

THE CONSTITUTIONAL VALIDITY OF THE 'END BAD GOVERNANCE' PROTESTS IN NIGERIA: AN EXAMINATION OF THE INTERSECTION AMONG FREEDOM OF ASSEMBLY, NATIONAL SECURITY, AND POLITICAL ACCOUNTABILITY UNDER THE 1999 CONSTITUTION (AS AMENDED)*

Abstract

This paper critically examines the constitutional validity of the 'End Bad Governance' protests in Nigeria, focusing on the intersection between the rights to freedom of assembly, national security concerns, and political accountability as provided under the 1999 Constitution (as amended). The 'End Bad Governance' movement, which gained prominence in the wake of widespread discontent with governmental inefficiencies, corruption, and human rights abuses, raises complex legal questions about the balance between civil liberties and state authority in a democratic society. The study begins by analyzing the constitutional provisions that guarantee the right to peaceful assembly and protest, particularly under Sections 39, 40, and 41 of the Nigerian Constitution, which protect the rights to freedom of expression, assembly, and movement, respectively. It further explores the historical and legal precedents that have shaped the interpretation of these rights in Nigeria, with a particular focus on judicial decisions that have addressed the limits of these freedoms in the context of national security and public order. The paper then delves into the state's countervailing interest in maintaining national security and public order, as enshrined in Section 45 of the Constitution, which permits the restriction of fundamental rights in the interest of defense, public safety, public order, public morality, or public health. It scrutinizes the legal frameworks and legislative instruments, such as the Public Order Act and anti-terrorism laws, that have been invoked by the government to regulate protests and civil unrest. It considers the implications of these protests for Nigeria's democratic governance, particularly in terms of fostering a culture of accountability and the potential for these movements to influence policy and legislative reforms. In conclusion, the paper argues that while the government has a legitimate interest in safeguarding national security and public order, any restrictions on the right to protest must be carefully balanced against the fundamental rights guaranteed by the Constitution.

Keywords: 'End Bad Governance' Protests, Constitutional Validity, Freedom of Assembly, National Security, Political Accountability, 1999 Constitution of Nigeria

1. Introduction

On the 1st to 10th of August 2024, Nigeria witnessed a surge in public demonstrations aimed at addressing a wide array of socio-political issues, with the 'End Bad Governance' protests emerging as one of the most significant. These protests, sparked by widespread discontent with the prevailing political and socio-economic conditions, have brought to the forefront critical questions about the balance between citizens' rights to freely assemble and express dissent, the government's duty to maintain national security, and the broader imperative of political accountability. At the heart of these debates lies the intricate interplay between the constitutional provisions governing civil liberties and the state's obligations under the 1999 Constitution of the Federal Republic of Nigeria (as amended). The 'End Bad Governance' protests, which drew participants from diverse socio-economic backgrounds, were a manifestation of deep-seated frustrations with systemic corruption, inadequate public services, human rights abuses, and a lack of accountability among public officials. These protests were not merely spontaneous uprisings but were part of a broader historical continuum of civil resistance in Nigeria, where citizens have periodically taken to the streets to demand better governance and social justice. The movement, though varied in its specific demands, was united by a common desire to hold the government accountable and to bring about tangible improvements in the quality of governance.

Central to the discourse surrounding these protests is the right to freedom of assembly, as enshrined in section 40 of the 1999 Constitution, which guarantees every Nigerian citizen the right to assemble freely and associate with others. This constitutional provision is further reinforced by international human rights instruments to which Nigeria is a signatory, including the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights (ICCPR). These legal frameworks collectively underscore the importance of protecting citizens' rights to engage in peaceful protest as a fundamental aspect of democratic governance. However, the exercise of this right is not without limitations. The same Constitution that guarantees freedom of assembly also imposes restrictions in the interest of national security, public order, public morality, or public health. Section 45(1) of the 1999 Constitution¹ provides that nothing in Sections 37, 38, 39, 40, and 41 shall invalidate any law that is reasonably justifiable in a democratic society in the interest of defense, public safety, public order, public morality, or public health. This constitutional caveat introduces a complex dynamic, wherein the state may justify curtailing protests on grounds of

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¹ Constitution of the Federal Republic of Nigeria, 1999 (As Amended).

