



The press and advancement of good governance in Nigeria

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Abstract

The role of the press in governance is more crucial than ever in today's digital age. As a powerful tool that shapes public opinion, the press has an unparalleled ability to inform, educate, and mobilize the public. It plays an indispensable role in ensuring transparency, accountability, and active public participation in the governance process. By acting as the 'Fourth Estate' the press holds those in power accountable, scrutinize their actions, policies and decisions. Unfortunately, prevalent are many factors hindering the press from affording Nigerians of these lofty ideals. What is the relevance of the press in Nigeria's current democratic dispensation? What can be done to circumvent the challenges hindering the Nigerian press from delivering its full essence? This article will seek to explore how the press promotes good governance, why it is essential for a well functioning democracy and the factors hindering it from advancing good governance in Nigeria. While using the doctrinal method, this article made a finding that the press has a great role to play in advancing good governance in Nigeria, albeit, hindered by several factors. It is recommended that the 1999 Nigerian Constitution be amended in its section 39 to guarantee in explicit terms the freedom of the Press in tune with the practice in other countries, like Kenya and Zimbabwe.

Keywords: The press, advancement, democracy, good governance

Introduction

It is noteworthy that for democracy to effectively operate and engender development, it must be stoutly promoted, supported and facilitated by good governance^[1]. The Contention has been correctly advanced that without good governance, democracy, like a bad tree will be unfruitful and that any tree which does not bear fruits shall die^[2]. Good governance is, among other things, participatory, transparent and accountable, effective and equitable and it promotes the rule of law. It ensures that political, social and economic priorities are predicated on broad consensus in society and that the voices of the poor people and most vulnerable are heard in decision-making over the allocations of development resources^[3].

Asemah, posits that good governance entails that an organisation or the government should be able to provide the basic needs of the society and when the governmental leaders are able to provide these basic needs for the people, it promotes mutual understanding between the leaders and the people. This implies that the people will be satisfied with the government in place.

It must be borne in mind that good governance is not just about the government. Also, it is about parliament, the judiciary, political parties, the media and civil society^[4]. The truth of the matter is that good governance is about how citizens, leaders and public institutions relate with one another in order to make change happen^[5]. Needless to point out that the major features of good governance are: participation rule of Law, transparency, responsiveness, consensus orientation, equity, effectiveness and efficiency strategic vision and accountability. There is a nexus between the press and good governance. In actuality, the press has a role in the advancement of good governance. It is, in fact, essential in advancing or promoting good governance, especially in a democratic setting like Nigeria. Of course, the press can contribute a lot to improving government's accountability, transparency, rule of law, more efficient markets, and more information rich societies and so on.

In Nigeria, section 39(1) of the Constitution of the Federal Republic of Nigeria 1999 (1999 Nigerian Constitution) guarantees to all Nigerians, including members of the press, the freedom of expression and the press. The provision above, states that every individual shall be entitled to the freedom of expression including freedoms to hold opinion to receive and impact ideas and information without interference. Subsection (2) of section 39 declares that without prejudice to the generality of subsection (1) of section 39, every individual shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions.

The provisoto section 39 (2) above is to the effectthat no person, other than the Government of the Federation or of State or any other body, authorized by the President of Nigeria on the fulfillment of conditions laid-down by an Act of the National Assembly shall own, establish or operate a television or wireless broad casting station for are purpose. The 1999 Nigerian Constitution further complements the provisions above by declaring in its section 22 as follows; 'the press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this chapter and uphold the responsibility and accountability of the government to the people'.

The provisions abovegive members of the Nigerian press the role of a watch dog in Nigeria's Democracy. This is essentially to ensure good governance in Nigeria so that the Nigerian government would be able to deliver the dividends of democracy to the generality of Nigerians. It is disappointing that the 1999 Nigerian Constitution does not in its section 39 guarantee to members of Nigerian press in explicit terms the freedom of the press. This is an obviouslacunain the position in Nigeria above contrasts with the position of other countries such as Zimbabwe and Kenya where the constitution, guarantees freedom ofthepressin explicit terms^[6]. Subsection (1) of section 45 of the 1999 Nigerian Constitution is very significant. It declares that

nothing in section 37, 39, 40 and 41 of the 1999 Nigerian Constitution shall be considered to render any law invalid which is reasonably justifiable in a democratic society in the interest of public morality, public order, public safety, defence, public health and for the goal of protecting the right to freedom of other people. This implies that the right to freedom of expression and press guarantee of in section 39 above can be restricted or taken away by a law which is reasonably justifiable in a democratic society in the interest of defence and so on. Regrettably, the constitution above does not in section 45 above or any other provision define the elastic terms of defence, public order and so on, so as to guard against the unreasonable restrictions of right to freedom of expression and the press and other fundamental rights contained in the provisions mentioned in section 45(1) above. This is another lacuna contained in the 1999 Nigerian Constitution.

