THE RELATIONSHIP BETWEEN HUMAN RIGHTS PROTECTION AND DEMOCRATIC CONSOLIDATION IN NIGERIA: A LEGAL PERSPECTIVE

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ABSTRACT

Democracy is regarded as the universal benchmark for the protection of human rights. Nigeria has been under its longest democratic rule since independence during which the country has undergone significant political transformations. However, despite the seeming democratic consolidation, Nigeria is faced with many challenges especially that of human rights violations. This study explores the relationship between human rights protection and democratic consolidation in Nigeria. The paper attempts to analyze the connections between human rights protection and the stability of Nigeria's democracy. The paper also examines the current situation of human rights protection in the country and democratic consolidation in Nigeria. Using qualitative research methodology, the paper argues that effective human rights protection is

both a prerequisite and a consequence of democratic consolidation. The findings reveal that while Nigeria has made notable strides in establishing democratic institutions, persistent human rights abuses, such as police brutality, political repression, and restrictions on freedom of expression, continue to undermine the credibility of its democratic processes. It concludes that for Nigeria's democracy to be fully consolidated, there must be a stronger commitment to human rights, values, accountability, and an inclusive political environment. This research contributes to the broader discourse on democracy and human rights by providing insights into the Nigerian experience and offering legal and policy recommendations to strengthen the nexus between human rights protection and democratic consolidation.

Keywords: *Human Rights Protection; Democratic Consolidation; Nigeria; Governance; Political Stability; Human rights abuses.*

1. INTRODUCTION

The protection of human rights and consolidation of democratic tenets are two of the most crucial objectives in the development of any nation. These twin goals are particularly significant in a developing country such as Nigeria, where the journey toward democratic governance has been fraught with challenges. Since its return to civilian rule in 1999, Nigeria has embarked on a complex and often turbulent path towards democratic consolidation, characterised by progress and setbacks. At the heart of this journey lies the critical relationship between the protection of human rights and the deepening of democratic norms and practices.

Human rights, which cover a wide array of civil, political, social, and economic rights, are fundamental to the dignity and freedom of individuals.[1] In a democratic society, the protection of these rights is not only a legal obligation but also the cornerstone of political legitimacy and stability.[2] A government's commitment to human rights is a key indicator of its respect for the rule of law, which is essential for

1 Andreassen B. A. & Crawford G., 'Human Rights, Power and Civic Action - Comparative analyses of struggles for rights in developing societies (Routledge, 2013) 23.

2 Boyle K. and Sheen J., Freedom of Religion and Belief - A World Report (Routledge, 2013) 55.

the sustainability of democratic institutions. Conversely, the erosion of human rights is often a signal of a weak democratic value system and an increased risk of authoritarianism.

Nigeria presents a particularly compelling case study in this regard. As Africa's most populous country and its largest economy, Nigeria's political trajectory has significant implications for the continent. Despite significant advances in democratic governance, including regular elections and the peaceful transfer of power, Nigeria continues to grapple with serious human rights violations. These violations, which range from extrajudicial killings and police brutality to restrictions on freedom of expression, pose substantial challenges to the country's democratic consolidation.

This paper explores the intricate relationship between human rights protection and democratic consolidation in Nigeria. It demonstrates how the protection or violation of human rights influences the stability and maturity of Nigeria's democracy. The study analyses key incidents of human rights abuses and their impact on democratic processes, with a particular focus on the role of institutions, civil society, and international actors in shaping this relationship.

The significance of this research lies in its potential to enhance legal and policy reforms and practice, within Nigeria and in other emerging democracies. By examining the Nigerian experience, this study contributes to the broader discourse on the interdependence of human rights and democracy, offering insights into how countries can navigate the complex path towards democratic consolidation while ensuring the protection of fundamental rights.

2. THE CONCEPTS OF HUMAN RIGHTS PROTECTION AND DEMOCRATIC CONSOLIDATION

2.1. Human Rights Protection

Human rights are the basic rights and freedoms that belong to every person in the world, from birth until death. These rights are inalienable and inherent to all individuals, regardless of nationality, ethnicity, religion, gender, or any other status, and they encompass civil, political, economic, social, and cultural rights. The concept

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of human rights protection refers to the mechanisms, both legal and institutional, that are put in place to safeguard these rights against violation by state and non-state actors.[3]

Prior to colonial rule, human rights existed in Nigeria, the customary societies of Nigeria acknowledged human rights and basic freedoms.[4]Rights such as the right to enjoy private property, the right of recognition as a member of one's family, kin, and clan; and the right to take part in the affairs of one's community, right of association and life were all fiercely protected and recognised. Human rights and fundamental freedoms were particularly protected and guaranteed in accordance with the Islamic tenets which placed high value on justice and equity in some parts of the country where the Sharia legal system was deeply ingrained, particularly in the country's North.

The Nigerian constitutions of 1979 and 1999 moved one step further. Chapter II of the 1999 Constitution which deals with the Fundamental Objectives and Directive Principles of State Policy acknowledged the rights to economic, social, and cultural development of the citizens. In order to protect and safeguard those rights from abuse, provisions were made to further entrench them in both the 1979 and Chapter IV of the 1999 Constitutions.

