Available on: https://jsshrs.ep-journals.org/ E-ISSN: 3051-3561 P-ISSN: 3051-3553

Journal of Social Science and Human Research Studies

Volume: 02 Issue: 03 March-2026

Press Freedom and Individual Privacy Rights in Nigeria: Balancing Constitutional Guarantees and Media Responsibility

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Published Date: March 09, 2026 **Article DOI: 10.65150/EP-jsshrs/V2E3/2026-03**

ABSTRACT: Press freedom and the right to privacy are twin pillars of democratic governance and human dignity. In Nigeria, both rights enjoy constitutional protection under the 1999 Constitution (as amended), yet their coexistence has remained contentious. Media investigations, crime reporting, political exposés, and the proliferation of digital and social media have intensified clashes between the public's right to know and individuals' claims to privacy. This paper undertakes a doctrinal and analytical examination of the tension between press freedom and individual privacy rights in Nigeria. It analyses the constitutional and statutory framework, judicial attitudes through Nigerian case law, and relevant international and regional human rights instruments. Using the social responsibility and rights-balancing theories, the paper demonstrates that neither press freedom nor privacy is absolute and that Nigerian courts have increasingly adopted a balancing approach anchored in public interest and proportionality. The paper identifies persistent challenges such as weak enforcement, sensational journalism, and technological disruption, and proposes reforms aimed at achieving a principled and predictable balance between media freedom and the protection of individual dignity. It concludes that a responsible press and a coherent legal framework are essential for sustaining democracy and human rights in Nigeria.

KEYWORDS: Press Freedom; Right to Privacy; Nigerian Constitution; Media Law; Human Rights

1. INTRODUCTION

The press occupies a strategic position in democratic societies, functioning as a watchdog over government, a forum for public discourse, and a channel for information dissemination (McQuail, 2010). A free press promotes transparency, accountability, and citizen participation in governance. Equally fundamental, however, is the right to privacy, which protects individuals from unwarranted intrusion into their personal lives and preserves human dignity (Warren & Brandeis, 1890). The coexistence of these two rights is essential for democratic development, yet their interaction often generates tension, particularly in pluralistic societies with vibrant media landscapes.

In Nigeria, the importance of press freedom is underscored by the country's history of authoritarian military regimes, during which media repression was commonplace (Ogbondah, 2003). The return to democratic rule in 1999 ushered in renewed constitutional guarantees for freedom of expression and press freedom. At the same time, the Constitution recognizes the right to privacy as a fundamental human right, reflecting Nigeria's commitment to international human rights norms. Despite these guarantees, conflicts between press freedom and privacy rights have persisted, manifesting in litigation, public controversies, and regulatory interventions.

The expansion of investigative journalism, the rise of online news platforms, and the ubiquity of social media have further complicated the relationship between these rights. Journalists increasingly rely on leaked documents, undercover investigations, and digital content, sometimes at the expense of personal privacy (Akintola & Olatunji, 2020). High-profile cases involving the publication of private communications, images, or allegations against public officials and private citizens have sparked debates on the limits of press freedom in Nigeria.

The core problem addressed in this paper is the absence of a clear, coherent, and consistently applied framework for resolving conflicts between press freedom and individual privacy rights in Nigeria. While constitutional provisions and statutory laws provide some guidance, judicial decisions reveal inconsistencies in balancing these rights. This uncertainty affects media practice, individual rights protection, and democratic accountability.

The objectives of this study are fourfold: first, to examine the conceptual foundations of press freedom and the right to privacy; second, to analyse the constitutional and statutory framework governing these rights in Nigeria; third, to assess judicial attitudes through case law on conflicts between press freedom and privacy; and fourth, to propose recommendations for achieving an effective balance between these competing rights. The study adopts a doctrinal research methodology, relying on statutes, case law, and scholarly literature.

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Press freedom

Press freedom refers to the liberty of journalists and media organizations to gather, process, and disseminate information and opinions without censorship, intimidation, or undue interference (Siebert, Peterson, & Schramm, 1956). It is rooted in the broader right to freedom of expression

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and is essential for democratic governance. A free press enables citizens to make informed choices, expose corruption and maladministration, and facilitates public debate.

In Nigeria, press freedom has evolved through distinct historical phases. During the colonial era, press activities were regulated through sedition and criminal libel laws. Military regimes further curtailed media freedom through decrees such as Decree No. 4 of 1984, which criminalised certain publications. The post-1999 democratic era has witnessed greater press freedom, though challenges such as harassment, arrests, and economic pressure persist (Ojo, 2011).

2.2 Right to privacy

The right to privacy protects individuals against arbitrary or unlawful interference with their private lives, homes, communications, and personal data (International Covenant on Civil and Political Rights [ICCPR], 1966). Privacy safeguards personal autonomy, emotional well-being, and dignity. It allows individuals to control information about themselves and to maintain boundaries between their public and private lives.

Privacy has multiple dimensions, including informational privacy, bodily privacy, and decisional privacy (Solove, 2008). In Nigeria, concerns about privacy have intensified with the growth of digital technologies, surveillance, data harvesting, and online publication of personal information without consent.

2.3 Theoretical framework

This study is anchored in the Social Responsibility Theory of the press, which holds that media freedom must be exercised responsibly and in the public interest (Siebert et al., 1956). The theory emphasises ethical standards, accuracy, and respect for individual rights. Unlike libertarian theories that prioritize absolute freedom, the social responsibility approach recognizes the need for accountability and regulation.

Additionally, the Rights-Balancing theory is employed. This approach acknowledges that fundamental rights are not absolute and must be harmonized when they conflict. Courts are required to weigh competing interests and adopt solutions that are proportionate and justifiable in a democratic society (Alexy, 2002).