Furthermore, section 6(6)(c) of the 1999 Nigerian constitution has rendered non-justiciable the provisions of section 22 above and other provisions in chapter Two of the 1999 Nigerian Constitution [7]. This implies that a member of the Nigerian press cannot seek to enforce in the law court the right guaranteed in section 22 above. This is another lacuna in the 1999 Nigerian Constitution. These lacunae constitute the rationale for under taking this research.

The purpose of this research is to examine the role of the Press in the advancement of good governance in Nigeria. It gives the meaning of the press, democracy, journalism and Journalist. It analyses applicable laws such as Nigerian Constitutions and Case Law on the role of the press in the advancement of good governance in Nigeria. It highlights the practice in other countries if implemented could inhibit the challenges faced by the Nigerian press in discharging its role of advancing good governance in Nigeria.

Conceptual Clarification

Under this heading of the article, some key concepts would be explained for the better understanding of the article.

1. Concept of the Press

In Nigeria, statute define 'press' thus: "Press" includes radio, television, wireless services, newspapers, magazines and such other channels of communication involved in the collection and dissemination of information [8]. The definition above is broad enough to include, as part of the press, Internet Service Providers (ISP) or social media platforms, including Google, Facebook, Twitter, YouTube and WhatsApp. It should be pointed out that another name for the press is media [9].

2. Concept of Good Governance

Good governance, on the other hand, has been defined by United Nations Commission on Human Rights as a process whereby public institutions conduct public affairs [10], manage public resources and guarantee the realisation of human rights. Good governance realizes these in a manner substantially free of abuse, corruption and there is due regard for the rule of law. The principles of democracy and sustainable development will not be complete without the instrument of good governance. Good governance prevails when government manages public institutions in an efficient, transparent and responsive manner. Also, good governance prevails when all informed citizenry participates and is engaged with the government in the pursuit of their mutually beneficial social, economic, cultural and political objectives.

3. Concept of Freedom of the Press

Freedom of the Press' constitutes the right of members of the press to freely receive or collect and disseminate information, ideas and opinions within the law [11].

4. Concept of Democracy

According to the Merriam-Webster Collegiate dictionary the 11th edition (1) Democracy is a theory of government which in its purest form holds that the state should be controlled by all the people each sharing equally in privileges, duties and responsibilities and each participating in person in the government [12]. (2) Webster dictionary defines democracy as a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections [13]. Abraham Lincoln, the 16th President of the United States of America defines democracy as the government of the people, by the people and for the people [14]. His thought is that democracy is all about the power of the people or a way of government which depends on the will of the people. Lincoln further spoke about the pillars of democracy and they include:

- Sovereignty of the people.
- Government based upon consent of the governed.
- Majority rule.
- Minority rights.
- Guarantee of basic human rights.
- Free and fair elections.
- Equality before the law.
- Due process of law.
- Constitutional limits on government.
- Social, economic, and political pluralism.
- Values of tolerance, pragmatism, cooperation, and compromise.

Good Governance and the Press

The role of the press in the advancement of good governance in Nigeria is well-spelt out in the Constitution of the Federal Republic of Nigeria 1999 (1999 Nigerian Constitution), other municipal laws, case-law as well as international instruments. For example, section 3 (1) of the Constitution of the Federal Republic of Nigeria states as follows:

Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

Section 39(2) of the 1999 Nigerian Constitution provides thus:

Without prejudice to the generality of sub-section (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions:

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the President on the fulfillment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

The provisions above simply mean that for any person or organisation to operate a broadcasting, or media organisation in the Nigerian environment, he must register such media outfit in line with section 39 (2) of the Constitution above.

Section 22 of the Constitution above complements the provisions of section 39(1) and (2) of the 1999 Nigerian Constitution. The provision states as follows:

The press, radio, television, and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the government to the people.

Section 22 above simply means that the press or the mass media has the responsibility or duty to hold governmental officials accountable to the people by check-mating the activities of those persons either elected or appointed to run or manage the affairs of government whether at the Federal, State and Local Government level. The press or media in ensuring that the policies of government will result into good governance through what is called the Conventional Box, that is the input, output as well as the social environment, must ensure that the statements made by politicians or political parties during electioneering campaign to gain or win power are carried-out for the enthronement of good governance in Nigeria.

