

ANOTHER LOOK AT PRESS FREEDOM IN NIGERIA

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ABSTRACT

This paper takes another look at the state of press freedom in Nigeria, given fifteen years of uninterrupted democracy in the country. In order to attain a measure of conceptual clarity, three key expressions – press freedom, development and democracy have been defined. The paper relies on two theories, namely, the four theories of the press and the dependency theory to explain the relationship that often exists between the press and the state in many countries, especially Nigeria. The paper takes a historical approach by tracing the existence and development of the press gag laws to 1903. The paper is of the position that since independence, infractions on press freedom were mostly experienced during the military era with the enactment of many press gag laws. The paper notes that there have been improvements in the level of tolerance by post 1999 civilian administrations but notes that much still has to be done to attain a reasonable level of press freedom. In this regard, it is recommended among others, that an unambiguous constitutional provision should be made to safeguard press freedom in the country.

Keywords: Press Freedom, Development, Democracy.

INTRODUCTION

The United Nations has set aside May 3 annually as press freedom day in recognition of the contributions of the media to national development. Indeed, the challenge of development remains daunting for all countries especially Nigeria with the largest population of black people all over the world. With a population of over 140 billion people, going by the census figures of 2006, the country has a great human resource that many countries crave to have. Since the last census, it is possible that more than 20 million would have been added to the population. Besides its human resources, Nigeria has great material resources, with huge deposits of crude oil, gas, coal, etc. At the moment, the country is the 7th largest exporter of crude oil which was discovered in 1956 in a little town called Oloibiri in what is Rivers States, South-South, Nigeria. Despite the material and human resources available to the country, it seems obvious to keen observers that the country is not exactly doing well in development.

Some scholars have attributed this state of affairs to the debilitating effects of the oppressive colonial experience. Such scholars as the Guyanese writer Rodney (1972) has described the relationship between the colonial administration and their colonies as unhealthy, insisting that “Europe underdeveloped Africa”. It would seem that the more developed a country, the more freedom is available to the media which is a reflection of individual freedom. While there is a certain ambivalence concerning the freedom available to the press in Nigeria, the same cannot be said of the press in the United States. In granting freedom to the press in the United States, there is no ambivalence whatsoever.

Another school of thought argues vigorously that the poor state of development in Africa is essentially the fault of Africans (nay Nigerians), who have been unable to harness local

resources for the good of their countries. According to Igwe (2010) in his work *How Africa Underdeveloped Africa*, Africans should blame themselves for the poor state of affairs on the continent. As he put it:

How Africa underdeveloped Africa enters to champion the cause for a change from the blame colonialism thrust of Pan Africanists' beliefs to that of burning widespread internal contradictions whose fires have been continually fuelled by Africa's leadership profligacy – in a word massive state corruption remains the singular vice upon which all Africa's political and socio-economic problems are predicated, and the sole progenitor of all other forms of corruption altogether (p.6).

Indeed, that Africa is underdeveloped is a widely appreciated fact. Development, as a concept, is a multifaceted idea. One of the issues involved in development is increased freedom – freedom of the individual, freedom of groups and indeed freedom of the press. It seems that freedom of different kinds is an inalienable human right.

Article 19 of the Universal Declaration of Human Rights (1948) states inter alia:

Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media, regardless of frontiers.

With the landmark declaration of the United Nations, it is likely that many countries in the world would be encouraged to consider giving their peoples greater freedom and by extension, freedom of the press because individual freedom would be terribly constrained without freedom of the press. This is self evident because without press freedom it would be difficult, if not practically impossible for individuals to “seek, receive and impart information and ideas” which the United Nations so passionately espouses.

Definition of Terms: At this point, it is necessary to provide an insight into the key words in this presentation with a view to provide conceptual clarifications. For the purpose of this work, the following words – press freedom, development and democracy – would be defined.

