

Assessment of Press Freedom in Nigeria

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ABSTRACT: This position paper examined the state of press freedom in Nigeria. The primary objective of the paper is to bring to the fore, the condition of the media ecosystem in Nigeria. Anchored on the Social Responsibility Theory and the Libertarian Theory of the press, the paper explored various researches that have been conducted on the subject matter. Significantly, seven press laws in the Nigeria's corpus of laws were reviewed, and from them, inferences were drawn that provides insight into the prevailing press environment in the country. Among other things, the paper shows that the major source of challenge to press freedom in Nigeria is the government and her agents. The paper also pointed out that there are some obnoxious anti-press laws which are in contrast to the provisions of the 1999 Constitution of the Federal Republic of Nigeria that guarantees freedom of the press but which are still in force and to which recourse is often made to intimidate and harass the media. Additionally, the paper posits that the attitude of successive governments towards a free press environment has largely been unfriendly, thus, posing further difficult challenges for the free operation of the press in Nigeria.

KEYWORDS: Press, Freedom, Press Freedom, Media Laws.

INTRODUCTION

By the provisions of the different media laws as contained in the Nigerian legal statutes, Nigeria operates a free press. This implies that the Nigerian media is unhindered, especially in her reportage of news and other current affairs. Press freedom is clearly upheld by the Nigerian constitution, which is the supreme corpus of the laws of the country. Chapter 4, Section 39 (1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended states: "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference" (FMOJ, 2020). This provides the foundation upon which the Nigerian media is expected to operate, and to do so, as the law states, "without interference." Since the media is in the business of gathering (receiving) and disseminating (imparting) news (ideas and information), this section of the constitution therefore, clearly provides a level playing ground for the operation of the media in Nigeria in such a manner that she remains unhindered. Furthermore, the law makes provision for individuals and corporate bodies to own and operate a news medium when in Section 39 (2), it states: "Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions." The implication of this subsection of the constitution is that the citizens of Nigeria are to enjoy the freedom to circulate their ideas, opinions and other information at their disposal using any means available for doing so, whether owned by them or by others. What this lay before us is that the control of the dissemination of news to the Nigerian people is no longer solely in the hands of the government, but individuals are also made stakeholders in this venture.

Since according to the prescripts of Section 39 (1) as quoted above, every person is entitled, as a matter of fundamental right, to hold opinions as well as seek and disseminate ideas and information without interference, then it can be said that the freedom of the press in Nigeria is a given. Furthermore, Chapter 2, Section 22 specifically states the obligations of the mass media to the Nigerian society. It states in clear terms that "The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to

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the people” (FMOJ, 2020). This aforesaid chapter is on the objectives of the constitution and the obligations of the government to the Nigerian people. The above quoted section therefore, is an empowerment of the press as the voice of the people in holding government accountable to her roles and responsibilities towards the people. This right of the press is further strengthened by the Freedom of Information (FOI) Act (2011) that provides the citizens, and more so, journalists and media organizations with the “right to access public records.” By such legal provisions, the Nigerian media is in principle, empowered and strengthened to perform her watchdog role in the society, especially as it concerns holding the government accountable to the people. This, however, does not seem to be so, as the reality does not always support these legal provisions of a free press and at the same time, there are other existing laws which seem to hinder the free operation of the media. While therefore the Nigerian media is free in principle, it seems to be everywhere encumbered with numerous challenges. This is a paradoxical state of existence, to be free and not free at the same time and in the same societal/social context. There are several cases of journalists intimidated and harassed by officials of the government, some were and some are even still held in detention without trial, a clear violation of their fundamental human rights.

According to a report on the website of Human Rights Watch (2018), the “arrests and detentions of journalists and activists in Nigeria suggest a disturbing trend toward repression of freedom of expression.” The report specifically cited the example of one Jones Abiri, a journalist and publisher of Weekly Source Newspaper in Yenagoa, Bayelsa State who was held for more than two years after his July 26, 2016 arrest by Department of State Security agents. He was later conditionally released on August 16, 2018 by an Abuja Magistrate court. Another instance worth citing is that of Saint Mienpamo Onitsha, the founder of *Naija Live TV*, an independent news website in Yenagoa, who was whisked away from his home at about 1:00am on May 9, 2020 in an abduction style by four masked Department of State Security agents who, at their office, tried to force him to reveal his sources for two reports he had published (CPJ, 2020). In another elaborate report by the Committee to Protect Journalists (CPJ), on July 17 2019, *Cross River Watch*, an online news outlet published a report alleging corrupt practices involving the Cross River state-owned Cross River Microfinance Bank and Prof. Benedict Ayade, the then governor of Cross River state. On August 16, 2019, Agba Jalingo, the Publisher of *Cross River Watch* was invited by the police for questioning on the premise that his name was mentioned in a police investigation of “Conspiracy to cause Unrest and Conduct likely to Cause Breach of Peace, reported by the Cross River Microfinance Bank.” On August 22 2019, Jalingo was arrested by police officers in Lagos and immediately transferred to a detention facility in Calabar, the Cross River State capital. According to Sahara Reporters (2020), he was held in detention for 179 days, till a Federal High Court in Calabar granted him bail on February 13, 2020 and upon the completion of the bail conditions on February 17, 2020.