Public officers must be held responsible, accountable and must implement their campaign promises and provide good dividends of democracy. Indeed, they must not pay lip-service to their electioneering or campaign promises as in the case of some Nigerian politicians or political parties. Bentham, a political philosopher said that the primary purpose of government or governance is to create the greatest happiness for the greatest number of persons, but not to put them (persons) in pains or penury^[15]. Furthermore, section 2 of the Nigerian Electoral Act 2022 which is similar to section 154 of the 2010 Nigerian Electoral Act mandates the Nigerian electoral body, that is the Independent National Electoral Commission (INEC) to conduct civic education and enlightenment programmes by using the mass media to provisions of section 39 of the Constitution of the Federal Republic of Nigeria 1999 (the 1999 N^[16] of conducting free and fair elections in Nigeria. It must be noted that section 2 of the Electoral Act 2022 and section 154 of the Electoral Act 2010 are in line or in consonance with section 153 of the 1999 Nigerian Constitution. The 1999 Nigerian Constitution in its section 153 mandates the INEC to conduct voters and civic education, and to promote consciousness and awareness of sound democratic election process. The researchers believe the INEC which is the sole electoral body in Nigeria has failed in its duties to educate and enlighten Nigerian citizens about the electoral process; hence the Nigerian courts and the election tribunals between 2022 and 2023, were saddled with a lot of litigations, arising from pre or post-election matters. It should be noted that free and fair election any where in the world is a cardinal test for promoting good governance; hence the press or media as the fourth estate of the realm should do more in this regard.

At this stage, the researchers, wish to explain the various ways in which the press or the media has discharged its role in the advancement of good governance in Nigeria. First, the press disseminates information to the society. Section 39(1) of the 1999 Nigerian Constitution is very instructive. Information is the key or an oxygen to any democratic setting and if the people do not know what is happening in their society or if the actions or inactions of those who rule them are hidden, the people cannot take part in the day to

day affairs of the government^[17]. The press or the media is often referred to as the watch-dog of the society, because of its willingness to bark, when necessary, especially exposing government officials who are found to be corrupt or indicted on any corrupt charge.

Second, the press also informs the public about the policies of government, actions or inactions of government or governmental actors. For instance, by informing the public about the change of government and the new policies of government, the reactions of the people toward the policies of government. A typical example is the policy on the removal of fuel subsidy. Another important example is the Tajudeen Abbas. The announcement was criticised heavily by some members of the National Working Committee of the All Progressives announcement of the Principal Officers of the National Assembly by the Nigerian Senate President, Senator Godswill Akpabio and the Speaker of the Nigerian House of Representatives, Honourable Congress of Nigeria (APC), led by Senator Abdullahi Adamu, the former National Chairman of the Party above^[18]. Adamu, said that the NWC of the Party knew nothing about the appointment of the Principal Officers of both Houses of the National Assembly and therefore will not give its blessings to the Principal Officers of both houses^[19].

The press equally informed the public how the then National Chairman and Secretary of the APC party visited the Nigerian President Bola Tinubu in Aso Rock to inform him how Senator Godswill Akpabio and Honorable Tajudeen Abbas, disregarded the Party in the selection of Principal Officers, although the discussion was not made public^[20].

Third, the press has used access to governmental information in line with section 1 (1) of the Nigerian Freedom of Information Act, 2011 to reveal the poverty index in Nigeria^[21] as well as the number of out-of-school children in the country which is a social menace that makes Nigeria a laughing stock in the comity of nations^[22].

Fourth, the press has informed members of the public about the economic policies of government. The press evaluates or accesses the impact of governmental economic policies on the people. The press does this through investigative journalists who often though under cover, investigate whether the economic policies of the Government is bringing high inflation, poverty, pains and so on. For instance, the impact of the removal of fuel subsidy in Nigeria by President Bola Tinubu in his inaugural speech on 29 May, 2023^[23]. The press informed the Nigerian citizens about the implications of the two new economic policies of President Tinubu, which some economic analysts have said are the major reasons for the sky-rocketed prices of almost all commodities in the market.

Fifth, the Press on its role concerning Fundamental Objectives will also enlighten or inform the citizen about the educational policy of government such as the Federal Government and the various State governments across Nigeria. For instance, the ASUU strike, the reasons and its implication on the nation's economy and stability. Also, the press informed the public about the signing into law of the students' loan scheme by President Tinubu and its implication on the nation's economy^[24].

Sixth, the press also informed the public on the kind of foreign policy between the Nigerian Government and other nations of the world. The media has looked into the impact of the country's foreign policy, and its implications whether positive or negative, on the citizens of Nigeria.

Seventh, it is also the responsibility of the press to hold governmental officials either elected or appointed, accountable to the people. This is seen in section 22 of the 1999 Nigerian Constitution. Olomjobi and Apampa, posit that accountability is a variant of a healthy democratic State, as it is the responsibility of the government to show its citizens how tax payer's money is spent or utilized^[25]. They further postulate that accountability is related to economics, political and administrative affairs, as well as its management in the State. The press as a matter of fact, through investigative journalism seeks to hold public officers or office holders accountable for their decisions and actions. For instance, where a government parastatal such as the Nigerian National Petroleum Corporation (NNPC) refuses to remit the sum of Twenty Billion Dollars (\$20,000,000,000) to the Federation Account. It must be stated that for effective good governance, the need for information sharing is crucial.

Consequently, accountability is difficult to achieve in the absence of access to information. A lack of transparency and fragile accountability negatively affects good governance. The absence of accountability in many ways promotes corruption in various sectors of the government. It must be stated that the press or Media as the watchdog of Nigeria's democracy must ensure pro-active and effective legislation coverage or coverage of the legislative arm of government to ensure good governance in Nigeria.

