Democracy and Human Rights in Nigeria’s Fourth Republic

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The long period of military rule in Nigeria was characterized by lack of respect for the human rights of citizens. The reinstatement of democracy in 1999 was viewed as a milestone in Nigeria’s stride towards respect for human rights. Unfortunately, democracy as it is practiced in Nigeria has not improved respect for human rights. This necessitates the question: why has human rights violation persisted in Nigeria in spite of democratic rule? This paper identifies three reasons why human rights violations persist in the fourth republic.

Key Words: Democracy, Fourth Republic, Human Rights, Human Rights Violation, Nigeria

Introduction
In spite of the introduction of democratic rule in 1999, human rights violation still remains a major problem in Nigeria. This necessitates the following questions which this study seeks to answer: why has human rights violation persisted in spite of the introduction of democratic rule? Before answering this question, the paper begins with the conceptualization of key concepts used in the study. It also examines different perspectives on human rights violations in democratic regimes.

Clarification of Major Concepts
This section of the paper clarifies the concept of democracy and human rights. Although democracy is one of the most commonly used terms in the political science lexicon, it is a concept that defies a simple definition. There are countless definitions of what democracy should be and what democracy is. That is why Kekic (2007:1) asserted: “There is no consensus on how to measure democracy, definitions of democracy are contested and there is an ongoing lively debate on the subject.” In etymological terms, the word democracy comes from ancient Greek word δημοκρατία, which combines δῆμος, the “people”, with κράτος, meaning “rule”, “power” or “strength”. Put together, the literal denotation of democracy is “rule by the people”, culminating in a popular form of government. The historic origin of democracy roots in the Ancient Greek city-states of the fifth century BC, with Athens as the most prominent example. Influential for modern politics (with regard to a frequent referencing) is the so-called “Gettysburg Address” of the U.S. president Abraham Lincoln (November 19, 1863), who coined democracy as a “government of the people, by the people and for the people”. The full quote of the crucial passage of Lincoln’s speech from which this definition is derived is stated below:

It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.” (Sodaro 2004:168).

Lincoln’s definition quoted above describes direct democracy, i.e. the form of democracy practiced in ancient Greek city state. The nature of democracy in
most modern societies has elicited many other definitions of democracy. In the words of Sithole (1994:153) “democracy is a form of governance in which the supreme power or authority in a society is vested in the people and that power is exercised by the people directly or indirectly through an institutionalized system of representation involving periodically held free and fair elections”. Beetham (1993:55) also asserted that democracy is a “mode of decision-making about collectively binding rules and polices over which the people exercise control and the most democratic arrangement to be that where all members of the collective enjoy effective equal rights to take part in such decision making directly - one, that is to say, which realizes to the greatest conceivable degree the principles of popular control and equality in its exercise...”. Expatiating on the meaning of democracy, Schumpeter (1947:269) introduced the concept of competitive democracy which he defined as: “The institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the peoples' vote.” Two points are worth noting. Firstly, this is a theory of political democracy. Secondly, it is a theory of democracy that focuses on the procedural (input) aspect of the political process. This postulation about democracy is complemented by Dahl’s notion of “elective polyarchy.” The term polyarchy was introduced into the English language in the seventeenth century as a term meaning “government by many,” but later fell into disuse. Robert A. Dahl and Charles E. Lindblom revived the term in Politics, Economics, and Welfare (1953) to refer to a process by which non-leaders control leaders. Dahl subsequently revised and developed the concept, defining it as a political regime that is “highly inclusive and extensively open to public contestation” (Dahl, 1971:8). He also asserted that it is a regime in which “citizenship is extended to a relatively high proportion of adults, and the rights of citizenship include the opportunity to oppose and vote out the highest officials in government” (Dahl, 1989: 220). Polyarchy refers to the form of government found in contemporary democracies, but it is not the same as democracy. Dahl (1989) understands democracy to be a regime completely responsive to all its citizens. As such, democracy is an ideal, and polyarchy refers to regimes at considerable distance from the ideal.