Human rights protection is enshrined in various international instruments, including the Universal Declaration of Human Rights (UDHR) of 1948, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). At the national level, constitutions, laws, and judicial systems are the primary frameworks for human rights protection. In Nigeria, for instance, the 1999 Constitution guarantees fundamental rights such as the right to life, freedom of speech, and freedom from torture. Additionally, Nigeria is a

3 Sheeran S. & Rodley N., Routledge Handbook of International Human Rights Law (Routledge, 2014) 33.

4 The office of the High Commissioner for Human Rights 'National action plan for the promotion and protection of Human Rights in Nigeria' <https://www.ohchr.org/sites/default /files/Documents/Issues/NHRA/nigeria.pdf,> accessed on 15 August 2024.

signatory to numerous international human rights treaties, which obligate the state to protect and promote these rights. Despite Nigeria's signature on several international human rights treaties[5], widespread human rights abuses continue to be prevalent.[6]

Human rights serve as a precursor to democracy by ensuring equality and non-discrimination, freedom of expression and association as well as the right to political participation. Human rights serve as both the foundation and the fuel for Nigeria's democratic aspirations. By ensuring that power is exercised within the framework of the rule of law, human rights provide legitimacy to Nigeria's democratic institutions. The right to vote and having free elections are integral to this legitimacy. Freedoms of speech, association, and peaceful assembly have enabled the rise of civil society organizations, such as the Socio-Economic Rights and Accountability Project (SERAP), which hold the government accountable and advocate for marginalized groups.[7]Efforts to address the rights of women, ethnic minorities, and economically disadvantaged groups promote inclusivity and national cohesion, essential for a thriving democracy.

Human rights protection is not merely about the existence of laws but also about their effective implementation. This involves the role of independent judicial systems, national human rights institutions, international bodies, and civil society

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5 The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR) of 1966, and the Convention on the Rights of the Child (CRC) are among the international human rights treaties that the Nigerian government has ratified. The Nigerian government has also passed several laws aimed at improving and fortifying the defence of human rights. These include the Violence Against Persons (Prohibition) Act of 2015, the Child's Rights Act of 2003, and the National Human Rights Commission Act of 1995. See further G. A. Postiglione, China's Assimilationist Language Policy - The impact on indigenous/minority literacy and social harmony (Routledge, 2013)

6 Samgwe C. and Dr Tony A. Francis 'Critical Examination of Human Rights Protection and Enforcement In Nigeria' (2023) (3)(1) The Journal of Environmental and Human Rights Law 24.

7 Anyim-Ben., F.O, Itumo, A, & Benjamin A. 'Challenges of Shrinking Civic Space and the Path towards Sustainable Democracy in Nigeria: Lessons from the President Muhammadu Buhari Administration' (December 2023) 16(2)African Journal of Politics and Administrative Studies (AJPAS) 13 Available online at https://www.ajpasebsu.org.ng/ https://dx.doi.org/10.4314/ajpas.v16i2.1

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organisations in monitoring and enforcing human rights standards. In essence, human rights protection is a continuous process of ensuring that individuals' rights are respected, fulfilled, and protected from any infringement.

2.2. Democratic Consolidation

Democracy, as a system of government, involves the method of setting up a political society where people elect their representatives in a competitive process to advance and defend their welfare through public participation. Democracy is people-centered as the will of the people is expressed through election in a fair contest.[8] It also involves the development of a robust civil society, a free press, and the participation of citizens in political processes. Democracy offers a unique platform for recruiting elites or leaders who are dependent on public engagement and minority interest protection.[9] The idea refers to a distinct stage in the shift from civil to authoritarian authority, and consequently, to democratic systems, which is essential to the creation and enthronement of a long-lasting, institutionalised, and stable democracy.[10]

Democracy is generally regarded as the universal benchmark for the protection of human rights. This is because, a democratic system of government usually provides an environment that respects human rights and freedoms in which people are free from all kinds of discriminations, can freely express their will, have a say in decisions and can hold elected officials to account.[11] Accordingly, democracy accommodates diversity, promotes equality, promotes rule of law and protects peoples' human rights and freedoms from abuse which could inevitably result when power is concentrated in the hands of a few. Thus, the greatest protection of human rights emanates from a sustainable democratic framework grounded in the rule of law. This protection of human rights and freedoms engenders democratic consolidation whereby democracy is recognised as the only available system of government within a country.[12]

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8 Smith R. K.M., 'Texts and Materials on International Human Rights', (Routledge Cavendish, 2019) 58.

9 Oni E. O. The Challenges of Democratic Consolidation in Nigeria, 1999-2007' 2014 5(1) International Journal of Politics and Good Governance 21

10 Ibid.

11 Ibid.

12 Ibid.

Democratic consolidation may be referred to as the process by which a new democracy matures, in a way that it becomes unlikely to revert to authoritarianism without an external shock, and is regarded as the only available system of government within a country.[13]Thus a country whose democracy may be said to be consolidated is that whose democratic system or rule is the only system of government in place and which system and institutions are regarded by the citizens as the most acceptable form of government. In a country with democratic consolidation, no significant political group seriously attempts to overthrow the democratic regime, as the democratic system is regarded as the most appropriate way to govern by the vast majority of the public, and all political actors are accustomed to the fact that conflicts are resolved through established political and constitutional rules.[14]

3. THEORETICAL FRAMEWORK

The consolidation of democracy is measured by various indicators, such as the holding of competitive free and fair elections, the peaceful transfer of power, the independence of the judiciary, adherence to democratic principles such as respect for the rule of law, the protection of fundamental rights and freedoms and a developed civil society.[15] These are the major indices of democratic consolidation.

3.1. Peaceful Transfer of Power

The peaceful transfer of power is a fundamental principle of democratic governance, signifying the transition of authority from one political leader or party to another through lawful and nonviolent means. It is a cornerstone of political stability, ensuring the continuity of governance while reflecting the will of the people as expressed through free and fair elections. The theory underpins the legitimacy and sustainability of democratic systems, emphasizing the rule of law, institutional

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13 Andreas S., "What is Democratic Consolidation?" 1998 9(2) Journal of Democracy 13.

14 Cook S. J & Savun B. "New democracies and the risk of civil conflict: The lasting legacy of military rule." (2016) 53(6) Journal of Peace Research 750.

15 Petrov R. & Elsuwege P.V., 'Post-Soviet Constitutions and Challenges of Regional Integration - Adapting to European and Eurasian Integration Projects', (Routledge, 2017) 58.