The role of the press in the advancement of good governance must be seen in the light of respect for the rule of law^[26]. The Press in a number of cases has exposed the government or its officers in the disregard for the rule of law and orders of competent court of jurisdiction. Respect for the rule of law and constitutionality is the bedrock of any democratic setting. It must be seen in press reporting that there is a system of checks and balances, objectivity, non-subjectivity, and balance reporting, that is both parts of the coin must be heard and there must never be biased reporting in favour of any party. The major role concerning respect for the rule of law and role of the press in the promotion of good governance can be seen in section 36 of the 1999 Nigerian Constitution in which parties before the court must be heard and fair hearing must be accorded each party and no one can be a judge in his own cause.

The maxim of fair hearing was aptly stated in *Olugbenga Daniel v. Federal Republic of Nigeria*^[27], where the Nigerian Court of Appeal provided criteria to determine whether a trial or hearing is fair or not, namely;

- a. The Court shall hear both sides or parties not only in the case, but also all material issues in the case before reaching a decision which may be prejudicial to any party in the case;
- b. The Court or Tribunal shall give equal treatment, opportunity and consideration to all concerned in the case.
- c. The proceedings shall be held in public and all concerned shall have access to be informed of such hearing; and
- d. Having regard to all circumstances in every material decision in the case, justice must not only be seen to be done, but manifestly and undoubtedly seen to have been done.

It is trite from the above reasoning, that good governance thrives where fair hearing is unfettered. Indeed the press has

a tremendous role to play in the advancement of good governance in Nigeria.

Factors Militating Against Freedom of the Press in Nigeria

There are numerous factors militating against freedom of the Press in its primary role of advancement of good governance in Nigeria.

First, there is the problem of a lack of free flow of information to the Press. The Freedom of Information Act 2011 in its section 1 (1) allows a person to request for information in the form of writing or not in the form of writing which is in custody or possession of any public official, agency or institution. The Nigerian State appears to be unwilling to give out relevant information to the press and the public in general.

Happily, on the 25th day of June 2012 a Federal High Court Judge in Abuja directed the clerk of the National Assembly to release to the Legal Defence and Assistance Project (LEDAP) a human-right focused Non-Governmental Organisation (NGO) details of the salary, emolument and allowance collected by the legislators of the 6th National Assembly between June 2007 and May 2011^[28]. The court stressed that under section 1(1) of the Freedom of Information Act 2011 above, every citizen of Nigeria was entitled to have access to public information or document^[29].

This decision is commendable. It must be noted, painfully, that despite the reason for the above judgment given by the Nigerian Court that all organisations or institutions should freely allow free flow of information to the press so that members of the public will know what is going on around them, the Nigerian Army thinks differently, hence in the Arise News Programme^[30] (The Morning Show on What's Trending) anchored by Reuben Abati, Rufai Oseni, Vimbai Mutiuhiri and Ojy Okpe, it was reported that the Media or the Press-men were not allowed to the scene of the heinous act or crime in Okuama Community in Ughelli South Local Government Area, where 17 Army Officers were allegedly ambushed and killed in a bid to settle the dispute between Okuama Community and Okoloba Community in the Bomadi Local Government Area of Delta State.

According to Ojy Okpe^[31], at the time the Governor of Delta State, Rt. Honourable Sherriff Oborewori visited the scene of the crime with some Pressmen, the Governor and the Pressmen were not allowed for on-the-spot assessment. Reuben Abati^[32], in his contribution, asserted that there are many sides to the story, but there is no justification for the killing of the 17 Army's Officers as that is an attack on the Nigerian nation. Abati further queried that the military refused the Pressmen or media from accessing the scene of the crime in Okuama Community at least for the world to have an independent view from the Press, as the media is the watchdog of the world. He opines that journalists are supposed to be allowed to cover and do their job. He argued that even in a war-torn zones or countries, for instance, Gaza or Afghanistan, journalists were allowed to do their job. It is settled as the right to know is a fundamental right as seen in Article 19 of the United Nations Universal Declaration of Human Rights, 1948, which states as follows:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart

information and ideas through any media and regardless of frontiers.

In Abati's ^[33] concluding remarks, he pleaded with the military to respect the provisions above and the Nigerian Constitution on the freedom of the press by allowing the media or pressmen to access the scene of the crime in Okuama community and inform the world about their findings on the killing of the 17 officers of the Nigerian Army. The researchers believe in Abati's submission that the media should be allowed to do their job by having access to Okuama Community and providing an independent report on what led to the killing of the 17 Officers and those who are culpable should be brought to justice.