- **Press Freedom:** The definitions of press freedom are often slippery because different persons take different positions on the issue. Some believe there is too much freedom while others think there is too little freedom of the press

According to Sambe and Ikoni (2004, p.11), “press freedom focuses its attention on the unrestrained liberty to write or publish information for the consumption of the public”. Agee et al (1979, p.29) define press freedom as “freedom to print without prior restraint”. Essentially, press freedom, being one of the crucial society's freedoms, is the right of the press to publish any information that is not clearly forbidden by the law. It suggests that the mass media institution must be entrusted with the responsibility of surveillance of the environment through the presentation and analysis of the happenings in society. Indeed, it is difficult to imagine a modern society without the press.

Development: Many scholars and practitioners have articulated development from different perspectives. Rodney (1972, p7) fittingly defines development as “increased skill and capacity, greater freedom, creativity, self-discipline, responsibility and material well being”. Rodney’s broad perspective on development is germane as it addresses many aspects of development. Meltok and Stevens (2001) relying on the power of simplicity, articulates the concept of development to mean “improving the living conditions of society”. Despite its simplicity, the definition’s emphasis on ‘living conditions’ is appropriately impactful. In addition to the material aspects of culture which the authors referred to, they were also critically aware of the non-material aspects which include the crucial freedoms of society, including press freedom.

Following the steps of the foregoing authors, it is perhaps germane to see development as all efforts made in the line of developing human capacity building because “the whole idea of development is human centred”. (Nwanne, 2012, p.62). The pursuit of development is a never-ending activity, which partly explains why there are constant improvements in human conditions.

Democracy: Though not explicitly stated in the title, it is however necessary to define democracy because of its centrality in human political organizations. A widespread definition of democracy is that it is the government of the people, for the people and by the people. Perhaps the attraction of this definition is its emphasis on the word ‘people’. This also suggests periodic elections to put people in certain positions. Experience has shown that there are different brands of democracy in different places. In many ‘democratic’ environments, the credibility of the process, especially the management of elections, has remained a major cause for concern. On the whole, it is useful to see democracy as a people-centred government in which periodic elections ideally should throw up the most acceptable candidates.

THEORETICAL FRAMEWORK

Theory is the other side of practice. Both must however work in synergy to produce expected results. The need to properly explore the theoretical foundations of this work has necessitated the use of two major theories, one in the time while the other is in the new era. The first is the normative four theories of the press: the authoritarian, the libertarian, social responsibility and the Soviet Union Approach. According to Folarin, (1998, pp. 21-22), the four theories of the press is usually classified as “normative theories” which “seeks to locate media structure and performance within the milieu in which it operates”. For instance, the authoritarian perspective relied on the divine rights of kings, in those in authority were considered next to God. Therefore, they were said to be imbued with divine knowledge which should not be questioned. The libertarian concepts deals with the understanding that human beings should be free. This idea was espoused and vigorously canvassed by such writers and thinkers as John Stuart Mill and others.

In 1975, Melvin Defleur and Sandra Ball-Rokeach, according to Baran (2002, p. 386) offered a view of potentially powerful mass media, tying that power to audience members’ dependence, noting that their dependency theory espouses several statements:

- The basis of media’s influence resides in the relationship between the larger social systems, the media’s role in that system and audience relation.

- The degree of our dependence on media and their content is the key variable in understanding when and why media messages alter audience beliefs, feelings or behavior.
- In our modern industrial society, we are increasingly dependent on media (a) to understand the social world, (b) to act meaningfully and effectively in society; and (c) to find fantasy and escape or diversion.
- Our level of dependency is related to (a) “the number and centrality (importance) of the specific information delivery function served by a medium and (b) the degree of change and conflict present in society.

The dependency theory acknowledges the power of the media, but that such power is largely dependent on the audience members' dependence on the mass media. Since audience members are rational and thoughtful, they are likely to depend on a credible media system. Ironically, the audience members' dependency on the media somewhat encourages those in power to want to control what the media publish. This is because the ruling class is often unwilling to cede freedom (power) to the mass media.

Issues in Press Freedom

Press Freedom is often controversial. Part of the reason is that people in government often do not want a powerful press that could be a counterpoise to their exalted position. They would rather that the press be sycophantic so that their shortcomings are not brought to the public glare.

Despite the skepticism of many persons in power towards the press, it is obvious that the power of the media cannot be easily wished away. It was in this context, that a former American President Thomas Jefferson declared that if he had a choice, he would prefer media without government than government without the media. Such a strong endorsement coming from the Presidency of America, often considered the world's strongest democracy, is worth noting, and perhaps, worth celebrating.