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integrity, and respect for human rights. The theory of the peaceful transfer of power is rooted in broader political theories and principles.

John Locke's theory of governance emphasizes that legitimate authority arises from the consent of the governed. The peaceful transfer of power is an extension of this consent, whereby leaders accept that their authority is temporary and subject to the will of the electorate. The transition process reinforces the social contract by ensuring that leadership changes occur within an agreed legal framework rather than through coercion or violence.[16] Democracy relies on periodic elections to enable citizens to choose their leaders. The peaceful transfer of power operationalizes this principle by ensuring that election outcomes are respected, even when leadership changes hands between opposing factions or ideologies.

The concept aligns with Joseph Schumpeter's procedural democracy, which defines democracy by its institutional arrangements, including competitive elections that culminate in the orderly transition of power.[17] In the same vein, Institutions play a critical role in facilitating the peaceful transfer of power. According to Douglas North's institutional theory, effective institutions reduce uncertainty by providing a predictable structure for political and economic interactions.[18] Electoral commissions, judicial bodies, and legislative systems are examples of institutions that ensure adherence to rules governing leadership transitions.

The peaceful transfer of power embodies principles of conflict resolution, emphasizing negotiation, compromise, and nonviolent dispute resolution. This theory aligns with John Burton's human needs theory, which posits that addressing core human needs—such as security and participation—reduces the likelihood of violent conflict during political transitions.[19] After years of military rule, Nigeria's transition

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16 Locke, J. Second Treatise of Government. (1690, Cambridge University Press). Rousseau, J.J. The Social Contract. (1762 Penguin Classics).

17 Schumpeter, J. A. (1942). Capitalism, Socialism, and Democracy. Harper & Brothers.

18 North, D. C. Institutions, Institutional Change, and Economic Performance. (1990, Cambridge University Press).

19 Burton, J. (1990). Conflict: Resolution and Prevention. Palgrave Macmillan

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to democracy highlighted the importance of institutions like the Independent National Electoral Commission (INEC) in facilitating a peaceful handover of power. However, subsequent elections have occasionally been marred by disputes and violence, reflecting gaps in institutional and cultural adherence to the theory.

While the theory of peaceful transfer of power is widely accepted, it is not without critiques. Critics argue that the theory assumes the existence of strong, impartial institutions, which may be absent in developing or transitional democracies. The theory may neglect the role of entrenched political norms, such as authoritarianism or clientelism, which undermine commitments to peaceful transitions. Economic inequality can exacerbate political tensions, making peaceful transfers more challenging in societies where leadership transitions threaten entrenched economic interests.

3.2 Rule of Law

The rule of law is a foundational principle of democratic governance, emphasizing that all individuals and institutions, including government officials, are subject to and accountable under the law. It ensures equality before the law, fairness in the application of laws, and the protection of fundamental rights. The concept of the rule of law has evolved over centuries, rooted in legal, political, and philosophical thought. In Politics, Aristotle posits that "law should govern," emphasizing that no individual or ruler should be above the law. He argued that a society governed by laws, rather than by the whims of leaders, is more just and stable.[20]

Roman jurisprudence introduced the concept of jus naturale (natural law), a universal legal order that influenced later understandings of legal equality and fairness. This English charter established that even monarchs are subject to the law, laying the groundwork for constitutionalism.[21]In Summa Theologica, Aquinas differentiated

[20] Aristotle. (350 BCE). Politics. (Translated by Benjamin Jowett). Available in public domain.
[21] Magna Carta (1215)

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between divine, natural, and human law, emphasizing the moral foundation of just laws.[22]

However, modern enlightenment thought seem to have a different view. Locke's Second Treatise of Government argued that legitimate governance requires adherence to established laws designed to protect life, liberty, and property.[23] His ideas strongly influenced constitutional democracies. In The Spirit of the Laws, Montesquieu advocated for the separation of powers, which prevents any single entity from dominating legal and political systems.[24] This framework is integral to upholding the rule of law. Nigeria's 1999 Constitution enshrines the rule of law, but challenges persist, including judicial corruption and political interference.

3.3. Independence of the Judiciary

Judicial independence is the principle that the judiciary should function as an autonomous and impartial institution, free from external pressures, whether from the executive, legislature, or private entities. It is a cornerstone of the rule of law and democracy, ensuring fair adjudication, the protection of human rights, and checks and balances in governance.

The concept of judicial independence has evolved through centuries of legal and political thought, influenced by key philosophies and legal systems. In The Spirit of the Laws (1748), Montesquieu argued that liberty is best preserved when governmental powers are divided among separate branches: executive, legislative, and judicial. The judiciary must be independent to act as a check on the other branches, ensuring that no entity accumulates unchecked power. Also, John Locke, in Second Treatise of Government (1689), emphasized that a just legal system depends on impartial adjudicators to resolve disputes in accordance with natural rights. While Thomas Aquinas linked judicial impartiality to moral law, arguing that justice requires judges to act without bias[25], Institutional theorists, such as Douglass North

22 Aquinas, T. (1274). Summa Theologica. Available in various editions.
23 Locke, J. (1689). Second Treatise of Government. (1689 Cambridge University Press).
24 Montesquieu, C. (1748). The Spirit of the Laws. Cambridge University Press.
25 Aquinas, T. (1274). Summa Theologica. Available in various editions.

and Max Weber, emphasize that effective institutions rely on predictable and autonomous operations. Therefore, an independent judiciary fosters trust in legal systems by ensuring that laws are applied uniformly and fairly.

It is imperative to note that Judicial independence supports democracy by safeguarding individual rights, particularly those of minorities, against the tyranny of the majority. Alexis de Tocqueville, in Democracy in America (1835), highlighted the judiciary's role as the "guardian of constitutional liberties" in a democratic society. Nigeria's Constitution (1999) guarantees judicial independence, but practical challenges such as corruption, political interference, and delays in funding undermine its effectiveness. The suspension of former Chief Justice Walter Onnoghen in 2019 raised concerns about executive overreach.