Second, there is the problem of harassment of members of the Press. On many occasions, the Nigerian pressmen have been tortured, arrested, detained and often arraigned before the court by enforcement agents on trumped-up allegations. For example, Chris Anyanwu the publisher of The Sunday Magazine (TSM) was arrested, detained and sentenced to life imprisonment during the Sanni Abacha military regime in Nigeria ^[34]. It should be recalled that in 2021, the FGN clamped-down on the site of Twitter, a social media platform over Twitter's decision to delete a post of former Nigerian President, Muhammadu Buhari. It was on 13 January 2022, the FGN lifted the suspension of the Twitter operations in Nigeria, after the Government and Twitter company had agreed to government's ^[35] conditions on the management of unlawful contents, to registering of its operations in Nigeria and to a new tax arrangement.

Third, there is the problem of censorship of the Press in Nigeria, as a result of the fact that some pressmen have abused the use of the pen to frustrate or ridicule fellow country-men or government by writing fake or false news. The Government all over the world has enacted some laws to tame the spread of misinformation in order for the rights of citizens not to be abused ^[36]. It should be observed that some quacks in Nigeria disseminate false information or fake news about certain personalities in the Nigerian society whom they are bent on tarnishing their images or reputations to the satisfaction of their pay-masters, contrary to the journalistic Code of ethics ^[37]. Most often, such false information or fake news do irreparable harm to the political economy of a nation.

The law, among other things, introduced censorship-system of examining press materials beforehand in order to guard against publication of seditious, libelous and obscene materials. Such advanced screening of materials 48 hours before airing run foul of the ethics of the journalism profession and negates the principle of Press freedom as seen in section (39)(1) and (2) of the 1999 Nigerian Constitution. In *Ogwuchev. Federal Republic of Nigeria* ^[38], the Federal Government of Nigeria had placed a restriction on the plaintiff as well as other broadcasting houses to have their programmes vetted by the National Broadcasting Commission at least 48 hours prior to airing. This action was challenged by the plaintiff and the Economic Community of the West African States Court of Justice rightly held that the new regulation imposed by the Nigerian Government was a breach of the fundamental human rights of the plaintiff and other broadcasting houses, which was tantamount to over-censorship and a violation of the freedom of expression and the Press, as embedded in Article 9(1) and (2) of the African Charter on Human and Peoples'

Rights 1981 and section 39(1) and (2) of the 1999 Nigerian Constitution.

Fourth, there is the problem of infiltration of the profession of journalism by quacks. It is a common place in Nigeria to see people who are not trained journalists doing journalism work without recourse to the Nigerian Press Council Act 2004 which provides for persons who can practice journalism in Nigeria in line with the practice of other countries like Norway, South Africa, Kenya, the United States of America and Zimbabwe.

Section 18(1) of the Act above enjoins the Executive Secretary of the Nigerian Press Council to maintain a register of duly accredited journalists in Nigeria, compiled by the said Council in collaboration with the NUJ and the NGE. This is commendable, as it is aimed at discouraging quacks and quackery and other unqualified persons from practicing the profession of journalism. Also, in line with the practice of other professions in Nigeria, including Teaching and Engineering, section 19(1) of the Act above requires a person to be fully-registered under the Act above, if among other conditions, he attended a course of training recognised by the Council above and holds a qualification approved by the said Council. It is a crime punishable with a fine ranging from three thousand naira (N3,000) to five thousand naira (N5,000) and imprisonment of not more than two years for a person not being a registered journalist with the Council to practice or hold himself out to practice as a registered journalist with the Council or without reasonable cause, takes or utilise any name, title, addition or description which have the implication that he is authorised by law to practice as a registered journalist with the Council under section 21(1) of the Act above. This is, also, commendable and it is aimed at discouraging quacks and quackery, as disclosed above.

Yahaya Bello, former Governor of Kogi State and Chuks Ehirim, Chairman of the NUJ Abuja branch have decried the activities of quacks and other unregistered persons practicing as registered journalists with the said Council ^[39]. Bello, enjoins journalists to take back their profession by driving away the quacks and other persons who are not qualified to practice journalism profession ^[40]. On his part, Ehirim states that the NUJ would not fold its arms and watch quacks, blackmailers and their fellow travelers continue to tarnish the good image of the journalism profession in Nigeria. He concludes that the NUJ would explore the legal code to moderate the activities of fake journalists.

Fifth, there is a problem of corruption among journalists in Nigeria. Some journalists collect bribes from government officials so as not to expose the corrupt deeds of these officials ^[41]. It is an open secret that there are media executive dinners in Nigeria, where various political and economic gratifications are given to journalists or pressmen. These are contrary to section 15(5) of the 1999 Nigerian Constitution which prohibits or abolishes all corrupt practices and abuse of power. They are also contrary to Article 3 of the African Union Convention on Preventing and Combating Corruption (AUCPCC) 2003 which prohibits corruption in both public and private sectors of the political economy of a nation. It must be noted, that free, independent and responsible media is critical to good governance. Good governance can only flourish when there is good media reporting that is free from corruption, bias and subjectivity ^[42]. When there is no adequate information

about the activities of the government, there is likely to be poor performance on the part of the government.