From the foregoing, and irrespective of any common conceptualization of the word democracy, three elements seem to be keys to various definitions given to the subject. They are: competition, participation and the existence of civil and political liberties (Dinneyta, 2006:25). These viewpoints on democracy show that democracy and human rights ought to be inseparable. The difference in what democracy ought to be and what it is in practice has brought about the concept of “quality of democracy”.

The concern with human rights in the world today stems from the perception widely shared with French philosopher Jean Jacques Rousseau that “man, though born free, is everywhere in chains” (Domingnez, et al., 1979: 25). In spite of the abundant literature on the study of human rights, it does not lend itself to a precise definition. According to the United Nations Office for Human Rights (2012:1) “human rights are universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity”. Vance (1980: 5-6) however, conceives it in three dimensions. First, there is the right to be free from government violation of the integrity of the person. Second, there is the right to the fulfillment of such vital needs as food, shelter, health care education. Third, there is the vigour to enjoy civil and political liberties. Emphasizing what human rights encapsulates in his opening statement to the World Conference on Human Rights at Vienna on 14 June 1993 the then United Nations Secretary-General, Boutros Boutros-Ghali, proclaimed that “human rights constitute a common language of mankind and the ultimate norm of all politics. Adopting this language allows all peoples to understand others and to be the authors of their own history. Human rights, by definition, are the ultimate norm of all politics”. (Boutros-Ghali, 1993: 8) Today everyone talks about them and struggles for their recognition, promotion and protection. That is why Heard (1997:1) asserted that “human rights are almost a form of religion in today’s world. They are the great ethical yardstick that is used to measure a government’s treatment of its people”.

In the view of Ake (1987) the idea of human rights is quite simple. It is that humans have certain rights simply by virtue of being humans, and these rights are a necessary condition for the good life. Because of their singular importance, according to him,
individuals are entitled to, indeed, required to claim them and society is enjoined to allow them – otherwise the quality of life is seriously compromised. The Universal Declaration of Human Rights (1948) sets out a list of over two dozen specific human rights that countries should respect and protect. These specific rights can be divided into six or more families:

1. **Security rights** that protect people against crimes such as murder, massacre, torture, and rape;
2. **Due process rights** that protect against abuses of the legal system such as imprisonment without trial, secret trials, and excessive punishments;
3. **Liberty rights** that protect freedoms in areas such as belief, expression, association, assembly, and movement;
4. **Political rights** that protect the liberty to participate in politics through actions such as communicating, assembling, protesting, voting, and serving in public office;
5. **Equality rights** that guarantee equal citizenship, equality before the law, and nondiscrimination;
6. **Social (or “welfare”) rights** that require provision of education to all children and protections against severe poverty and starvation.

Another form of human rights that requires attention but not included in the classification above is **group rights**. Osaghae (1996: 171-188) reawakened the consciousness of the extant literature on human rights to what he called groups rights. He averred that, in Nigeria and other Third World states where different ethnic groups were put together by the colonial authorities to form the new state and where, in the absence of a strong and relatively autonomous private sector, state power is the only viable means of social reproduction, the need to have rights which ensure that state power as exercised by governments will not be used to perpetuate sectional interests cannot be overemphasized. The gross inequalities among the constituent groups in terms of size, resource endowment, socio economic development (particularly education, which is generally regarded as the open sesame to social mobility), access to, and actual holders of state power (representation in the bureaucracy, armed forces, cabinet and other government institutions) and the struggles to redress them make control of government institutions of central concern to the different groups. Therefore, to guarantee and safeguard rights, historical imbalances and inequalities between and among various groups in a plural and divided society like Nigeria to have fair and equal opportunities in all sectors of public life matter not only to peace and tranquility but also ‘human right’.

The assertion above shows that the desire to ensure the protection of the rights of ethnic groups informed the decision of multi-ethnic countries like Nigeria and Canada including India, to entrench affirmative action policies in their constitutions. For example the desire to protect the rights of ethnic minorities during the colonial period in Nigeria informed the decision of the Willinks Commission to recommend the entrenchment of the fundamental human rights of citizens in the 1960 independence constitution. Group rights also include the protection of ethnic groups against genocide and the ownership by countries of their national territories and resources.