4. HISTORICAL OVERVIEW OF HUMAN RIGHTS IN NIGERIA

The history of human rights in Nigeria predates the advent of colonial rule. Human rights and fundamental freedoms were recognised in the traditional Nigerian societies. Various ancient traditional societies in present day Nigeria recognised the rights to fairness, justice and equality. Rights such as the sanctity of human life had always been rooted in these ancient traditional societies.[26]This was the position of Professor Osita Eze who posited that traditional African societies, in their process of development, evolved ideas of right and duty, right and wrong, as well as notions of justice and fairness.[27] He further opined that these rights and duties in traditional African societies formed the foundations of what subsequently came to be known as human rights in western jurisprudence.[28]

This was equally the view of Professor Umozurike, who said that:

> 'Human rights occupied an important place in traditional African societies. The rights of the members of a community were respected

[26] Ani C. C., 'The historical rudiments of Human Rights' <https://legalpediaonline.com/the-historical-rudiments-of- human-rights/> accessed on 15 August 2024.

[27] Osita Eze, 'African Concept of Human Rights', in Awa Kalu and Yemi Osinbajo, (eds.), Perspectives on Human Rights (Federal Ministry of Justice, 1992) 47.

[28] Ibid.

> and regarded as being integral with the rights of the community itself. The rights of the members were thus not isolated or held against the community, but formed a great admixture with community rights so that members had an interest in the well-being of other members.

The above position is not surprising bearing in mind that in the various Yoruba communities of southern Nigeria, the concept of right to fair hearing was firmly established in the proverbial and wise saying, "Agbejo enikan agba osika ni", which means: A judge who hears only one side, is the most wicked person. Likewise, the Igbos communities of southern Nigeria also have a popular saying: "Anaghi ebe ookwu n'onu ofu onye", meaning: you do not pass judgment by merely hearing from one party. In addition, rights such as right to family, kin and clan membership, freedom of thought, speech, belief, and right to participate in governance of the affairs of the society were jealously guarded in these traditional African societies.[29] Right to enjoy private property was also recognised.[30]

The list of rights recognised and protected by the traditional Nigerian societies is not exhaustive. Human rights were also recognised under the colonial administration of Nigeria. However, it is a generally held belief that there was a dismal record of human rights recognition and protection during this period. Rights such as freedom of speech, freedom of the press and freedom of association and assembly were denied in order to silence critical opinions on the evils of colonialism. Nonetheless, colonialism produced some positive impact on human rights. In this regard, colonialism provided for the preservation and application of customary law and institutions in so far as they were "not repugnant to natural justice, equity and good conscience."[31] On the basis of this repugnancy rule, many customary practices which were considered objectionable as being inconsistent with civilized standards were abolished. Such customary

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29 The office of the High Commissioner for Human Rights 'National action plan for the promotion and protection of Human Rights in Nigeria' <https://www.ohchr.org/sites/default/files/Documents/Issues/NHRA/nigeria.pdf,> accessed on 15 August 2024.

30 Dada J. A., 'Human Rights Protection in Nigeria: the Past, the Present and Goals for Role Actors for the Future' (2013) 14 Journal of Law, Policy and Globalization; 2.

31 Ibid. at 3

practices included slave trading and slavery, trial by ordeal, human sacrifices, the custom of killing twins, the osu system and witchcraft.[32]

The salutary effect of colonialism on human right was brilliantly summed up in the following words:

> 'there is no doubt that by abolishing certain objectionable practices prevalent in African traditional societies – slavery, human sacrifice, etc, - the colonialists have contributed to a progressive development of human rights...'[33]

Nigeria gained political independence in 1960, on the basis of constitutional democracy. Constitutional democracy is often described as the only form of government which can guarantee the protection, promotion and meaningful enjoyment of human rights.[34] Various democratically elected governments have made considerable efforts to promote and protect human rights in Nigeria. The independence and post-independence constitutions, such as the 1960, 1963, 1979 and 1999 Constitutions, not only guaranteed human rights but instituted mechanisms to ensure their enforcement.[35] The basic civil and political rights guaranteed in the global instruments are recognised and protected by the constitutions.[36] These rights include, inter alia, right to life,[37] liberty and security of persons,[38] freedom from

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32 Ibid. at 3

33 Eze O. C.; 'Human Rights in Africa' (Some selected Problems, Lagos: Nigeria Institute of International Affairs, 1984) 9.

34 Oputa C.O., 'Democracy, what is it All About?' in Yemi Osinbajo & Awa Kalu (eds), Democracy and the Law (Federal Ministry of Justice, 1991) 32.

35 Dada J. A., 'Human Rights Protection in Nigeria: the Past, the Present and Goals for Role Actors for the Future' (2013) 14 Journal of Law, Policy and Globalization; 3

36 Chapter III-Sections 18 to 33 of CFRN 1963; Chapter IV-Sections 30 to 42 of CFRN 1979 Constitution; Chapter IV-Sections 33 to 46 CFRN 1999 guarantee fundamental rights. This is in addition to the Provisions dealing with fundamental objectives and directive principles of state policy in Chapter 11 of both the 1979 and 1999 CFRN.