maintaining national security or public order, even as protesters assert their right to freely assemble and express their grievances. The intersection of these legal provisions raises critical questions about the extent to which the state can or should limit the right to protest in the name of national security. It also highlights the potential for abuse of power, where government authorities may invoke national security concerns to suppress dissent and stifle political opposition. This tension is particularly pronounced in Nigeria, where the state's response to protests has often been marked by a heavy-handed approach, including the use of force, arbitrary arrests, and the imposition of curfews, all of which have drawn widespread criticism both domestically and internationally. Furthermore, the 'End Bad Governance' protests bring to light the broader issue of political accountability in Nigeria. The protests were, in essence, a call for greater transparency, accountability, and responsiveness from the government. They underscored the public's growing impatience with a political class perceived as corrupt, indifferent, and disconnected from the realities of ordinary Nigerians. In this context, the protests can be seen as a critical mechanism through which citizens seek to hold their leaders accountable, thereby reinforcing the democratic principle that the government is ultimately answerable to the people.

In light of these considerations, this study seeks to critically assess the constitutional framework governing the right to protest in Nigeria, with a particular focus on the 'End Bad Governance' protests.

2. Legal Framework for Freedom of Assembly under the 1999 Constitution

Right to Freedom of Assembly

The 1999 Constitution of Nigeria guarantees the right to freedom of assembly, which is enshrined in Section 40². It provides that every person shall be entitled to assemble freely and associate with other persons, and in particular, may form or belong to any political party, trade union, or any other association for the protection of their interests. For avoidance of doubt, section 40 is reproduced here *seriatim* 'Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests: Provided that the provisions of this section shall not derogate from the powers conferred by this Constitution on the Independent National Electoral Commission with respect to political parties to which that Commission does not accord recognition'. This provision is a fundamental aspect of democratic participation, allowing citizens to come together to express their views and also advocate for change. The right to freedom of assembly is not only recognized under domestic law but also protected under international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR), both of which Nigeria is a party to. Below are some of the international statutes that provided for the right to freedom of assembly:

Universal Declaration of Human Rights (UDHR), 1948: Article 20(1) of the UDHR states, 'Everyone has the right to freedom of peaceful assembly and association'³.

International Covenant on Civil and Political Rights (ICCPR), 1966: Article 21 of the ICCPR provides that 'The right of peaceful assembly shall be recognized.....'⁴. The ICCPR legally binds its state parties to uphold the right to peaceful assembly, setting out conditions under which restrictions may be legitimately imposed.

European Convention on Human Rights (ECHR), 1950: Article 11 of the ECHR states, 'Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests'⁵.

American Convention on Human Rights (ACHR), 1969: Article 15 of the ACHR states: 'The right of peaceful assembly, without arms, is recognized....'⁶. This provision applies to member states of the Organization of American States (OAS), protecting the right to assembly in the Americas.

African Charter on Human and Peoples' Rights (ACHPR), 1981: Article 11 of the ACHPR states: 'Every individual shall have the right to assemble freely with others....'⁷. The ACHPR provides a regional framework for the protection of human rights, including the right to assembly, for African states.

Arab Charter on Human Rights, 2004: Article 28(b) of the Arab Charter states: 'Every citizen has the right to freedom of peaceful assembly and association'⁸.

International Labour Organization (ILO) Conventions: ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948) includes provisions that protect the right to organize, which inherently covers the right to assemble⁹.

² Constitution of the Federal Republic of Nigeria, 1999 (As Amended) Cap C23, Laws of the Federation of Nigeria, 2004.

³ United Nations General Assembly, *Universal Declaration of Human Rights*, Resolution 217 A (III), 1948.

⁴ United Nations General Assembly. (1966). 'International Covenant on Civil and Political Rights.' *Treaty Series*, vol. 999, p. 171.

⁵ Council of Europe. (1950). *European Convention on Human Rights*. ETS No. 5.

⁶ Organization of American States. (1969). 'American Convention on Human Rights.' Pact of San José, Costa Rica.

⁷ African Union. (1981). *African Charter on Human and Peoples' Rights*. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58.

⁸ League of Arab States. (2004). *Arab Charter on Human Rights*. Adopted May 22, 2004, entered into force March 15, 2008.

⁹ International Labour Organization. (1948). 'Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87.'