As Sambe and Ikoni (2004, p. 11) have pointed out, there are six issues which press freedom is all about.

- a. No prior or subsequent restraint
- b. Freedom to gather information
- c. The right not to be compelled to disclose the source of information
- d. Freedom of impart
- e. The right to receive information
- f. Freedom from unreasonable punishment for what is published.

Indeed, the above issues reasonably represent what press freedom is all about. It even goes beyond to articulate the fact that political authorities should not make unreasonable laws to gag the press. As Nwanne (200, p.126) has previously noted:

It is essential that political authorities in any given environment must have the sagacity and maturity to appreciate that a free and unfettered press is more likely to pursue the goals of national development than a docile one.

Quite often, the perceived security of the incumbent regime is interpreted in a way and manner that might suggest that the press constitutes a 'security risk' through the kind of stories it publishes about those in power and their families. Any publication that does not sing the praises of those in power to high heavens is perceived as 'sedition', 'treason' and similar other adjectives

The link between good governance and a vibrant press cannot be doubted. As Asekome (2008, p.279) has stated:

The greatest sources of information in any nation are the mass media, which include the press, the electronic, and of course the Internet. It is through the mass media that information is disseminated which is expected to influence both the government and the governed, shapen public opinion that consequently brings about sound policy formulation, result-oriented reforms and positive changes.

As previously noted, there is a positive correlation between good governance and an effective media institution. That was the point eloquently articulated by a former American President, Jefferson, previously referred to

The State of Press Freedom in Nigeria

Nigeria emerged from colonialism in 1960. While colonized, Nigerians suffered press freedom infractions from the colonial authorities. According to Momoh (2002, p.10) restrictive media laws could be said to have actually taken roots in 1903 with the enactment of Newspaper Ordinance of that year and the sedition Ordinance of 1909. As Momoh recalled, perhaps the most notorious press gag law was the 1917 Act. The author noted that "it brought together previous colonial laws".

No doubt, these laws were put in place to curb the perceived "excesses" of the local press and sufficiently frighten them to desist from attacking the Colonial Administration. Tellingly, most of those Draconian laws have remained in Nigeria's law books because the new rulers who took over from the colonialists were not interested in abrogating them. Not unexpectedly, therefore, in 1964, this earlier Act was amended and has been the basis of anti-press laws in Nigeria. The first civilian administration under Tafawa Balewa, the Prime Minister enacted the law. If the civilian administration was not particularly media-friendly, it was even worse with the subsequent military administrations, each of them trying to outdo each other in an effort to put the media in its "rightful place".

In the United States of America, there is a stable democracy , anchored on freedom of the individual and the press. The first amendment to the American Constitution states inter alia that "Congress shall make no laws abridging the freedom of the press". But in Nigeria, the writers of the constitution did not seem convinced that Nigerians deserved unconditional freedom, hence the frequent reasons to the word 'provided'. Such punctuation or vitiation of the freedom of the press in Nigeria often provides opportunity for those in authority to take advantage.

Military Assault on Press Freedom

Press freedom suffered its greatest setback during the long years of military rule in Nigeria. Apart from two brief interregnum (1960-66) and (1979-1983), the military ruled effectively between 1966-1998. During this period, a total of five military regimes were in charge namely. Major-General Aguyi-Ironsi, January 1966-July 1966; General Yakubu Gowon, 1966-1975; General Murtala Muhammed, July 1975- Feb 1976; General Olusegun Obasanjo, 1976-1979; General Muhammadu Buhari 1983-1985; General Ibrahim B. Babangida 1985-1993; General Sani Abacha Nov. 1993- June 1998; General Abdusalami Abubakar June 1998-May 1999. In a detailed publication, Ufuophu-Biri (2006, p.149) listed some of the anti-press laws made during the various military regimes to include:

1. The Circulation of Newspaper Decree No. 2 of 1966.
2. Defamatory and Offensive Publication Decree No. 44 of 1966
3. Newspaper (Prohibition from Circulation) Decree No. 17 of 1968.
4. The Sunday Star and Imole Owuro (prohibition) Edict No. 17 of 1968.
5. The Printers and Publishers of the *Sunday Star* and Imole Owuro Declaration of Unlawful Society Edict No 19 of 1968.
6. Public Officers (Protection Against False Accusation) Decree No. 11 of 1976.
7. Armed Forces and Police (Special Powers) Decree No. 24 of 1967.
8. Trade Dispute Decree No. 7 of 1976.
9. Newspaper Prohibition from circulation validation Decree of 1978.
10. The Press Council Decree No. 1 of 1978.
11. The Daily Times Decree of 1978.