Human rights are commonly understood as “inalienable or fundamental rights to which a person is inherently entitled simply because she or he is a human being” (Sepúlveda et al. 2004:4). Human Rights that have been guaranteed by a positive law are the enforceable human rights, while those not yet guaranteed are so bound on the ground of morality and remain as aspiration yet to be attained. It has been argued that where the human rights are entrenched in a written constitution, they are called Fundamental Rights. This position received judicial assent in Ransome Kuti and ors. Vs Federal government (1985) 8 NWLR (Part 6) P.211. In addition, Fundamental rights are those species of human rights which have been recognized and incorporated into the
constitution of any nation. However, in view of this constitutional incorporation, Nigerian Jurists have drawn a line of difference between “human rights” and “Fundamental rights”. Human rights were derived from and out of the wider concept of natural rights. They are rights which every civilized society must accept as belonging to each person as a human being. These were termed human rights. When the United Nations made its declaration, it was in respect of ‘Human Rights’ as it was envisaged that certain Rights belong to all human beings irrespective of citizenship, race, religion and so on. This has now formed part of International Law. Fundamental Rights remain in the realm of domestic law. They are fundamental because they have been guaranteed by the fundamental law of the country. Nike Tobi, JCA as he then was has opined that human rights are more of an international concept while Fundamental Rights are more of a municipal or domestic concept. The idea of incorporating the fundamental human rights of citizens in the constitution started when the minority groups, including the Niger Delta, expressed their fears in the Nigerian federation in the 1950’s. This made the colonial Secretary to constitute a commission headed by Sir Henry Willink in 1957 to look into the fears of the minorities and the means of allaying them. The commission rejected the demand for the creation of more regions and, though not convinced of the constitutional guarantee of rights, nevertheless recommended a long list of human rights for inclusion in subsequent Nigerian Constitutions. In the opinion of the commission, the sobering fact is that any government determined to abandon the democratic course could always find ways of violating such rights, but still, their inclusion in the constitution, it is hoped would be of great value in preventing a steady deterioration in standards of freedom and the unobstructive encroachment of government on individual rights. The Commission’s recommendations on human rights were accepted; the recommendations consequently formed Chapter III of both the independence constitution of 1960 and the Republican constitution of 1963. The 1979 Constitution made advancement by the inclusion of Chapter II that is Fundamental Rights contained in Chapter IV. The aborted 1989 constitution and the 1999 constitution also contain the same provision. The following civil and political rights are guaranteed by the 1999 Nigerian constitution: the right to life (section 33); the right to personal liberty (section 35); the right to fair hearing (section 36); the right and family life (section 37); the right to freedom of thought, conscience and religion (section 38); the right to freedom of expression and of the press (section 39); the right to peaceful assembly and association (section 40); the right to freedom of movement (section 41); the right to freedom from discrimination (section 42); and the right to acquire and own immovable property anywhere in Nigeria (section 43) (FRN, 1999).

**Perspectives on Human Rights Violation in Democratic Regimes**

The link between democracy and human rights has been recognized by many scholars. That is why O’Donnell (2004) summarized the quality of democracy as: Quality of Democracy = human rights + human development. Several research findings strongly support the idea that states with higher levels of democracy, regardless of their election rules, are more respectful of human rights (see Davenport 1996; 1997; Davenport and Armstrong 2004; Mitchell and McCormick 1988; Poe and Tate 1994; Poe, Tate, and Keith 1999; Richards 1999). Implied in the common understanding of democracy is the idea that democratic regimes respect the individual rights of their citizens. According to Cingranelli and Richards (1999:513) “most findings in previous empirical human rights research is that the governments of democratic countries tend to have more respect for physical integrity rights than the governments of authoritarian countries (Poe and Tate, 1994; Poe et al., 1997). Proponents of this argument contend that democracy reduces government oppression, because democracy empowers the masses. The masses, so empowered, use their power to prevent those in authority from abusing their human rights (Cingranelli and Richards, 1999). In one of the first pooled, cross-sectional, time series analyses of the factors associated with political repression, Poe and Tate (1994) found, inter alia, that regardless of whether repression is coded using Amnesty International or US State Department criteria, increased levels of democracy are associated with decreased levels of repression. Actually, Poe and Tate’s (1994) findings corroborated an enduring finding in the comparative politics literature on the negative impact of democracy on political repression (e.g. Hibbs 1973;
Political repression, in the broadest sense, refers to the systematic violation of the civil liberties and human rights of groups and/or individuals. While civil liberties generally refer to particular types of expression, human rights refer to respect for one’s personal integrity. It is these “personal integrity rights” that are usually the focus of studies of political repression. With so much empirical and theoretical support for the democracy-repression thesis, it was not surprising when Davenport (1995) found that democracy is associated with reduced levels of repression and autocracy is associated with increased levels of repression. Specifically, Davenport (1995) argued that states with different regime types respond differently to the threats they face. For him, democracies were less repressive not only because they experienced less antigovernment activity but also because they were less likely to view the dissent as threatening to the sitting regime.