Limitations to the Right to Freedom of Assembly

While the right to freedom of assembly is constitutionally guaranteed, it is not absolute. Section 45(1) of the 1999 Constitution allows for restrictions on this right in the interest of defense, public safety, public order, public morality, or public health, or for the purpose of protecting the rights and freedoms of others. The restrictions must, however, be reasonably justifiable in a democratic society. This legal caveat is crucial, as it sets the stage for the government to impose certain limitations, particularly where national security and public order are at stake. The challenge, however, lies in ensuring that these restrictions do not infringe upon the core of the freedom of assembly and that they comply with constitutional and international standards of necessity and proportionality. Section 45 (1) provides thus: Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society (a) in the interest of defence, public safety, public order, public morality or public health; or (b) for the purpose of protecting the rights and freedom of other persons. The above provision of the Constitution makes it possible for these five rights to suffer derogation on grounds of national security. However, the Constitution sets strict conditions. The strictness of these conditions goes to demonstrate the importance of these rights. They are rights, as the Constitution puts it, fundamental rights which ordinarily should not be breached on any circumstance. But on the recognition of our humanity and the fact that we may be called upon at any time to sacrifice for the good of the group and not the individual, these exceptions are made. The exceptions are however not made lightly. As demonstrated in section 45, the derogation can only occur through the power of an Act of National Assembly. However, the fact that it is sanctioned by an Act of the National Assembly is not sufficient. The particular Act must meet some other criteria¹⁰. These are that: the Act must be justifiable in a democratic society and it must have been made: (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. The first condition outlined in section 45 (1) - of the Act being justifiable in a democratic society – is not as easy to meet as it may seem at first glance. The terms ‘reasonably justifiable in a democratic society’ means that the law is made following a democratic process and for the reasons justifiable within a democracy. Within Nigeria and any other democracy, reasons justifiable in a democratic society can only mean ‘good government and welfare of all persons in our country, on the principles of freedom, equality and justice, and for the purpose of consolidating the unity of our people’¹¹. Thus, if the Act fails to promote or protect the principles of freedom, equality and justice or does not promote the unity of Nigerians, the Act would have failed and cannot be a basis for the derogation of any of the rights outlined in section 45(1). This is irrespective of whether or not there are national security concerns. Another nuanced requirement of section 45 (1) is that the Act must be made ‘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’. The keywords here are ‘in the interests of’ and ‘for the purpose of’. Thus, that the Act purports to promote defence, public safety, public order, public morality or public health, or protect the rights and freedom of other persons is not sufficient. Rather the derogations which the Act purports to make must be necessary to achieve these objectives. Thus, if it can be demonstrated that the same objectives can be achieved without the derogation of human rights of any particular citizen, irrespective of statutory provision, the Act would have failed. This is because the Act would have failed to demonstrate enacted ‘in the interests of’ and ‘for the purpose of’ promoting national security. The combination of (a) and (b) of ii of section 45 (1) are what constitutes national security. As already explained above, national security consists of a series of concerns that may face a country at different times. Thus, if these concerns, be it food security, health, external aggression, internal upheaval, terrorism, etc., things cannot be prevented by the derogation of rights of citizens or it is unnecessary to derogate rights of citizens to resolve the concerns and thus promote National Security, then any law that derogates human rights in the guise of protecting National Security would be both unnecessary and unjustifiable in a democratic society.

3. Human Rights and National Security Juxtaposed

Some arguments have persisted as to which has priority over the other between human rights and national security¹². The primary purpose of the state is the wellbeing of its citizens and this includes both security, socio-political and economic welfare. In Nigeria, this has been constitutionally provided to mean the promotion of the security and welfare of citizens¹³. This is stated thus, in section 14(1) (b) ‘the security and welfare of the people shall be the primary purpose of government’. This provision is made under Chapter II of the CFRN 1999 as amended which provides for the Fundamental Objectives and Directive Principles of State Policy. Despite this appellation of ‘Fundamental Objectives’, they have been consistently adjudged as non-justiciable while adjudging chapter 4

¹⁰ Megan A Yasenchak, Jennifer Giglio, and Margaret Paxson *National Security and Human Rights* Conference Proceedings June 29, 2006 Moscow, Russian Federation, Kennan Institute Woodrow Wilson International Center for Scholars at 18;

¹¹ Preamble to the Constitution, which is the objective for which the powers in Section 4 of the CFRN 1999 as amended must be exercised.