37 Section 18 CFRN 1963, Section 30 CFRN 1979, Section 33 CFRN 1999.

38 Section 21 CFRN 1963, Section 32 CFRN 1979, Section 35 CFRN 1999.

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slavery, torture, cruelty, inhuman and degrading treatment.[39] Arbitrary arrest and detentions are also prohibited.[40] These constitutions also guarantee fair and public hearing within a reasonable time,[41] rights to private and family life,[42] right to freedom of thought, conscience and religion,[43] right to freedom of expression and the press,[44] right to peaceful assembly and association,[45] right to freedom of movement,[46] right to freedom from discrimination[47] and right to acquire and own property.[48]

Besides, the political, economic and social objectives contained under the Fundamental Objectives and Directives Principles of State Policy are directed towards the purpose of securing the realization of the economic, social and cultural rights articulated in the Universal Declaration of Human Rights, 1948 and related instruments.[49]

Military interventions in Nigeria politics resulted in flagrant violation of human rights due to the autocratic nature of military rule. The nature of military rule and its negative impact on human rights was captured by Hon[50] as follows:

> When military coups take place, constitutional and legal order is replaced by rule of force, suspension of a substantial part of the constitution, and the trampling upon, in a most despicable manner, of fundamental human rights ...Unlike in democracies where the people vote in their leaders, military interveners only force or foist themselves on the people. The imperatives of such imposition range

39 Section 19 CFRN 1963, Section 31 CFRN 1979, Section 34 CFRN 1999.
40 Section 21 CFRN 1963, Section 32 CFRN 1979, Section 35 CFRN 1999.
41 Section 22 CFRN 1963, Section 33 CFRN 1979, Section 36 CFRN 1999.
42 Section 23 CFRN 1963, Section 34 CFRN 1979, Section 37 CFRN 1999.
43 Section 24 CFRN 1963, Section 35 CFRN 1979, Section 38 CFRN 1999.
44 Section 25 CFRN 1963, Section 36 CFRN 1979, Section 39 CFRN 1999.
45 Section 26 CFRN 1963, Section 37 CFRN 1979, Section 40 CFRN 1999.
46 Section 27 CFRN 1963, Section 38 CFRN 1979, Section 41 CFRN 1999.
47 Section 28 CFRN 1963, Section 39 CFRN 1979, Section 42 CFRN 1999.
48 Section 40 CFRN 1963, Section 43 CFRN 1999.
49 Chapter II of CFRN 1979 and 1999.
50 ST Hon, Constitution Law and Jurisprudence in Nigeria (Pearl Publishers 2004) 14.

from vindictiveness to rule by might and dictatorship. Military regimes abridge most of the rights of the citizens.

The flagrant violations of human rights under the military rule usually result from outright suspension of the constitutional provisions on human rights, promulgation of Decrees and Edicts with retroactive effect and nullification of judicial decisions unfavourable to the government.[51] For instance, under the regime of Mohammadu Buhari, authoritarianism was the hallmark of that regime. The regime passed series of decrees which impacted negatively on human rights. These included the Constitution (Suspension and modification) Decree which suspended and modified some provisions of the constitution relating to human rights; the Public Officers (Protection Against False Accusation) Decree which placed the onus of proving innocence on the accused for a publication that brought a public officer to disrepute. Two journalists in the Guardian Newspapers – Nduka Irabor and Tunde Thompson were convicted under this decree; the Recovery of Public Property (Special Military Tribunals) Decree; and Special Military Tribunal (Miscellaneous Offences) Decree which both had retroactive effect and imposed heavy penalties; State Security (Detention of Persons) Decree legalized arrest and detention of persons without trial. Many of the Decrees also ousted the jurisdiction of the court and as such, the legality or otherwise of any action taken or purportedly taken pursuant to these Decrees could not be entertained or inquired into by any court of law.[52]

Human rights violations of monumental proportion were witnessed under the regime of General Ibrahim Badamosi Babangida. Many cases of arbitrary detention without trial, unlawful entry and arrest; closure and proscription of newspapers and certain institutions were witnessed during the period. The Nigerian Labour Congress, the National Association of Nigerian Students and the Academic Staff of Union of Universities were at various times proscribed. Also, The Punch, Daily Champion, National Concord, The Guardian Newspapers were at various times proscribed,

51 Ibid.

52 Dada J. A., 'Human Rights Protection in Nigeria: the Past, the Present and Goals for Role Actors for the Future' (2013) 14 Journal of Law, Policy and Globalization; 5.

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banned, or their publications seized and destroyed.[53]Human Rights record of the military rule of General Sani Abacha was abysmal as the regime was notorious for its autocracy and totalitarianism.[54]Human rights were desecrated with impunity and in an unprecedented manner. This period had been described as Nigeria's years of horror and tyranny bearing in mind that many people were murdered, tortured and drove into exile.[55]

5. EVOLUTION FROM TRADITIONAL TO TECHNOLOGICAL DEMOCRACY

Technology facilitates efficient public service delivery through platforms like the Government Integrated Financial Management Information System (GIFMIS) and the Treasury Single Account (TSA). Initiatives such as the National Identity Management System (NIMS) also enhance citizen identification and access to services. Introduced by the Independent National Electoral Commission (INEC), biometric voter registration systems reduce fraud by authenticating voters. This was adopted during the 2023 general elections, and this greatly improved transparency and credibility.[56]Social Media also became a major campaign tool used by Politicians. platforms like Twitter, Facebook, and WhatsApp were increasingly leveraged on for voter outreach, mobilization, and debate.[57] Technological democracy enhance citizens participation as evident in movements like #FndSARS which demonstrates the power of digital platforms in amplifying citizen voices, shaping policy discourse, and demanding accountability. Online Petitions and Crowdsourcing also is one of the tools of technological democracy that enables Nigerians to organize campaigns and propose legislative changes, fostering participatory democracy.

53 Ibid

54 Ibid

55 Mohammed A.O., "Human Rights Abuses in Africa, The position of Human Rights Organisations" Paper presented at Amnesty International symposium (Unilloin Pre-Group) 16 June1999 at 8

56 Afolabi, O. (2017). "E-governance in Nigeria: Prospects and Challenges." Journal of Public Administration and Policy Research, 9(4), 50–61.

57 Opeibi, B. O. (2019). "The Role of Social Media in Enhancing Political Participation in *Nigeria's* Democracy." Journal of Communication and Media Research, 11(2), 45–60.