Some scholars do not accept the argument above. For example, Fein (1995) suggests that countries in which there is no democracy will experience fewer violations of physical integrity rights than those states in the intermediate stages of democracy. This argument is referred to as the “more murder in the middle” thesis. Fein (1995:173) further states that “…the expansion of democracy actually increases the motives for repression among elites and parties fearing a populist victory”. Factors such as division among the elites, inequality, and violent challengers threatening the current social order impel the governing elite to resort to repression or state terror. Yet another counter-argument is that the end of the Cold War has encouraged the creation of many “illiberal democracies”. As Zakaria (1997) has argued, regular elections are held in these apparently democratic systems, but the people are not really empowered because there are too few constitutional limits on the power of leaders and insufficient guarantees of basic rights and freedoms. Even during the Cold War, Herman and Brodhead (1984) argued that many ‘demonstration democracies’ had been created in the Third World to please the USA and international lending institutions such as the World Bank. Other studies (Gurr, 1986; Poe and Tate, 1994; Poe, 1997) have also demonstrated that governments faced with intense domestic opposition tend to choose greater repression of the human rights of their citizens. Warding off domestic opposition saps regime strength and the domestic conflict, itself, provides a direct threat to the continued rule of the regime. Repression is one way to increase the strength-threat ratio.

As has been aptly observed, human rights abuses are “products of particular processes in the economic, social, cultural, and political systems of the country” (Abdullahi Smith Centre of Historical Research, ASCHR, 2001:2); and a clearer and deeper understanding of these goes a long way to facilitate informed analyses and recommendations on how best to address these. Similarly, understanding these contexts and dynamics is crucial to understanding the state of human rights in Nigeria today, and the ranges of violations that have occurred over time. Several explanations for human rights violation have been identified in Nigeria. The Abdullahi Smith Centre of Historical Research (ASCHR, 2010), a private non-governmental research centre based in Zaria, has identified four prevailing perspectives on human rights and their violations in Nigeria. The first is the “Head of State-Centred perspective.” This attributes violations of rights to the character of the individual civilian or military ruler in power, and assumes that, for example, when rulers are God-fearing, human rights are upheld, and when they are bad or evil, human rights are violated. Also, this perspective assumes that good rulers can be surrounded by bad lieutenants and advisers who will repress and assault the liberties of citizens and trample on their rights to serve their regime’s interests. The second perspective is the “Military Ruler perspective,” which hold that military rule is by its very nature dictatorial and hence authoritarian, repressive and intimidating. Thus, according to this perspective, violations of human rights commence from the very act of the military’s illegitimate overthrow of an elected government, and ruling without the consent of the ruled, using military decrees to subordinate the fundamental human rights of citizens enshrined in the constitution. The third perspective ascribes human rights violations in Nigeria to “Northern Domination.” It holds that rights violations are associated with, or as a result of, attempts by successive civilian and military regimes, which were led by Northerners, to impose and maintain Northern dominance on other parts of the country, and that in
the process, human rights are violated, using the Military, the Police and state policies. The fourth perspective attributes human rights violations in Nigeria to low levels of education and training, lack of equipment, corruption, poor orientation of law enforcement agencies and gross shortcomings of the Nigerian judiciary. From this perspective, human rights are violated due to the inadequacies of law enforcement agencies which define the parameters within which a given regime operates. In the view of Osita (2005: 152-153) military rule in Nigeria undermined both democracy and the guarantee of rights in many respects: it abolished the legislature; it combined the law making powers and the executive in the same person; it subverted the justice system by not only ousting the jurisdiction of the courts but also by establishing quasi-judicial institutions which did not comply with the principles of due process as well as by indulging in such activities as legislative adjudication and extra-judicial killings; and the freedom of expression, the right to life even in the sterile form guaranteed in the constitution were subverted. This assertion had earlier been amplified by Ake, (1995) who clearly showed that democracy and military rule are completely at variance with each other. He argued that the military and democracy are in dialectical oppositions. The military is a taut chain of command; democracy is a benign anarchy of diversity. Democracy presupposes human sociability; the military presupposes its total absence, the inhuman extremity of killing the opposition. The military demands submission, democracy enjoins participation; one is a tool of violence, the other a means of consensus building for peaceful co-existence (Ojo, 2006:15).