¹² Adetokunbo Mumuni, ‘Security, Human Rights and the State of Nigeria Democracy’, [2013] paper presented at the Civil Society Situation Room Meeting on Tuesday, 9th Day of July, 2013 at Protea Hotel and Apartment, Apo, Abuja at 5

¹³ Section 13(2) CFRMN 1999 as amended.

justiciable. Chapter IV provides for fundamental rights. But this dichotomy is flawed because the security and welfare of citizens can only be demonstrated by the achievement of the provisions and protections guaranteed by Chapter IV, the so-called justiciable rights. This is perhaps why in certain jurisdictions, for example in India it has been held that fulfillment of civil and political rights (our Chapter IV), without fulfillment of social and economic rights (our Chapter II), is deficient¹⁴. In addition, some Nigeria scholars have suggested, perhaps in a roundabout way that both Chapters II and IV have the same objectives and should, therefore, be justiciable. Authority has in fact been drawn from the provisions of the African Charter on Human rights. This charter, which Nigeria has domesticated, grants justiciability to most of the rights that constitute Charter II of the Nigerian constitution. Some have thus argued that Charter II of the CFRN 1999 as amended, by virtue of the domestication of the African charter, is justiciable. In other words, none have priority over the other but each should be a fulfillment of the other. This position is however yet to be generally accepted or positively pronounced by the Supreme Court of Nigeria. Thus, supposing but not conceding, that national security and human rights are two different objectives, we highlight below instances of human rights that are subjected to derogation by the narrow pursuit of national security. Such derogation could be through statutory provisions or prosecutorial practice. The derogation must, however, have been in accordance with the requirements stipulated in the Constitution. Under the constitution, there could be legislative derogation of fundamental rights on grounds of National security. This is provided for in sections 45(1) and (2) of the CFRN 1999 as amended. Under section 45 the following rights could suffer derogation: Section 33 Right to life, Section 35 Right to personal liberty, Section 37 Right to private and family life, Section 38 Right to freedom of thought, conscience and religion, Section 39 Right to freedom of expression and the press, Section 40 Right to peaceful assembly and association, and Section 41 Right to freedom of movement. Sections Section 33, Right to life and Section 35 Right to personal liberty, could however only suffer derogation upon declaration of emergency in fulfillment of section 305.

4. The Legality or Otherwise of Civil Protests and Demonstrations in Nigeria: An Overview

In view of the polices, attitude to civil protests and demonstrations in Nigeria demonstrated above, it is imperative that one interrogates the lawfulness or otherwise of these activities under the Nigerian legal milieu. Two pillars support the legality of protests and demonstrations in Nigeria. First, the right to protest is deeply entrenched in international human rights instruments to which Nigeria is a party¹⁵, as well as in Nigeria's municipal legal regime. Secondly, the right to protest is widely accepted as a fundamental norm in all democratic societies. Nigeria is party to several international instruments which embody these rights. Among these international instruments, the Universal Declaration of Human Rights (Universal Declaration) and the African Charter on Human and Peoples' Rights (African Charter) are significant. Nigeria has not only signed and ratified the African Charter, but it has domesticated it by enacting it as the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act¹⁶. In *Abacha v Fawehinmi*¹⁷, the Supreme Court held that the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, being municipal law, is enforceable by all courts in Nigeria. The Court of Appeal reinforced this position when it held that the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act was a statute with international flavour. That being the case, in the case of a conflict between it and another statute, its provisions shall prevail over those of the other statute for the reason that it is presumed that the legislature does not intend to breach an international obligation¹⁸. Most importantly, however, the Constitution of the Federal Republic of Nigeria (CFRN) 1990 sufficiently guarantees the right to protest and demonstration. Section 39 of the Constitution provides that 'every person shall be entitled to freedom of expression; every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions. Similarly, section 40 of the Constitution provides: Every person shall be entitled to assemble freely and associate with other persons, and in particular, he may form or belong to any political party, trade union or any other association for the protection of his interests. Provided that the provisions of this section shall not derogate from the powers conferred by this Constitution on the Independent Electoral Commission with respect to political parties to which that Commission does not accord recognition. On the other hand, the right to express dissent with policies and decisions of government or its agencies is one of the cardinal principles of democracy. This fact has also been given judicial approval by the Nigerian courts as they have held that¹⁹:

[a] rally or placard carrying demonstration has become a form of expression of views on current issues affecting government and the governed in a sovereign state. It is a trend recognized and deeply entrenched in the system of governance in civilized countries. It will not only be primitive but also retrogressive if Nigeria continues to require a pass to hold a rally. We must borrow a leaf from those who have trekked the rugged path of democracy and are now reaping the dividends of their experience.