Apart from individual journalists, media houses too have had more than a fair share of intimidation and harassment from the government and her agents that have sometimes clamped down on entire media houses. Such intimidating measures used on media houses include the imposition of fines as in the case of a Lagos based radio station, Nigeria Info 99.3Fm which was fined five million naira (N5,000,000) by the Nigeria Broadcasting Corporation (NBC) over what was described as professional misconduct (Elebeke, 2020). The radio station had hosted former Deputy Governor of the Central Bank of Nigeria, Dr. Obadiah Mailafia on a breakfast show during which he alleged that some of the so-called repentant Boko Haram terrorist had confessed that one of the then northern governors is one of their commanders/financiers, a statement which the NBC described as hate speech and capable of inciting violence in the country. Other instances of attacks on media houses include the demolition of Breeze 99.9 FM, Lafia, the first privately owned radio station in Nasarawa State by the Nasarawa State Government in May 2017 (The Guardian, 2017) and the demolition of Fresh 105.9FM, Ibadan, another privately owned radio station in 2018 by the Oyo State Government (Amnesty International, 2019).

The implications of such treatments on journalists and media organizations is that some may be cowed into submission and fear, thus, silencing them in the discharge of their constitutional duties. The case of Mienpamo cited above for instance, is very worrisome, in the sense that if journalists could be coerced into divulging their news sources, then the safety of both journalists and their sources, as well as the credibility of news reportage may no longer be guaranteed.

It is upon this backdrop that this study did an assessment of the challenges of the press in Nigeria, taking into cognizance the reported experiences of Nigerian journalists and media houses that are at the center of the media world. The study also appraised critically, the different laws governing the ownership and operation of the media in Nigeria, while highlighting the various difficulties of having a truly free press in the country. This research investigated the threats to media freedom in Nigeria. It also covered areas of journalists’ safety and an assessment of the degree of enforcement of constitutional/legal provisions to protect journalists and the practice of journalism in Nigeria.

Operational Definition of Significant Terms

For the purpose of this work, the following significant terms – Challenges, Press, Freedom, Press Freedom and Media Laws – are to be understood and used as here defined.

Press

Though according to Layefa and Johnson (2016), the press may be said to be the singular institution that provides a platform for the dissemination of man’s collective thoughts/ideas to diverse audiences, the press is used here to refer to newspapers, magazines,

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books, radio, television film, etc., through which individual/groups/institutions - governmental and non-governmental convey messages of relevance to all concerned audience. The term 'press' can sometimes be a source of confusion because while it is sometimes taken to refer to the news media in general, it is also sometimes understood to mean newspapers in contrast to other media. However, for the purpose of this research work, the term 'press' is used to mean the news media in general.

Freedom

The concept of freedom is very fluid and does not enjoy a universal agreement as to what it means. Oftentimes, it is subjected to contextual and subjective biases, hence, there is often the tendency to view the term through the prism of utility, that is, of how beneficial it is to the one doing the description. However, amidst these biases, the concept of freedom is still not alien to people everywhere, neither is there no underlying basic denominator of the term. In a general and loose sense, freedom is the right or ability to think, act, speak or write without interference (Touitou, 2017). Further attempts have also been made to define and clarify the term. Hence, the Oxford Advanced Learners Dictionary, International Student's Edition defines the concept of freedom as liberations from bondage; exemption from arbitrary, despotic or autocratic control; independence; the state of being able to act without hindrance or restraint or liberty of action. It has also been described as "the quality or state of not been coerced or constrained by fate, necessity or circumstances in one's choices or actions (Webster's Third New International Dictionary). Thus, freedom is to be understood as the ability to think, act and convey one's thoughts without any external interference.