Why Human Rights Violation Persist in Nigeria’s Fourth Republic

Several reports have show that human rights violation has persisted in Nigeria in spite of democratic rule since 1999. Notable among these reports is the political terror scale (PTS). Political terror scale is a yearly report measuring physical integrity rights violations worldwide. The PTS measures levels of political violence and terror that a country experiences in a particular year based on a 5-level “terror scale.” The data used in compiling this index comes from two different sources: the yearly country reports of Amnesty International and the U.S. State Department Country Reports on Human Rights Practices.

Table 1: Political Terror Scale Levels for Nigeria (1999-2010)

<table>
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<tr>
<th>Years</th>
<th>PTS Scores (Amnesty International)</th>
<th>PTS Scores (US State Department)</th>
<th>Level</th>
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<tr>
<td>2010</td>
<td>4</td>
<td>5</td>
<td>High/Very High</td>
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<tr>
<td>2009</td>
<td>4</td>
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<td>2008</td>
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<td>4</td>
<td>High</td>
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<tr>
<td>2007</td>
<td>4</td>
<td>3</td>
<td>High/Medium</td>
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<td>2006</td>
<td>4</td>
<td>4</td>
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<td>2005</td>
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<td>Medium/High</td>
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<td>1999</td>
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Source: www.politicalterrorscale.org (accessed April 8, 2012)

Table 1 shows that the political terror level for Nigeria has been high since 1999. There seems to have been no improvement overtime. This indicates that Civil and political rights violations have expanded to large numbers of the population. Murders, disappearances and torture are a common part of life. There is also the execution of political opponents or other political murders and brutality is common. Since the persistence of human rights violation since 1999 is generally acknowledged in Nigeria, our major concern is why the persistence. Several reasons can be identified. The first is the quality of democracy in Nigeria. In the words of Sithole (1994:153) “democracy is a form of
governance in which the supreme power or authority in a society is vested in the people and that power is exercised by the people directly or indirectly through an institutionalized system of representation involving periodically held free and fair elections”. The difference in what democracy ought to be and what it is in practice has brought about the concept of “quality of democracy”. During the second half of the twentieth century there has been a substantial empirical spreading of democracies, i.e. of democratic forms of government and various forms of measures of the quality of democracy. These measures include; Freedom House Index, Polity IV Country Reports, Vanhanen’s Index of Democracy, and Democracy Index. These measures have shown that the quality of democracy in Nigeria since 1999 has been a major cause for concern. This is because of the persistence of electoral fraud and the failure of political leaders to adhere judiciously to the provisions of the constitution. Most elections conducted since 1999 have been characterized ...by massive irregularities including inflation of voting figures, declaration of result where elections were never held or not conclusive, intimidation of voters as well as manipulation of the security services (Animashaun 2007: 128). Since most elections were characterized by fraud, political leaders no longer have a sense of accountability to the electorate. This makes the violation of human rights to be carried out with impunity.