Platforms such as BudgIT promote financial transparency by making budgetary information accessible to the public.

However, Challenges in Nigeria's Technological Democracy cannot be overlooked. Unequal access to technology, particularly in rural areas, excludes significant segments of the population from digital participation results in digital divide. High costs of internet services and inadequate infrastructure hinder widespread adoption. There are also the cybersecurity concerns as electoral systems are vulnerable to cyberattacks, as demonstrated by global experiences with election interference.[58] In addition, fake news and misinformation on social media platforms undermine democratic processes and trust. Most importantly there is the resistance to change by Traditional political actors who may resist technological reforms, fearing loss of control over entrenched systems. Existing laws also lag behind technological advancements, creating ambiguities in areas like data privacy, online expression, and electoral technology.

6. HUMAN RIGHTS PROTECTION IN NIGERIA

The Nigerian government has shown commitment to the promotion, protection and enforcement of the fundamental rights of the citizens guaranteed under Chapter four of the 1999 Constitution. The constitution contains certain provisions to ensure an effective enforcement, enjoyment and protection of these rights. For example, by virtue of the provision of Section 46 of the Constitution, any person who alleges that any of his/her rights guaranteed under chapter four of the constitution has been, is being or likely to be contravene may apply to a High Court in for redress.[59]

In addition, to ensure a hitch free access to justice and seamless enforcement of these rights before the High Court, the Fundamental Rights (Enforcement Procedure) Rules 2009 was made by the then Chief Justice of Nigeria, Hon. Justice Idris Legbo Kutigi pursuant to the provision of Section 46(3) of the 1999 Constitution. These rules were

[58] Ajibola, I. (2020). "Biometric Technology and Election Management in Nigeria." African Journal of Governance and Development, 9(1), 36–48.

[59] Section 46 of the CFRN 1999.

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a significant departure from the previous Fundamental Rights (Enforcement Procedure) Rules 1979 which was full of technicalities capable of stifling citizens of access to justice and enforcement of these rights. The 2009 rules abrogated all these technicalities thereby making access to justice and enforcement hitch free and seamless [60]

Nigeria's efforts at protecting, enforcing and promoting human rights are not limited to mere constitutional provisions. The country's government has also set up certain institutional framework and devices essential for the enjoyment, protection and enforcement of human rights. In 1995, the Federal Government established the National Human Rights Commission with the mandate to create "an enabling environment for extra-judicial recognition, promotion, and enforcement of all human rights recognised and entrenched in the Constitution. This is pursuant to the provisions of Decree 22 of 1995 to deal with all matters relating to the protection of human rights as guaranteed by the Constitution, the African Charter on Human and Peoples' Rights, the United Nations Charter, the Universal Declaration of Human Rights, 1948 and other international treaties on human rights to which Nigeria is signatory.[61]

The government also set up the Public Complaint Commission which was established by the Public Complaints Commission Act 1975. Under the Act, the Public Complaint Commission is given wide powers to inquire into complaints by members of the public concerning the administrative action of any public authority and companies or their officials and other matters ancillary thereto. The commission shall consist of a Chief Commissioner and such number of other Commissioners as the National Assembly may from time to time determine.[62]

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60 Uzo I. D. Comments on the Fundamental Rights (Enforcement Procedure) Rules (Law Digest Publishing Co. 2010) 1.

61 Dada J. A., 'Human Rights Protection in Nigeria: the Past, the Present and Goals for Role Actors for the Future' (2013) 14 Journal of Law, Policy and Globalization; 4.

62 Public Complaints Commission Act Cap P. 37 LFN 2004 Vol. 14.

The government has also in various times set up ad hoc judicial mechanisms for the protection of human rights such as judicial commissions and enquiries. For example, President Olusegun Obasanjo in less than ten days after being sworn in as a democratically elected President of Nigeria inaugurated a Judicial Commission known as Human Rights Violations Investigation Panel on 7th June, 1999, headed by a renowned retired Justice of the Supreme Court, Justice Chukwudifu Oputa. The commission is popularly known as the Oputa Panel. The emergence of the Commission was received by members of the public with great enthusiasm. The commission called for and received memoranda from members of the public. It began hearing of the past human rights abuses in Nigeria from October 23, 2000.[63] However, the laudable initiative was almost totally scuttled when the Supreme Court held in Fawehinmi v. Babangida[64] that the National Assembly has no power under the 1999 Constitution to enact a general law on tribunals of inquiry to have effect throughout the Federation of Nigeria.

Nigeria has also shown its commitment to promotion, protection and enforcement of human rights by the adoption and ratification of major international human rights instruments. For instance, Nigeria is a member of the United Nations and a signatory to the Universal Declaration of Human Rights, 1948. Other important instruments to which Nigeria is a signatory include, The African Charter on Human and Peoples' Rights, The Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Prevention and Punishment of the Crime on Genocide, the International Convention on the Elimination of all forms of Racial Discrimination, International Covenants on the Civil and Political Rights; and the International Covenants on Economic, Social and Cultural Rights.[65]

However, despite the apparent commitment of the Nigerian government to promotion and protection of human rights of its citizens, there are still worrisome cases of

63 Nnamani S.O., 'Institutional Mechanisms for Human Rights Protection in Nigeria: An Appraisal' <https://www.ajol.info/index.php/naujilj/article/view/82393/72548> accessed on 24 August 2024.

64 (2003) F.W.L.R. (Pt. 146) 835 @ 879

65 United Nations, 'Human Rights: Status of International Instruments' <https://treaties.un.org/Pages/Overview.aspx?path=overview/faq/page1_en.xml> accessed on 24 August 2024.