Press Freedom

The terms 'press freedom', 'media freedom', 'freedom of the press' and 'free press' are very often used interchangeably as synonyms of one for the other. This work agrees with the definition of press freedom by Asemah (2011 a) as the right of the media to criticize the political, economic and social institution of the country. This understanding of press freedom is also supported by Onagoruwa (1985), cited in Oberiri (2016) who opines that press freedom is the right of the press to publish without being subjected to any form of intimidation, molestation or blackmail.

Media Laws

Media laws are laws established by the government and governmental agencies for the regulation and/or control of the media. In some cases, they are laws established for the suppression of the media. According to Freedman (2017), media laws, also often described as media regulations, refer to the process by which a range of specific, often legally binding, tools is applied to media systems and institutions to achieve established policy goals such as pluralism, diversity, competition, and freedom. McQuail (2010) also defines media regulation as the process of control or guidance, by established rules and procedures, applied by governments and other political and administrative authorities to all kinds of media activities. In Nigeria, examples of media regulations are such as those contained in the Nigerian Broadcasting Commission's Code and the National Film and Video Censors Board policy.

THEORETICAL FRAMEWORK

This study relies on the **Social Responsibility Theory (SRT)** and **Libertarian Theory**, also called the Free Press Theory. The **Libertarian Theory** is parallel to the position of the Authoritarian Theory. This theory is hinged on the idea that the media should be free to publish whatever it likes. Watson (2003) opines that its first principle is that the free press is servant to none but its readership in its task of informing, educating and entertaining, meaning that the media should have free expression from any authority, unchecked by censorship – internal or external. Libertarians argue that freedom of the press will give more freedom to the media to reveal the real things happening in the society without any censorship or any authority blockades (Adekoya, 2013). In the libertarian system, attacks on the government's policies are fully accepted and even encouraged. Also, there should be no restrictions on import or export of media messages across the national frontiers. Moreover, journalists and media professionals ought to have full autonomy within the media organization. There is also no explicit connection between the government and the media in the Libertarian Theory (Hasan, 2013).

According to the **Social Responsibility Theory**, which is based on the writings of the Hutchings Commission on Freedom of the Press and its practitioners (Akpoveta and Ogbemi, 2006), although the press is free, it must be held accountable and responsible in fulfilling its ideal obligations to the society. The Social Responsibility Theory allows free press without any censorship but at the same time, the content of the press should be discussed in public panels and the media should accept any obligation from public interference or professional self-regulations or both. The theory lies between both authoritarian theory and libertarian theory because it gives total media freedom in one hand and external controls on the other hand (Adekoya, 2013). Here, the press ownership is private and media have an obligation to the public that amount to a form of public stewardship. The SRT moves beyond the simple "Objective" reporting (facts reporting) to "Interpretative" reporting (investigative reporting) (ibid). The theory links with the democratic process and the media are guardians of that process, vigilant on behalf of the citizens, with a duty to be honest and fair to all. The theory balances the claims for freedom with the need for responsibility. It urges that in public interest, in the interest of true representation, both sides of a case should be stated. Professionalism was created in the media by setting up a high level of

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accuracy, truth, and information. This theory is an extension of the Libertarian theory that arose as a result of the fact that the free market (Capitalism) had failed to fulfill the promise of press freedom, and to deliver its expected benefits.

These normative theories are considered apt for this study because, according to Saqib (n.d), the normative theories are more focused on the relationship between the press and the government than the press and the audience, and this exactly captures the focus of this study, as press freedom is largely to the degree to which the government allows it. Researchers are of the opinion that the media, at any given time in the society, takes the colouration of the government in power such that the nature of the media in a democratic government will be quite different from that of the media in a totalitarian government. Thus, while the Libertarian theory advocates for a free press, as is the position of this research work, the Social Responsibility Theory calls for a responsible press that will not deviate from its watchdog role to the society.

REVIEW OF RELATED LITERATURE

Many researches have been carried out on the subject of press freedom in Nigeria. These researches generally agree that though press freedom is a constitutional right, the press in Nigeria is in reality, not free. Agreeing with this position, Oberiri (2017) asserts that press freedom is a term solely defined but not practiced at large. The nature and extent of this limitation to press freedom however, differs according to the particular interest of each researcher. Both Nwanne (2014) and Oberiri (2017), citing Momoh (2002), agree that the problem of press freedom in Nigeria dates back to the colonial era when the Colonial Administration sought to silence the local press from attacking the perceived excesses of those in power. Starting with the Newspaper Ordinance of 1903 and the Sedition Ordinance of 1909, with the most notorious been the 1917 Act, the freedom of the press in Nigeria has continued to suffer several and serious infractions with succeeding restrictive media laws till date. Many of these anti-press and obnoxious press laws which are ordinarily supposed to have been expunged from the Nigerian legal corpus are still used to this day to intimidate and harass the press.

