections of human rights to establish whether the imposition of curfews in Nigeria has orchestrated the infringements of the right to human dignity expressly guaranteed by the Constitution and other relevant instruments. Several cases of violations of the right to human dignity perpetrated by law enforcement personnel in the guise of enforcing curfews abound. Individuals have been forced to comply with orders in such manners that are not in consonance with the Constitutional framework against torture and the respect of treaty obligations. Sadly, most of the reports of such incidents are unofficial and as such fail to attract official redress beyond social media outrage. For instance, while enforcing the COVID-19 stay at home orders in the year 2020, in several towns amateur videos show individuals subjected to what can best be described as inhuman and degrading treatments, flogging, slapping and all forms of bodily pains and injuries inflicted in the guise of enforcing government orders.⁴⁹ Abdulrauf recorded that the right to human dignity has been affected by series of unjustified punishments inflicted on people who violate lockdown orders by security forces. There are several accounts of people subjected to torture, degrading and inhuman treatments in the enforcement of lockdown orders.⁵⁰ The National Human Rights Commission received and documented complaints of human rights violation in the following thematic areas: extra-judicial killings, violations of right to freedom of movement, unlawful arrest and detention, seizure/confiscation of properties, sexual and gender based violence, torture, inhuman and degrading treatment and extortion.⁵¹ According to the report, there were 11 incidents of extra-judicial killings out of which

⁴⁸Governor Fayemi of Ekiti State cited Section 8 of the Quarantine Act and the 1999 Constitution while Governor Elrufai of Kaduna State relied on section 2 and 8 of the Quarantine Act in addition to the Kaduna State Public Health Law.

⁴⁹ Onuora Oguna 'COVID-19 Pandemic- A Nursery for Violation of Constitutionally Guaranteed Rights in Nigeria' www.adn.radc.org.za Accessed 3/9/2021

⁵⁰Lukman Abdulrauf 'Nigerians' Emergency (Legal) Response to COVID-19; A Worthy Sacrifice for Public Health?' www.verfassungsblog.de Accessed 4/9/2021.

⁵¹ National Human Right Commission "Report of Alleged Violations Recorded between 13th April to 4th May, 2020 following the Extension of the Lockdown Period" www.nigeriarights.gov.ng Accessed 20/1/2022

the Nigeria Police Force was responsible for 7 deaths while the Security and Civil Defence Corps (NSCDC), Nonstate Actors and the Abia State Task Force on Covid-19 were responsible for one death each.⁵² Other types of violence recorded within the period include 34 incidents of torture, inhumane and degrading treatment, 14 incidents of violation of right to freedom of movement, unlawful arrest and detention, 11 incidents of seizure/confiscation of properties, 19 incidents of extortion and 15 incidents of sexual and gender based violence⁵³. Media and different local sources also reported additional cases of killings and abuses by the police including two people shot dead in Anambra state and another killed in Abia State. In Osun State, one woman was assaulted by law enforcement officials.⁵⁴

In Jos the Capital of Plateau State the tragic story of a twenty year old Rinji Bala who was tortured alongside six of his friends by military personnel and eventually shot to death is one of many sad examples. One of the survivors narrated that they were handcuffed and tied "elbow-to elbow". The extreme restraint method is a form of torture known as 'tabay' and is often used by the Nigerian Army in interrogating and punishing detainees.⁵⁵ They were then "stacked" in the trunk of a patrol vehicle and driven on top speed to a military base they were beaten and made to sit on the ground while it was raining. They hit the soles of their feet with machetes, big sticks and belts.⁵⁶ They were ordered to admit they had stolen phones and smoke weed. Eventually they were let to go. They were ordered to run on their sore feet. While running, Rinji was shot and abandoned by the Military personnel to bleed to death.⁵⁷ These represents the experience of many Nigerian citizens despite their constitutional rights.

5. Conclusion

It is unfortunate that Nigerians have been repeatedly subjected to all kinds of inhuman and degrading treatments under the cover of

⁵² Ibid.

⁵³ Ibid.

⁵⁴ African Centre for Media and Information Literacy, Rule of Law and Accountability Advocacy Centre and Human Environment Development Agenda Resource Centre 'Nigeria: COVID-19 Response Should not be used to Violate the Right to Life and Intimidate Journalist' www.article1.org Accessed 4/9/2021

⁵⁵ Kunle Adebajo ' How Rinji Bala , UNIJOS Student was Tortured and Shot by Soldiers' www.humananglemedia.com Accessed 4/9/2021

⁵⁶ Ibid.

⁵⁷ Zainab Onuh-Yahya 'End SARS: Not just a Name or Statistic, the Tragedy of' www.africanarguments.org Accessed 4/9/2021

enforcement of curfews. It is more worrisome that these acts are perpetrated by law enforcement agents. Though the rationale for imposing curfews is to protect the society, it has become an avenue of exposing citizens to threat of their human dignity and even threat to their lives. It then means that the rationale for the imposition of curfews had been defeated in each of those unfortunate circumstances haven presented equal or more severe consequences. Though sections 305 and 45 of the Constitution provides the legal basis for the imposition of curfews, they do not derogate from the right to freedom from torture, inhuman and degrading treatment guaranteed by the Constitution and other instruments enforceable in Nigeria. Hence, the recurrent attitude of law enforcement agents maltreating citizens in the guise of enforcing curfews is unconstitutional and requires immediate redress.

This paper therefore finds as follows: (1) there is a constitutional basis for imposition of curfews in Nigeria; (2) the imposition of curfew does not derogate the right to the dignity of the human person guaranteed by the Constitution; (3) there is a competing interest between the enforcement of curfews to protect the society and the protection of citizen's dignity during such enforcement.

In the light of these findings, we proffer the following recommendations: (1) constant training and retraining of security personnel on the need and how to achieve equilibrium between law enforcement and human rights; (2) massive education of the public on the right to be treated humanely by law enforcement agents at all times as well as reporting cases of violation of human rights to appropriate authorities such as the National Human Rights Commission for redress.