These are just some of the Decrees that attempted to stifle the press in various degrees. Not stated above but equally devastating were some other ‘military legislations’ which were thorough affronts on press freedom. There was the notorious Decree 4 of 1984, a rehash of an earlier piece of military law which sought to protect public officers against ‘embarrassment’ whether or not such publication was true or not. There was also the State Security Protection Decree 2 aimed at deterring the press from publishing certain information not approved by the military authorities.

Under Decree No. 4 of 1984 during the General Buhari regime, two journalists – Nduka Irabor and Tunde Thompson of *The Guardian* were arrested, tried and convicted. Their offence was that they published a speculator story on the possibility of the appointment of a certain Rtd General Hannaniya as Nigeria High Commissioner to United Kingdom. The military authorities were miffed at the ‘leakage’ of the information which was thought to be a well guarded secret. At the trial, the journalists were asked to reveal the source of their information, a request that was turned down. They were subsequently sent to jail.

One of the Decrees that was enacted during the military regime in 1987 was the Newswatch Proscription Decree which put the then frontline magazine in the coolers for six months. What was the magazine’s offence? The authorities at time explained that the vibrant magazine published the unreleased report of the Political Bureau headed by Justice Cookey. The surprising aspect was that part of the report had previously been published in newspapers. Why the military took a harsh position against Newswatch remains a mystery even till this day.

Democracy and Press Freedom

There is a link between democracy and the extent of press freedom in any society. Years of military rule in Nigeria had strongly attenuated press freedom as we have discussed on the preceding pages. After decades of struggle against militarism by virtually all segments of the articulate publics, especially the press, the military reluctantly ceded power to civilians on May 29, 1999. It was a momentous occasion as the mantle of leadership fell on Olusegun Obasanjo, a retired army general and former military head of state.

On ascension of office, Obasanjo managed, at times unsuccessfully, to control his bad temper. Even though he spoke of the need for a free press, his disposition and body language did not always support his public statements. Unlike when he was military head of state, he managed to conceal his famed contempt for the local press. Under his watch, security agents had invaded the African Independent Television (AIT), a credible private outfit.

After an eight-year tenure, Obasanjo handed over power in 2007 to Umaru Musa Yar'Adua, a scion from Katsina, North Central Nigeria. Mild-mannered, quiet but effective, Yar'Adua's relationship with the press was generally all right, except probably on one or two occasions when he lost control. On one instance, the highly credible Channels Television had aired a story about the failing health of the President and the intrigues associated with it. Yar'Adua did not find it funny as he reacted rather angrily. Yar'Adua, probably Nigeria's most honest president by admitting that the electoral process that brought him to power was flawed, eventually died in May 2010, just three years into his presidency.

Jonathan and the Press: The relationship between President Goodluck Jonathan may be best described as that of cautious optimism. The president occasionally appreciates the role of an unfettered press in national development but often over-reacts to seeming bad press. One of such occasions occurred April 2013 when two reporters of the *Leadership* newspaper, Tony Amokeodo and Chibuzor Ukaibe were arrested, detained and later charged to court on charges of felony. In a swift reaction, just 72 hours after the journalists were arraigned in court, the Federal Government withdrew the charges against the reporters. According to *Vanguard*: "They had been accused of forging a document purported to have emanated from the Presidency".