¹⁴ *Frannus v Union Territory of Delhi AIR 1981 SCC 7* (Indian Supreme Court Judgement); See generally J Nnamdi Aduba, 'The Right to Life under Nigerian Constitution: The Law, The Courts and Reality', [2011] SMA Belgore Chair Series Nigerian Institute of Advanced Legal Studies Abuja at 8 - 10.

¹⁵ Arts 19 & 20 Universal Declaration; arts 9, 10 & 11 African Charter.

¹⁶ Cap 10, Laws of the Federation of Nigeria 1990

¹⁷ (2000) 6 NWLR (Pt 660) 228.

¹⁸ *Inspector-General of Police v All Nigeria Peoples Party & Others* (2007) 18 NWLR 469 500 paras B-C.

¹⁹ *Ibid*, 471 501 paras G-H.

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This sentiment was echoed by Muhammad JCA when he emphasizes that certainly, ‘in a democracy, it is the right of citizens to conduct peaceful processions, rallies or demonstrations without seeking or obtaining permission from anybody. It is a right guaranteed by the 1999 Constitution and any law that attempts to curtail that right is null and void and of no consequence’.

In spite of the above, however, it is important to note that the right to hold rallies, processions and demonstrations does not go without recognized derogations or restrictions. These restrictions follow almost every legal instrument that guarantees such rights. Section 45 of the 1999 Constitution provides that:

Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society – (a) in the interest of defence, public safety, public order, public morality or public health; or (b) for the purpose of protecting the rights and freedom of other persons²⁰.

Historically, though, Nigeria’s Public Order Act²¹ is a colonial piece of legislation; it is currently an Act of the National Assembly, deriving its powers from section 45(1) of the 1999 Constitution and is considered to be an existing law by virtue of section 315 of the Constitution²². The Public Order Act (which prescribes conditions to be fulfilled before a procession, demonstration or protest could be carried out lawfully) therefore effects the derogation anticipated by section 45(1) of the 1999 Constitution. However, as seen in my earlier analysis, the police in Nigeria have deployed the Public Order Act to unjustifiably deny people and groups the right to carry out processions or demonstrations, most often for the political aims of the ruling class. It is expected that permissible derogations to these rights in a democratic society should be enacted within the context of the rule of law, within the parameters of legality, necessity, proportionality, temporality and non-discrimination²³, rather than for political reasons as is usually the case in Nigeria.

5. Civil Society and Public Participation in the End Bad Governance Protest and its Impact in Promoting Political Accountability by the Government

The ‘End Bad Governance’ protest held from August 1 to August 10, 2024, in Nigeria was a significant demonstration led by civil society groups, activists, and ordinary citizens calling for improved governance, accountability, and transparency from the Nigerian government. The protests were marked by mass participation across major cities, fueled by widespread dissatisfaction with issues such as corruption, poor service delivery, and lack of responsiveness from political leaders. Civil society organizations (CSOs) played a crucial role in mobilizing public participation in the protests. Key organizations, including pro-democracy groups, human rights organizations, and youth-led movements, were instrumental in organizing rallies, raising awareness, and coordinating actions across different states. They utilized social media platforms effectively to disseminate information, call for peaceful assembly, and ensure that the voices of marginalized groups were included in the protest narratives. The protest saw unprecedented levels of public participation, with diverse groups of citizens—youths, professionals, and community members—actively engaging in peaceful demonstrations²⁴. The broad-based participation highlighted the collective demand for change and showcased the power of citizen-led accountability. It was a manifestation of the growing discontent with the status quo and a clear call for the government to act in the public interest. Civil society’s involvement in the protests significantly pressured the government to address issues of bad governance. Their continuous advocacy and real-time documentation of government responses helped keep the protests in the national and international spotlight, thereby increasing scrutiny on public officials²⁵. The sustained pressure led to some immediate government commitments to address protesters’ demands, including pledges for more transparency and reforms in public administration. Public participation helped promote political accountability by directly challenging the government’s performance and calling for more transparent and inclusive governance. The protests catalyzed a national dialogue on governance issues and demonstrated the public’s readiness to hold leaders accountable through non-violent means²⁶. This civic engagement was pivotal in creating a more vigilant and politically active citizenry, reinforcing the democratic principle that government must be accountable to the people. The ‘End Bad Governance’ protests thus exemplified how civil society and public participation can drive political accountability, making it clear that the government must be responsive to the will of the people.