3. LITERATURE REVIEW

Legal and Constitutional Framework in Nigeria

3.1 Constitutional provisions on press freedom

Section 39(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) guarantees the right to freedom of expression, including the freedom to hold opinions and to receive and impart ideas and information without interference. This provision forms the bedrock of press freedom in Nigeria. Section 39(2) further permits the establishment and operation of media organizations, subject to licensing requirements for broadcasting.

In Tony Momoh v. Senate of the National Assembly (1981) 1 NCLR 105, the court affirmed that freedom of expression includes the right of journalists to protect their sources and warned against legislative actions that unduly interfere with press functions. In addition, Section 22 of the Constitution assigns the mass media the responsibility of holding the government accountable to the people.

However, press freedom is not absolute. Section 39(3) allows laws that impose restrictions reasonably justifiable in a democratic society, particularly for protecting the rights and reputations of others. This limitation clause is central to resolving conflicts between press freedom and privacy rights.

3.2 Constitutional protection of privacy

The right to privacy is guaranteed under Section 37 of the Constitution, which provides for the privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications. In Medical and Dental Practitioners Disciplinary Tribunal v. Okonkwo (2001) 7 NWLR (Pt. 711) 206, the Supreme Court emphasized personal autonomy and privacy as core constitutional values.

3.3 Statutory regulations affecting press and privacy

The Nigerian Press Council Act promotes ethical journalism and professional standards. Defamation laws under the Criminal Code and Penal Code provide remedies for reputational harm caused by media publications. The Cybercrimes (Prohibition, Prevention, etc.) Act 2015 addresses unlawful access to data and cyberstalking, indirectly strengthening privacy protection.

The Freedom of Information Act 2011 enhances access to public information but exempts personal data where disclosure would constitute an unwarranted invasion of privacy (Freedom of Information Act, 2011, s. 14).

3.4 Press Freedom Versus privacy Rights: Areas of conflict with Nigerian examples

Conflicts between press freedom and privacy rights in Nigeria arise in several contexts.

3.4.1 Investigative journalism and exposure of corruption

Investigative journalism often involves disclosure of confidential information to expose corruption. Nigerian media reports on financial misconduct by public officials frequently rely on leaked documents. While courts have recognised that public officials have a reduced expectation of privacy, excessive disclosure may still violate constitutional privacy protections (Akanbi, 2019).

3.4.2 Crime reporting and presumption of innocence

Nigerian media frequently publish names and photographs of criminal suspects prior to trial. In Onagoruwa v. Inspector-General of Police (1991) 5 NWLR (Pt. 193) 593, the court warned against actions that undermine constitutional rights, including dignity and fair trial, which are closely linked to privacy.

3.4.3 Reporting on public figures

While public figures are subject to scrutiny, Nigerian courts have stressed that not all aspects of their private lives are matters of public interest. In Okonkwo v. Guinness (Nig.) Plc (1980) 1 NCR 212, the court held that reputational and personal rights must not be sacrificed on the altar of sensational journalism.

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3.4.4 Digital media and social networks

The rise of blogs and social media has led to widespread circulation of private images and communications. Nigerian courts have increasingly relied on cybercrime and tort principles to address such violations (Cybercrimes Act, 2015).

3.5 Judicial Attitude and Case Law Analysis

Nigerian courts have gradually moved toward a balancing approach. In R v. Amalgamated Press of Nigeria Ltd (1961) All NLR 199, the court acknowledged press freedom but emphasised responsibility. Courts now consider public interest, proportionality, and necessity in determining whether privacy intrusion is justified.

The emerging judicial trend aligns with international human rights jurisprudence, recognising that freedom of expression may be limited to protect privacy where such limitation is lawful and proportionate (ICCPR, art. 19(3).

3.6 International and Regional Human Rights Instruments

Nigeria is bound by international instruments protecting both press freedom and privacy, including the UDHR (1948), ICCPR (1966), and African Charter on Human and Peoples' Rights (1981). The African Charter has been domesticated in Nigeria and applied in cases such as Abacha v. Fawehinmi (2000) 6 NWLR (Pt. 660) 228.

3.7 Challenges in Balancing Press Freedom and Privacy in Nigeria

Key challenges include weak enforcement, sensational journalism, political pressure, inadequate digital privacy regulation, and low public awareness (Olatunji, 2021).

The courts which are constitutionally empowered to enforce a balance between press freedom and privacy are often limited by a lack of clear legislative instruments. Added to that, political influence often impact negatively on court processes, especially where a politically exposed person is involved.

Again journalists, in order to sell their media products often employ sensationalism, thereby abdicating the need for fairness and balance in reportage.

Furthrmore, the low level of public awareness about the legal and ethical provisions with regards to the need to balance press freedom privacy concerns, is a challenge that needed to be handled by sustained mass mobilization endeavours.

Also the vast, and highly technical and anonymous nature of the digital media space, lend credence to the difficulty in its regulation.

3.8 Recommendations

Courts should consistently apply a public-interest proportionality test. In any case for determination before the courts, the proportionality test should be applied to determine the balance between public interest and the protection of individual privacy rights.

Media organisations must strengthen self-regulation in the interest of the society. Self censorship by the media should be preferred to government regulation.

Nigeria should adopt comprehensive data protection and privacy enforcement mechanisms. One of the greatest drawbacks to the advent of the digital technology in Nigeria is the lack of data security.

4. CONCLUSION

Press freedom and individual privacy rights are indispensable to Nigeria's democracy. Through responsible journalism, coherent legal standards, and judicial balancing grounded in proportionality and public interest, both rights can be effectively protected.

Ethics Declaration

Ethic Approval

Not applicable

Consent for Publication

Not applicable. This review did not involve human participants, personal data, or case studies requiring consent for publication.

Competing Interests

Author has declared that no competing interests exist.

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