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infractions on human rights in the country which sometimes threatens or hinders democratic consolidation in the country. According to a report on Human Rights practices commissioned by the United State Department of Justice in the year 2022, significant human rights abuses that persist in Nigeria include unlawful and arbitrary killings; forced disappearances; torture and cases of cruel, inhuman, or degrading treatment or punishment by the government; harsh and life-threatening prison conditions; arbitrary arrest or detention; arbitrary or unlawful interference with privacy; enforced disappearances or abductions, torture, and physical abuses or punishment; serious restrictions on free expression and media, including violence or threats against journalists, and enforcement of criminal libel and blasphemy laws to limit expression; serious government corruption; lack of investigation and accountability for gender-based violence, including domestic or intimate partner violence, sexual violence, child early and forced marriage, female genital mutilation/cutting, and other forms of such violence; instances of coerced abortion or forced sterilization; and the existence of the worst forms of child labour.[66]

7. ASSESSMENT OF DEMOCRATIC CONSOLIDATION IN NIGERIA

Any discussion about the prospects of democratic consolidation in Nigeria must, however, be predicated on the problems and dilemmas that have arisen with the country's transition to democracy. Nigeria transitioned into democracy in 1999 following after almost two decades military dictatorship. Since restoration of democratic rule in the country, change of government has been orderly while elections have been periodic. Between 1999 and 2023, five different civilian administrations have emerged and there have been seven successive transitions from civilian government to another (Obasanjo Administration, 1999-2007, Yar'adua/Jonathan Administration, 2007-2011, Jonathan Administration, 2011-2015, Buhari Administration, 2015-2023 and the present administration of Bola Ahmed Tinubu which began in 2023). This is also applicable to the legislature. Since 1999,

[66] U.S. Department of Justice, 2022 Country Reports on Human Rights Practices: Nigeria' <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/nigeria/> accessed on 24 July 2024

the country has successfully passed through various legislative houses both at the Federal level and the States level.

However, despite the fact that Nigeria has experienced about twenty-four years of uninterrupted democracy practice, there are various challenges confronting democratic practice, consolidation and good governance in Nigeria.[67] For example, elections in the country have been characterized by monumental irregularities and malpractices which magnitude increases with every election. This has made many ordinary Nigerians to see democracy as a form of government not meant for them but for the politicians and their cronies.[68]

Some of the challenges confronting democratic practice, consolidation and good governance in Nigeria are considered below.

7.1. Lack of Accountability

In Nigeria, the public sector is not accountable to the people as it seems like there is a divide between what goes on in government and what is being reported to the citizens. There is no transparent system where the public is allowed to participate in policy formation and have a say in how these policies should be implemented. This has resulted infrastructure like roads which is caused by the mismanagement of resources by government officials who seems not to be accountable to the citizens.[69]

7.2. Weak Social and Government Enforcement Agencies

One of the major limiting factors of democratic consolidation in Nigeria is the lack of strong government agencies to enforce laws and rules as sternly as they need to. This creates an opportunity for public officials to embezzle funds without fear of repercussion or punishment.[70] Nigeria is degenerating into a society without a discernible legalistic framework for law enforcement agencies or judicial system. In

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67 Iboi, E. P. 'Democratic Consolidation in Nigeria: Issues And Challenges' available at: https://ssrn.com/abstract=2958239 accessed on 24 August 2024.

68 Ibid

69 Ibid

70 Ibid

Nigeria, anyone that is favored in political patronage can basically get away with most crimes, and some of these crimes involve money laundering, uncontrollable theft of government money and other illegal crimes.[71] The recent 'Bobrisky' saga with 'Very Dark Man' alleging various level of corruption with an agency that is meant to fight corruption, is one of such many issues.

7.3. Corruption

Another major challenge and threat to democratic consolidation in Nigeria is corruption. Nigeria has been consistently projected as a corrupt country by Transparency International since 2004.[72]It has been argued that the war on graft has been difficult to win because the act is perpetrated by policy makers themselves.[73]It has been postulated that that nothing enervates democracy more than corruption as it not only distorts governance but also provides perverse incentives for dysfunctional behavioural as well as diminishes the quality of life of the citizens by diverting funds for social service into private pockets.[74]

7.4. Violation of human rights by security agencies

In Nigeria, security agencies have been accused of gross abuse of human rights in the country. The military, the police, Department of State Security Service (DSS) and other paramilitary establishments have been seen molesting, intimidating, torturing and harassing ordinary citizens who have no place of hiding or respite. Among the security agencies, the Nigeria Police Force has been singled out as the agency with mouthwatering records of human right abuse.[75]Police response to workers' strike, student demonstration, public procession and demonstration against unpopular

71 Okoye, E.S., How to tackle corruption effectively in Nigeria, available at: http://www.gamji.com/article4000/NEWS4930.htm accessed 21 August 2024.

72 Iboi, E. P. 'Democratic Consolidation in Nigeria: Issues And Challenges' available at: https://ssrn.com/abstract=2958239 accessed on 24 August 2024.

73 Ibid

74 Oko O., The Challenges of Democratic Consolidation in Africa (Southern University Law Center, Baton Rouge Louisiana. Selected Works Publishers 2008) 28

75 Ndukwe C. Nwokwu P. M. & Edeh J. N., 'Human Rights protection in Nigeria: Examination of the role of Security agencies' (2023) 9(1) South East Journal of Political Science 174

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73 Ibid

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75 Ndukwe C. Nwokwu P. M. & Edeh J. N., 'Human Rights protection in Nigeria: Examination of the role of Security agencies' (2023) 9(1) South East Journal of Political Science 174

government policies frequently involve violence, harassment and intimidation, arrest and detention.[76]

The military has equally been accused of abuse of human rights in the country. In Zaria, Kaduna State, soldiers killed more than 350 supporters of the Islamic Movement of Nigeria (IMN) between 12 and 14 December, 2015.[77]The state authorities later admitted to a judicial commission of inquiry that they buried 347 bodies in a mass grave two days after the massacre.[78]The leader of the IMN, Ibrahim El-Zakzaky and his wife remained incommunicado in detention without trial since their arrest in December, 2015 in defiance to court injunction ordering their release.[79]