²⁰ See similar derogations under art 29 of the Universal Declaration and art 11 of the African Charter.

²¹ now Cap 382 LFN 1990

²² *Inspector-General of Police v All Nigeria Peoples Party & Others* (2007) 18 NWLR 469, p. 472.

²³ J L Roy, *Bridging Human Rights and Security*. Retrieved online from http://www.ichrdd.ca/site/_PDF/publications/intHRadvocacy/bridgingrightsandsecurity.pdf. Accessed on 28th August 2024.

²⁴ *Sahara Reporters*, Mass Protests Sweep Nigeria: Citizens Demand End to Bad Governance, 2nd August, 2024. Retrieved online from <https://saharareporters.com/>. Accessed on 16th September, 2024.

²⁵ Amnesty International, *Nigeria: End Bad Governance Protests Highlight Urgent Need for Government Accountability*, *Amnesty International Report, 2024*. Retrieved online from <https://www.amnesty.org.ng/>. Accessed on 6th September, 2024.

²⁶ National Human Rights Commission, *Report on the 'End Bad Governance' Protests: Implications for Human Rights and Governance in Nigeria, 2024*. Retrieved online from <https://www.nigeriarights.gov.ng/>. Accessed on 6th September, 2024.

6. The Intersection between Freedom of Assembly, National Security, and Political Accountability under the 1999 Constitution (as amended) using the 'End Bad Governance protest as a Case Study

The doctrine of proportionality plays a pivotal role in assessing the validity of restrictions on the right to freedom of assembly. Under this doctrine, any limitation on constitutional rights must be necessary, suitable, and the least restrictive means of achieving the intended purpose. This is particularly relevant in the context of national security, where governments often invoke broad powers that can impact fundamental freedoms. Nigerian courts have, on occasion, applied this doctrine to assess whether restrictions on freedoms, including assembly, are justified. For example, in the case of *Inspector General of Police v. All Nigeria Peoples Party & Ors*²⁷, the Court of Appeal held that the Police Act²⁸, which required permits for public assemblies, was inconsistent with the Constitution. The court emphasized that the freedom of assembly could not be subject to the whims of the police, highlighting the need for restrictions to be lawful, necessary, and proportionate. National security is often cited as a justification for restricting the right to assembly. In the context of the 'End Bad Governance' protests, the Nigerian government has argued that such gatherings could threaten public order and security, particularly when protests escalate into violence or disrupt essential services. The key issue here is determining when and how these security concerns legitimately outweigh the constitutional right to protest. The Constitution does not provide a precise definition of national security, leaving it open to broad interpretations by the government. However, international human rights standards, such as the Siracusa Principles on the Limitation and Derogation Provisions²⁹ in the ICCPR³⁰, provide guidance. These principles assert that national security can only be invoked to restrict rights in cases where there is a genuine threat to the nation's existence or its territorial integrity. Thus, any claim of national security must be substantiated with concrete evidence, and restrictions should not be used as a pretext for suppressing dissent. The Nigerian judiciary has played a crucial role in interpreting the balance between freedom of assembly and national security. The landmark case of *All Nigeria Peoples Party (ANPP) & Ors v. Inspector General of Police*³¹ set a significant precedent. The court held that the requirement for police permits for rallies and protests was unconstitutional as it violated the right to freedom of assembly. The ruling underscored that peaceful protests should not be unduly restricted by the state. Another notable case is *I.G.P v. Anigbogu*³², where the court reaffirmed the position that restrictions on protests must be justified and not arbitrary. The court emphasized that the right to protest is intrinsic to democratic governance and that security concerns must be balanced against the need to respect constitutional liberties.