One would have thought that the arraignment of *Leadership* reporters would be the end of such irritations until June 6, 2014 when a novel style of media harassment surfaced. Writing under the headline "Clampdown: NPAN Seeks end to Siege" one of Nigeria's tabloids, *Sunday Sun* wrote:

Following harassment of newspaper vendors/distributors and the seizure of large volumes of newspaper by soldiers who initially targeted *Leadership*, *Daily Trust*, *The Nation* and *Punch*, but later extended the siege to all major newspapers in the country for the second day yesterday (June 7, 2014), the Newspaper Proprietors Association of Nigeria (NPAN) held an emergency meeting in Abuja yesterday with representatives of vendors and slammed the government.

It described as unnecessary the growing attack on free speech by soldiers in Abuja, Kaduna, Kano, Jos, Maiduguri, Ibadan, among other cities, claiming to be acting on 'orders'. In a statement yesterday, its President, Mr. Nduka Obaigbena decried the assault

on freedom of expression through the stoppage of distribution of newspapers as inconsistent with the values of any democratic society and the constitution of the Federal Republic of Nigeria. It therefore called upon the military authorities to lift the siege immediately and call the soldiers to order.

Despite the strongly worded statement released on June 7, 2014, as partly reproduced above, the authorities seemed to have remained adamant, prompting another statement from a larger organisation, the Nigeria Press Organisation (NPO). In a June 13, 2014 statement, the organisation cited military spokesman, Major-General Chris Olukolade as explaining that the clampdown “followed intelligence report indicating movement of material with grave security implications across the country using the channel of newsprint related consignments”. Unimpressed by the explanation, NPO insisted that “This development is opening a new chapter in the potential dangers being posed to the citizenry and the media: a clear violation of the right of free expression and press freedom and the right of the public to know”. The assault on press freedom this time is coming at a time the country is celebrating fifteen years of unbroken civil rule, a great achievement for a country that struggled against oppressive military rule for decades.

Another development which has the potential for further eroding press freedom is the recent directive to broadcast stations by the Nigerian Broadcasting Commission (NBC) the industry’s regulatory body, that all live political broadcasts should be communicated to the commission at least 48 hours to airing time. This act of wanting to know what would go on air before broadcast time is a clear attempt at prior restraint because if the commission is not pleased with the material or personality involved it might possibly stop the programme. This amounts to giving too much power to itself, after all the commission has a code to guide radio and television stations on all aspects of broadcasting.

Freedom of Information Act

The need for freedom is a basic human need. The right to know is one of such rights, which is a concomitant of press freedom. In pursuance of this right and others, Nigerians sought to have a Freedom of Information law which would give them access to vital government information. Part of the argument for the clamour for the enactment of the law was to ensure, or at least enhance, transparency in governance, thereby reducing the high level of corruption in doing government business in the country. The Bill for the enactment of a Freedom of Information Act was first presented in the first Legislative Assembly (1999-2003).

Surprisingly, the bill could not be enacted into law as majority of the Assembly men and women did not think the country was right for such a law! It is instructive that legislators in a seeming democratic setting did not think that such freedom should be made available to the citizens, including the press. The struggle for the enactment of the Freedom of Information Act took on a life of its own, suggesting that Nigerians must struggle before they actualize issues that should ordinarily be taken for granted. After persistent pressures from all relevant quarters, the Freedom of Information Bill was passed by the House of Representatives (lower chambers) in February 2011 while the Senate (Upper Chambers) endorsed the same law in March 2011.

The essence of the Freedom of Information law was well articulated in a 2007 version of the bill. With 33 clauses, the bill was aimed at an Act to make public records and information

more freely available, provide for public access to public records and information, project public records and information to the extent consistent with the public interest and the protection of personal privacy, protect serving public officers from the adverse consequences for disclosing certain kinds of official information without authorization and establish procedures for the achievement of those purposes and related purposes thereof.

At this juncture, it is germane to assess the impact of the Freedom of Information Act. Despite the clamour for the enactment of the law, virtually nothing has been recorded about the use to which it has been put, especially among practising journalists. Since nobody has tested the freedom of Information Bill in Court, it is likely that the status quo ante (i.e. shrouding official government activities in secrecy) has remained unabated.