Sixth, there is a problem of legal impediment. Indeed, there is the problem of the 1999 Nigerian Constitution not specifically or in explicit terms guaranteeing the right to freedom of the Press as could be seen in section 39(1) of the 1999 Nigerian Constitution. This is not in line with the practice in other countries. For instance, section 34 (1), (2) and (3) of the Constitution of Kenya 2010 provides that the freedom and independence of electronic, print and all other types of media are guaranteed; the State shall not penalise any person for any opinion or view or content of any broadcast, publication and so on. Also, section 45(1) of the 1999 Nigerian Constitution provides that nothing in sections 37,38,39,40 and 41 of this Constitution shall invalidate any law that is reasonably unjustifiable 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 freedom of other persons.

It can be discerned from the above that section 45(1)(a) of the Constitution above permits a derogation from the freedom of expression and the press in the interest of public safety and so on. An important question here is: can a country afford to sacrifice her public good or common interest for an absolute Press freedom? The researchers believe that the answer is in the negative. This is so, because no freedom is absolute, hence in *Federal Republic of Nigeria and others v. Mallam Ismalla Isa and others*^[43], the Court of Appeal in Nigeria stated that if the freedom of expression and the press is absolute, then the rights of other persons may be abused and this would lead to anarchy. The International Covenant on Civil and Political Rights (ICCPR) 1966, recognises that restrictions may be imposed on any form of expression or means of its dissemination as are provided by law and are necessary. According to Article 19 (3) of the ICCPR 1966, the freedom of expression may be limited where those limitations can be demonstrated to be necessary for ensuring respect for the rights and reputations of others persons.

Therefore, it implies that if we interpret Section 39(3) of the Nigerian Constitution alongside Section 45(1)(a)'s constitutional assurance of press freedom, it does not grant blanket immunity for all forms of expression. This interpretation should be balanced against other legitimate public interests^[44], Blackstone opines that: "To punish as the law does any dangerous or offensivewritings which when published shall be adjudged of a pernicious tendency is necessary for the preservation of peace, good order of government and religion: the only foundation of civil liberty". Another issue arises from the 1999 Nigerian Constitution, which makes Section 22 of the Constitution non-justiciable. Section 22 guarantees the press the right to hold the Nigerian government accountable to the people of Nigeria, along with other provisions in Chapter Two of the Constitution^[45]. Thus, a journalist cannot seek redress where the right in section 22 above is contravened by the governmental leaders.

Seventh, secrecy is a major problem in Press freedom. The Nigerian Government, like other governments the world-over considers some information very sensitive that it denies the press access to such information. For instance, the Nigerian government operates with such secrecy that even

cooperative officials cannot disclose classified security information to the press during wartime. Nigerian journalists are also restricted from accessing information related to areas like foreign policy, defense, and trade secrets, which the Nigerian government deems harmful to its international relations with other countries. This issue is reflected in Section 1(1)(a) and (b) of the Nigerian Official Secrets Act 2004, which states:

- Subject to sub-section (3) of this section, a person who-
- a. transmits any classified matter to a person whom he is not authorized on behalf of the government to transmit it; or
 - b. obtains, reproduces or retains any classified matter which he is not authorized on behalf of the government to obtain, reproduce or retain, as the case may be, is guilty of an offence.

A public officer commits an offence if he fails to comply with any instructions given to him on behalf of the government as to the safeguarding of any classified matter which by virtue of his office is obtained by him or under his control^[46]. Also, it is provided that a person who, for any purpose prejudicial to the security of Nigeria: (a) enters or is in the vicinity of, or inspects a protected place; or (b) photographs, sketches or in any other manner whatsoever makes a record of the description of, or of anything which is situate in a protected place; or (c) obstructs, misleads or otherwise interferes with a person engaged in guarding a protected place; or (d) obtains, reproduces, or retains any photograph, sketch, plan, model or document relating to, or to anything which is situate in a protected place commits an offence^[47].

Furthermore, Section 3(1) of the aforementioned Act states that during any period of emergency, the President of Nigeria may, through an order, prohibit individuals from photographing, sketching, or in any other manner recording details of items designated or adapted for defense purposes, as specified in the order, without written permission from the President. Anyone who violates this order commits an offence.

It can be seen clearly that the Nigerian Official Secrets Act 2004 is aimed at preventing the disclosure to the public of any material which the government considers as classified matter. In the words of Asemah, the Act above 'serves as a check against the publication of highly confidential information or documents that may weaken or limit the integrity of any government and, by extension, threaten the security of the State'^[48]. One key point about the Nigerian Official Secrets Act 2004 is that it, also, binds citizens of Nigeria in diaspora. It can be argued that the provisions of the Nigerian Official Secrets Act above are not unconstitutional, as the Nigerian Official Secrets Act 2004 can be regarded as a law that is reasonably justifiable in a democratic society.