The intersection of freedom of assembly and national security under the 1999 Constitution of the Federal Republic of Nigeria presents a critical area of constitutional law and democratic governance. The 'End Bad Governance' protests from August 1 to August 10, 2024, offer a contemporary case study to explore this intersection, as they highlighted the tensions between citizens' rights to peaceful assembly and the state's responsibility to maintain national security and public order. The 'End Bad Governance' protests of August 2024 were sparked by widespread public dissatisfaction with the state of governance in Nigeria. Key issues included allegations of corruption, inadequate public services, lack of transparency, and perceived government unresponsiveness. The protests were largely peaceful, with demonstrators calling for reforms and greater accountability from public officials. The Nigerian government's response to the protests involved a complex interplay of respecting the right to assembly while addressing national security concerns. Law enforcement agencies were deployed to maintain order, but there were reports of excessive force, arrests, and attempts to disperse peaceful gatherings. The government cited concerns over potential violence, threats to public safety, and disruptions to public order as justifications for its actions. The government's invocation of national security concerns was viewed by some as a legitimate measure to prevent chaos and ensure the safety of the public. However, others argued that these measures disproportionately infringed on the right to peaceful assembly, with instances of excessive force being seen as an overreach of state power. The protests and the government's response raised important legal and ethical questions about the limits of state power in restricting fundamental rights:

Proportionality and Necessity: Restrictions on freedom of assembly must be proportional to the threat and necessary in a democratic society. The use of force or other restrictive measures must be the last resort, and any intervention should be carefully calibrated to minimize infringement on rights.

Judicial Oversight and Accountability: In situations where the government imposes restrictions on assembly citing national security, there must be avenues for judicial review to assess the legality and proportionality of such actions. This ensures that executive powers are not abused under the guise of national security.

²⁷ (2008) 12 WRN 65.

²⁸ The Police Act Cap. P19, Laws of the Federation, 2004.

²⁹ The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, 24th September, 1984.

³⁰ The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty that commits nations to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.^[31] It was adopted by United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966 and entered into force on 23 March 1976 after its thirty-fifth ratification or accession

³¹ (2006) CHR 181.

³² (2021) 3 NWLR (Pt. 1765) 519.

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Human Rights and Law Enforcement Conduct: The conduct of law enforcement during the protests brought into focus the need for adherence to human rights standards. The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials advocate for restraint, proportionality, and accountability in managing public assemblies.

7. Conclusion and Recommendations

The 'End Bad Governance' protests represent a vital exercise of democratic rights under Nigeria's constitutional framework. They serve as a powerful reminder of the citizenry's role in holding government accountable and the ongoing need to safeguard democratic freedoms. As Nigeria continues to navigate the complex relationship between maintaining national security and upholding civil liberties, the lessons from these protests should inform a more inclusive, responsive, and accountable governance framework. By strengthening the constitutional protections of assembly and enhancing mechanisms for political accountability, Nigeria can better fulfill the democratic aspirations of its people while ensuring stability and security. There is a need to reinforce the legal and institutional frameworks that protect the right to freedom of assembly in Nigeria. This includes reviewing existing laws to ensure they align with international human rights standards and are not overly restrictive. Legislators should consider amendments to laws that currently provide broad discretionary powers to security agencies in managing public assemblies, ensuring these powers are clearly defined and limited to necessary and proportionate measures. To prevent abuses and ensure accountability, there should be stronger oversight mechanisms for the conduct of security forces during protests. Independent bodies should be empowered to investigate and address any allegations of excessive force or violations of protestors' rights. Training programs for law enforcement officers should emphasize human rights, the importance of peaceful assembly, and the appropriate use of force guidelines to foster a culture of respect for civil liberties. The government should prioritize dialogue and constructive engagement with protest organizers and civil society groups. Establishing platforms for dialogue can help address grievances. Efforts should be made to increase public awareness of constitutional rights, including the right to assembly and the responsibilities that come with it. Educational campaigns can help inform citizens of their rights and the lawful ways to exercise them. National security measures should be carefully balanced against civil liberties to ensure that they do not become tools for suppressing dissent. The judiciary should play a proactive role in reviewing any restrictions on freedom of assembly to ensure they meet constitutional standards.