In January 2017, the Nigerian Air Force bombed an Internally Displaced People's (IDP) camp in Rann, Borno State killing 167 civilians, children inclusive. The military said the bombing was an accident as Rann has not been identified as a humanitarian camp.[80]The police and the military have routinely and systematically tortured women, men and children, using different methods such as beatings, shootings and rape. Officials of the state security service have equally been accused of arbitrary detentions, keeping detainees incommunicado, conducting flawed investigations, torturing those in their custody and frequently ignore court orders for release of detainees.[81]

Based on the above factors, it can safely be asserted that democratic consolidation is yet to be what it is expected to be as compared to what is obtainable in other developed parts of the world. This is because the respect for fundamental human rights and the rule of law which are the main pillars of a true democracy has not been visible, especially since 1999 till the moment. In view of all the above, it may be

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76 Ali G., Police and human rights abuse in Nigeria. A Seminar paper presented to the Department of Sociology, Ahmadu Bello University, Zaria (2008).

77 Ibid

78 Ibid

79 Ibid

80 Ibid

81 Ibid

correctly stated that no serious foundation has been laid for this conclusion/assertion, while it does appear that the conditions for democratic consolidation in Nigeria do exist, it is yet to be nurtured and developed, for reasons clearly stated above.

8. RELATIONSHIP BETWEEN HUMAN RIGHTS PROTECTION AND DEMOCRATIC CONSOLIDATION IN NIGERIA

The protection of human rights is very crucial for a democratic consolidation to be realisable. Despite all the theories about democratic consolidation, it needs to be pointed out that democratic consolidation is not an end in itself, even though it is said to be the security of democracy. There must be several other beneficial purposes from democratic consolidation of any country which must translate to the good life and well-being of all the citizens of the country. Thus, democratic consolidation needs to be accompanied by undisputable decreases in national misery.[82] Such cases of nationwide pain and deprivation have however persisted in the Nigerian nation.[83]

The constitutional entrenchment of human rights in Nigeria dates back to the 1960 Independence Constitution. The provisions of these fundamental rights were also restated in the Nigeria Constitutions that followed.[84]Thus, the entrenchments of the provisions of these fundamental rights are meant to create a society which protects political freedom as well as the social and economic well-being of Nigerians.

However, despite the improved protection of human rights in Nigeria since 1999,[85]an American Human Rights Report noted several areas where more improvements are needed. These areas include: killings by government forces, lack of social equality and issues with freedom of speech. The Human Rights Watch World Report of 2015

82 Remi C. O. and Chukwuemeka V. M. "Issues in Democratic Consolidation in Nigeria: Between Competitiveness and Regularity of Elections", (2022) 26 Journal of Public Administration, Finance and Law 276

83 Ibid.

84 The Constitution of the Federation, 1963; The Constitution of the Federal Republic of Nigeria, 1979; and The Constitution of the Federal Republic of Nigeria, 1999.

85 The Constitution of the Federal Republic of Nigeria, 1999 (as amended) Cap. C23, Laws of the Federation of Nigeria (LFN), Chapter 4, Sections 33-46 thereof.

states that government corruption, election manipulation and violence continue to undermine the status of human rights in Nigeria.[86] An investigative report reveals that between 2011 and 2021, the number of deaths caused by state actors-13,241; and other armed actor -- 10,082, among other deaths/killings.[87]

The relationship between democratic consolidation and human rights protection in Nigeria is intricate, symbiotic and mutually constitutive. It is suggested that that a right based approach to democracy anchored on the rule of law is the most consistent way to safeguard human rights against arbitrary abuses. Accordingly, the success of democratic consolidation endeavours will be directly affected by the inclusive and consultative nature of the constitution making process, and human rights standards.

Also, there is the general belief that democracy and human rights are intimately interwoven, and that both are mutually supportive and mutually dependent. Despite this level of agreement, however, translating policy statements or academic discussions into practice on this agreement or belief has proven to be complicated. The promotion and protection of human rights in Nigeria have engaged the attention of the world community, and even though Nigeria has subscribed to major international human rights instruments, violations of these rights continue to persist with disturbing frequency and regularity in the country.

For democratic consolidation to be achieved in Nigeria. therefore, issues of human rights protection must be seriously addressed by the Nigerian government. There must be undisputable decrease in abuse and/or violation of fundamental human rights of citizens. In other words, the relationship between democratic consolidation and human rights protection must be strengthened or concretised. This is because, in many parts of Africa, including Nigeria, democracy is at the verge of collapse. No thanks to the evil and heinous activities of state and political actors and the

86 World Report 2015: Nigeria Report of 2014. <https://www.hrw.org/world- report/2015/country-chapters/nigeria. accessed on 24 August 2024.

87 Remi C. O. and Chukwuemeka V. M. "Issues in Democratic Consolidation in Nigeria: Between Competitiveness and Regularity of Elections", (2022) 26 Journal of Public Administration, Finance and Law 276

shortcomings of the political processes which have all brought to the fore the inadequacies of democracy and its practice as a political ideology in Nigeria.

9. CONCLUSION

This article provides some understanding of the relationship between human rights protection and democratic consolidation. The findings revealed that Nigeria has made significant stride in the protection of human rights of its citizens. Nonetheless, there still remains some pockets of infractions of these rights which constitute a clog in achieving democratic consolidation of the affects. The finding of the article further revealed that the relationship between human rights protection and democratic consolidation is symbiotic in nature as there cannot be democratic consolidation without the protection of human rights. This is because the essence of democracy lies in the respect for individual freedoms and the rule of law and as such, the protection of human rights is more likely to be sustained in a consolidated democracy, where institutions are strong, and there is a culture of accountability. An effective protection of human rights is therefore important to achieve democratic consolidation.