The provisions of section 39 of the Constitution of the Federal Republic of Nigeria 1999 (the 1999 Nigerian Constitution) which guarantee to all citizens of Nigeria the right to freedom of expression and the Press are instructive. To be specific, sub-section (3) of section 39 of the 1999 Nigerian Constitution declares as follows:

Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society –

- a. for the purpose of preventing the disclosure of information received in confidence, maintaining the

authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or

- b. imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police or other Government security services or agencies established by Law.

Findings

In the course of this study, the following were found:

1. It was found that the press has a great role to play in the advancement of good governance in Nigeria, albeit, hindered by numerous challenges.
2. The 1999 Nigerian Constitution did not in its section 39 or any other provision guarantee in explicit terms the freedom of expression and the press, unlike the situation in other countries, including Kenya.
3. It was found that the derogation clause is being abused in Nigeria to enact laws which derogate from some of the fundamental rights guaranteed to all Nigerian citizens, including journalists in Chapter Four of the Nigerian Constitution.
4. It was found that the major problem with section 45(1) above is that the 1999 Nigerian Constitution did not define the elastic terms of 'defence', 'public order' and so on in order to guard against unreasonable restrictions of the fundamental rights of Nigerian citizens, including journalists, guaranteed by the sections mentioned in section 45(1) above.
5. It was found that pursuant to section 22 of the 1999 Nigerian Constitution the press upholds the fundamental objectives contained in Chapter Two of the 1999 Nigerian Constitution as well as the responsibility of the Nigerian leaders to the people of Nigeria. Based on this provision, the press had exposed some corrupt activities of the Government of Nigeria.

Recommendations

Arising from findings of this study, the researchers recommend the following solutions to guarantee the enjoyment of the freedom of expression and the press by media practitioners in Nigeria;

1. The 1999 Nigerian Constitution should be amended in its section 39 to guarantee in explicit terms the freedom of the press in tune with the practice in other countries, including Kenya.
2. The Nigerian Press Council Act 2004 should be amended to confer on the Council the power of arrest, investigation and prosecution of offenders under the Act.
3. The National Assembly of Nigeria should amend the 1999 Nigerian Constitution to place the provisions of section 22 in Chapter four of the Constitution above as a fundamental and enforceable right.
4. The National Assembly of Nigeria should define the elastic words found in section 45(1) of the 1999 Nigerian Constitution such as 'defence', 'public order' and 'public morality'.
5. The Nigerian Government should desist from harassing members of the Press. Such acts like closing media houses, arresting and detaining journalists without trial must stop forthwith.

6. The free flow of information from the Government to the Nigerian people, including journalists should be allowed in Nigeria.
7. There should be enthusiastic enforcement of the provisions of the Nigerian Press Council Act 2004 on the practice of the journalism profession by quacks and other unregistered persons with the Nigerian Press Council masquerading as journalists in Nigeria. These quacks must be brought to the court for offences under the Act above and penalised appropriately by the courts of law in Nigeria.
8. The Nigerian Press should be allowed to carry-out its mandate without censoring the news contents of broadcasters and other media materials.
9. Journalists and other members of the Press involved in corrupt practices and abuse of power should be made to face criminal prosecution under Nigeria's extant laws on corruption, including the Independent Corrupt Practices and other related Offences Act, 2006.

Conclusion

This article examined the role of the press in enhancing and advancing good governance in Nigeria. It identified gaps in the numerous applicable laws and highlighted various challenges hindering the press from fulfilling its role in the advancement of good governance in Nigerian. The article also highlighted the practices in other countries and recommended solutions, which if implemented, would effectively ameliorate or obliterate completely the challenges hindering the press from advancing good governance in Nigeria.

References

1. E Aseman, Public Relations and Democratic Governance in Nigeria: A Componential Overview (Lagos: Atsco Publishers, 2010), quoted in E S Asemah, 'Mass Media and Good Governance in a Democratic Nigeria: An Appraisals' (2003) 6(2) Africans Journal of Art and Culture Studies.4
2. Ibid
3. Ibid
4. Ibid
5. Ibid
6. See for example, the Kenya Constitution 2010, S.34 (1)(5)
7. *Musa Baba Panya v President of the Federal Republic of Nigeria and Two others* [2018] 15 NWLR (Part 16 1643) 395, 401-402, Court of Appeal (CA), Nigeria
8. See the Nigerians Press Council Act Cap N128 Laws of the Federation of Nigeria (LPN) 2004, S 37
9. See the Nigerian Media Council Act Cap 316 LPN 1990, s 27.
10. See E Aseman, Public Relations and Democratic Governance in Nigeria: A Componential Overview (Lagos: Atsco Publishers, 2010), quoted in E.S. Asemah, "Mass Media and Good Governance in a Democratic Nigeria: An Appraisals (2003) 6(2) Africans Journal of Art and Culture Studies."
11. Ibid (n 21).
12. Ibid.
13. Ibid.
14. < <https://housedivided.dickinson.edu> > accessed 22nd July, 2023.