The second explanation for the persistence of human rights violations is the military factor in democratic rule in Nigeria since 1999. The declaration of some ex-military officers as winners of elections conducted at the beginning of the fourth republic engendered the retention of military approaches to governance. The first few years of the fourth republic was characterized by display of what Ojo (2006:15) described as “a culture of executive lawlessness and human rights abuses”. Basically, democracy presupposes human sociability; the military presupposes its total absence, the inhuman extremity of killing the opposition (Ake, 1995: 34). In this regard, it is important to note that since 1999, civilian authorities have been deploying the armed forces to handle civil and political crises without any restraint as in the deployment of troops to Odi community in the Niger Delta. On November 20, 1999 President Olusegun Obasanjo took a decision which became one of the worst cases of human rights violation in Nigeria. On this date, the Federal government of Nigeria in a swift move to track down some irate youths who had earlier in November 1999 alleged to have kidnapped and killed twelve policemen, declared a state of emergency in Bayelsa State. On November 20, thousands of combined military personnel invaded the community and unleashed a heavy bombardment of artillery, air craft, grenade launchers, mortar bombs and other sophisticated weapons in replication of a typical invasion of an enemy territory in real warfare. The military invasion of Odi community resulted in the loss of lives of many people including animals and aquatic creatures. Properties were looted and virtually all the infrastructure in the community were either destroyed or torched. Many citizens of Odi who were lucky to be alive were bundled aboard trucks and taken to military barracks in Elele in Port Harcourt and Warri as prisoners of war. Odi community was occupied like a conquered territory. By the time the soldiers were eventually evacuated and replaced with men of the Nigerian police, Odi was in ruins. What was left of a place with over 60,000 inhabitants was a handful of old men and women, the lame and the sick.

Also in 2001 there was the Tiv genocide. From October 22 to 24 of that year, the Nigerian army which was then under the ministerial supervision of General Theophilus Danjuma (rtd.), invaded Gbeji, Zaki-Biam and surrounding villages in a blood-thirsty onslaught which left over 200 innocent civilian victims dead and hundreds badly wounded or mutilated. Entire communities were devastated in scorched earth attacks which systematically destroyed homes and businesses as well as disrupt major economic activities, leveled public buildings, and generally sought to both decimate and demoralize the Tiv nation. Those acts of barbaric criminality on the part of the Obasanjo regime shocked the world even as they were unequivocally condemned by Nigerians and the international community (Tondu, 2001). After these incidences other numerous cases of human rights violation were recorded (Onyegbula, 2001). For example in its 2009 report: “Killing At Will: Extrajudicial Executions and Other Unlawful Killings By The Police in Nigeria”, Amnesty International documented 29 cases and chronicled numerous number of victims of extrajudicial executions who were never allowed to appear before a judge and those of enforced disappearances since 1999.
The third explanation for the persistence of human rights violation in Nigeria, especially the Niger Delta region, is the high dependence of the country on petroleum as the backbone of the economy. Scholars such as Obi (2007) and Ross (2004) have acknowledged the idea that dependence on oil often breeds corruption, misgovernance, human rights abuses and violent conflict. Political leaders since the beginning of the fourth republic have often resorted to political repression and human rights violations as strategies for ensuring the continuity in the exploitation of petroleum in the Niger Delta. The financial motives of political leaders often prevent them from acknowledging the plight of millions of people suffering various forms of human rights violation in the Niger Delta as a result of the activities of multinational oil corporations.

Conclusion
The restoration of democratic rule in Nigeria has not ameliorated the problem of human rights violation in the country. Several cases of gross human rights violations and political repression have been recorded in the fourth republic. This paper has identified three reasons for the persistence of human rights violation. These reasons are: the quality of democracy in Nigeria, the military factor in democratic rule in Nigeria and the high dependence of the country on petroleum. Improving respect for human rights in Nigeria requires effort towards advancing the quality of democracy in Nigeria and ensuring constitutionalism. This can be done among other things through the elimination of electoral fraud. If elections are conducted in a credible manner, elected representatives will be accountable to the people and willing to respect the human rights of the citizens.

References
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