Apparently, in reaction to this, Radio Nigeria, the official mouthpiece of the Federal Government of Nigeria, aired a commentary entitled “Effective Implementation of Freedom of Information Act”, on February 24, 2014. The presenter regretted that many persons perceived the Act as a luxury in Nigeria, noting that through the notorious official secrets Act, a culture of secrecy in governance was hoisted on the people of Nigeria. According to Radio Nigeria, such a situation hampers democracy as citizens cannot make informed choices. Again, argued the presenter, a culture of secrecy makes it impossible for government officials to benefit from public input. The consequence according to the presenter, was confusion as government became impenetrable. Again, Radio Nigeria surmised that the effective implementation of the Freedom of Information Act would help the journalist on his job – while it would signpost government commitment to stamping out corruption by facilitating the prosecution of culprits. The commentary was clinically rounded off with a call to government and its agencies to actively facilitate the effective implementation of the Freedom of Information Act by promoting public awareness and understanding of the Act.

Why Press Freedom? Many erroneously believe that press freedom is all about inhibited freedom of journalists to print or air whatever pleases them. The reality of the situation is that journalists are professionals who gather, analyze and present the news of the day to an information-hungry world. Therefore, they require some form of encouragement, legally and constitutionally.

Given this enormous responsibility, Oji (2006, p.424) makes a robust argument for ‘pure’ freedom of the press. According to him the press need freedom for the following reasons:

- That the media must have constitutional safeguards to enhance the discharge of its duties.
- That the media must have access to information;
- That the media should be protected to protect and prevent the disclosure of sources of information;
- Call for the stipulation of freedom of the press in the text of nations’ constitutions and that it should be proceeded by a statement of the obligation of the press;
- Where there are sedition laws in the world, clauses which do not see truth as a condition for the free practice of journalism should be expunged and
- In places where the constitution or any act cedes the power to grant a media license to any government official, such as Section 39 of the 1999 constitution and replicated in the National Broadcasting Commission Decree of 1992, should be expunged.

Oji's recommendations are clearly well thought through partly because giving a government official the right to issue a license is conferring too much power on one man which lays open the possibility of egocentrism and unbridled arrogance knowing that power corrupts while absolute power corrupts absolutely as has been articulated by political philosophers.

The case of Nigeria is somewhat worrisome because there is no specific mention of press freedom in the constitution. As Ajibade (2003, p.77) has observed, given the situation in Nigeria and "the lack of constitutional guarantee for free press, it is obvious that there is no true press freedom in Nigeria. What is guaranteed in Section 39 of the constitution is freedom of expression and freedom to own and operate mass media agencies. A specific guarantee of press freedom is missing".

SUMMARY/CONCLUSION

The United Nations has set aside May 3 every year as press freedom day to signpost the importance of the media in global development. This is quite useful especially for developing countries such as Nigeria that tend to underplay the crucial role of the media. Indeed, there is a positive link between development and freedom of the press as the advanced countries tend to have a higher level of press freedom.

In order to achieve a measure of conceptual clarity, press freedom, development and democracy were defined while the theoretical framework was anchored on the four theories of the press and the dependency theory. Issues in press freedom were explored with the clear link between a free and unfettered press and good governance. The state of press freedom in Nigeria was examined, noting that the greatest infractions took place during the military. However, the civilian administrations that emerged from 1999 in Nigeria have managed to maintain a measure of 'decorum' with the press but occasionally 'exploding' to show that they were really in charge! In discussing the state of freedom of the Nigerian press, it is inevitable to refer to the Freedom of Information Act (2011) which has remained largely unused and therefore ineffective. Taken together, a case has been made for a free and unfettered press to enable it to perform optimally the task of national development.

RECOMMENDATIONS

In order to enhance press freedom in Nigeria, the following steps should be taken:

1. An unambiguous constitutional provision should be made in line with the first Amendment of the American constitutions which states clearly inter alia that "Congress shall make no laws abridging the freedom of the press...".
2. The Nigerian Union of Journalists (NUJ), the Newspaper Proprietors Association of Nigeria (NPAN), the Nigerian Guild of Editors (NGE) and similar organisations should work hard to professionalize and sanitize the profession so as to give it the needed integrity.
3. There should be continuous intensive training and retraining for journalists to make them more professionally competent and globally competitive.
4. Those in position of authority, must be more tolerant of the press, knowing that the press is contributing its own quota in national development.

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