15. E O. Okumagba and K O. Odhe, 'Should Utilitarianism Universalize Environmental Rights, Right to Good Governance and Peace over Fundamental Humans Rights? Analysing the Nigeria Conundrum' (2022) 8 Commonwealth Law Review Journal 683
16. H E Ogba and G I Oyibokure, 'The Media Constitutional Mandate and Good Governance in Nigeria: An Analytical Perspective' International Journal of Academic Multidisciplinary Research 209.
17. See 'Akpabio names New Principal Officers in the 10th Senate, House of Representatives' <<https://www.businessday.ng>> accessed 12 October, 2025. The new National Chairman of the APC then was Dr. Abdullahi Ganduje, the former Governor of Kano State, Nigeria.
18. 'APC NWC reject Senate Reps. Principal Officers' <<https://dailyposting>> accessed 9 July 2023.
19. NASS Principal Officers: 'Adamu, Omisore meet Tinubu in Aso ROCK' <<https://www.ripplesnigeriacomma>> accessed 9 July 2023.
20. 2022 'Multidimensional poverty index survey' National Bureau of Statistics <<https://Nigeriastategov.ng.news>> accessed 10 July 2023.
21. 'Tackling menace of out of school children in Nigeria' <<https://guardianngtacklingmenace>> accessed on 9 July 2023.
22. 'Fuel subsidy cut will save Nigeria but impose burden: President' <<https://www.Aljazeera.com.news>> accessed 10 July 2023.
23. 'Nigerian President signs student loan bill into law' <<https://www.premiumtimesng.com>> accessed 10 July 2023.
24. Y Olomjobi and O Apampa, 'Legal Perspective of Good Governance in Nigeria: Reform Best Practices and Challenges' 10 <<https://ssrncom//abstract=2713352>> accessed 9 July 2023.
25. Asemah (n 1)
26. [2020] 8 NWLR (Pt. 1410) 526, CA Nigeria
27. Quoted in A.E. Abuza, 'Environmental Law': Post - Rio Discussion on Environment Protection- A Reflection in B.C. Nirmal and R.K. Singh, (ed), Contemporary issues in International Law Education (Singapore: Springer Nature Pte, 2018)340.
28. Ibid
29. Army Debunks Reprisal Attacks <<https://www.arisetv>> accessed 19 March 2024.
30. Ibid.
31. Ibid.
32. Ibid.
33. C Anyanwu <Wikipedia.org> accessed July 9 2023.
34. 22 Ibid.
35. K C Izuogu, 'Challenges and Future of the Press in Nigeria' <www.globalacademicgroup.com> assessed 9 July 2023
36. Rescue media from Quacks, Hackers Bello tells professionals <[https://www.tharsdaylive.com//inductPhp.zozino31/rescue media from Quacks, Hackers Bello tell professionals >8 July and 'Abuja NUJ worried about professional misconduct among journalists'](https://www.tharsdaylive.com//inductPhp.zozino31/rescue%20media%20from%20Quacks,%20Hackers%20Bello%20tell%20professionals%20%3E8%20July%20and%20%27Abuja%20NUJ%20worried%20about%20professional%20misconduct%20among%20journalists%27)> <<https://www.premiumtimes.ng.com/news/135883abujanuj/about/professional/misconduct/among/journalists.htm>> accessed 8 July 2023.
37. [2018] ECW/CCJ/APP/09/15 ECOWAS Community Court of Justice Presided by Hon. Justice Friday Chijoke Nwoka, Hon. Justice Zaza Baina and Hon. Justice Alauna Sail. Judgment of the Court delivered on 13 February 2018.
38. (n 50).
39. Ibid.
40. O O Musibau, 'Weak-kneed Media and Festering Corruption in Nigeria'. <<http://www.researchergate.net/publication/32475308>> accessed 5 April 2024.
41. Ibid
42. Ibid.
43. Blackstone, commentaries on the laws of England vol 4 151-152. quoted in O. Oladele, 'Constitutional Provisions of the Freedom of the Press and their Limitations in Nigeria'. (2014) 2(2) International Journal of Management Science and Humanities ISSN: 2360-9214 E-ISSN: 2360-9222, a Journal of the Lagos State Polytechnic, Ikorodu.
44. Ssection 6(6) (c), of the 1999 Nigerian Constitution and Musa Baba Panya v President of the Federal Republic of Nigeria and Two Others [2018] 15 NWLR (Pt. 1643) 395, 401-402, CA, Nigeria.
45. S. 1(2) of the Nigerian Official Secrets Acts 2004.
46. Ibid.
47. 'Quoted in FM Oduah, 'Freedom of Information Act, Official Secrets Act and Press Freedom in 21st Century Nigeria: How Free Is the Press?' (2015) 1(1) Communication Panorama African and Global Perspectives 6.
48. Cap C 23 LFN 2004