In tracing the underlying reason for violations of press freedom in Nigeria, Nwanne (2014, p.14) asserted that “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.” He further argued that as a result of this, “any publication that does not sing the praises of those in power to high heavens is perceived as ‘sedition’, ‘treason’ and similar other adjectives.” This actually seems to mirror the reality of the state of press freedom even in the Nigeria of today. Starting with the colonial era, on to the first democratic dispensation after independence, through successive military regimes and continuing with the democratic era from 1999, Nwanne (2014) attempted a trace of the successive attempts by different governments to gag the Nigerian press either through the enactment of Acts or Decrees or even through outright confrontation of media houses and individual journalists. His work further highlighted the necessity of press freedom in Nigeria, and referring to the Freedom of Information Act which, as he argued, “has remained largely unused and therefore ineffective” (p.19), it is important to have a free and unfettered press to enable it to perform optimally the task of national development.

Research by Oberiri (2016) which focused on the factors hindering press freedom in Nigeria also agrees that the Nigerian press does not in practice, enjoy the freedom it deserves. Citing also, the many anti-press laws of succeeding governments, he makes a case for four major reasons why freedom of the press is hindered in Nigeria. The four highlighted reasons are: legal pressure, economic and political pressure, secrecy and direct censorship and force. Oberiri observed that the implicit internal conflicts of the 1999 Constitution, especially in subsections 2 and 3 of section 39 which “places prior restraint on the ownership of the media for the exercise of freedom of speech particularly on the broadcast media” as well as “validates and justifies any law made for the purpose of preventing disclosure of information received in strict confidence while in the service of the state in government” (Oberiri, 2016, p.33) respectively, means that though freedom of the press is granted in the constitution, there is actually no statutory backup for it in Nigeria. Citing Chigbo (2007), he further observes that section 45 of the Constitution further limits the freedom of expression and the press, the absence of which makes freedom of the press a mere expression.

Highlighting the other factors hindering press freedom in Nigeria, Oberiri (2016) also asserted that economic and political pressure, especially on government owned media houses makes them to publish things in favour of the government in power, thus, defeating the understanding of press freedom. The many instances of shrouding government activities in secrecy and denying journalists and by extension, the general public access to information is also a factor posited by Oberiri as hindering press freedom in Nigeria. Though the Freedom of Information Act is supposed to have laid this concern to rest, in practice, it is not the case. The obvious and many instances of the government using force as well as censoring media houses is another reason Oberiri puts forward as hindering press freedom in Nigeria. He argued, citing the murder of Dele Giwa as an example, that there are countless instances of journalists being physically brutalized in order to cover a report. Instances also abound of media houses closed down for publications that the government finds embarrassing.

Expanding on the issues hindering press freedom in Nigeria beyond legal and political restraints, there are other ethical issues which obstruct the press from offering unrestrained reportage to the society as Tuitou (2017) reports. Citing Ogumka (2015), she outlined

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such ethical impediments as sycophancy, character assassination, confidentiality of source, invasion of privacy, inaccuracy and lack of fairness to be major hindrances in the dissemination of information by the press. These are more of internal constraints emanating from journalists or within the media itself, though not entirely unconnected to some external factors such as economics and politics. Touitou's research further observed that though there are mechanisms put in place to check these ethical impairments to a free press such as the setting up of regulatory bodies and other self-regulatory mechanisms such as code of conducts/ethics for journalists, these have not been very effective in ensuring a press free of internal constraints.

In their work, Suntai, Agbu, and Targema (2018) did an analysis of the press-state relationship. While their research is more of a comparative analysis, it does reveal the poor state of press freedom in Nigeria, lending credence to the purpose of this present research. According to their research, "incidents such as physical assaults on journalists, seizure and/or destruction of journalistic equipment, raids on or sealing up of media offices and confiscation of publications are still manifest" (p.108). Citing Olaide (2011) and Idumange (2013) who gave instances of cases of intimidation and harassment of journalists by state security operatives to include beating up of Suleiman Osasuji, a sport journalist with All Sports Newspaper on the 14th October 2003, assault, arrest and detention of Savannah Peters, a reporter with Island News by soldiers from the 81st Division Garrison, Dodan Barracks, Ikoyi on May 17th 2014, arrest of Segun Omolehin, Kogi State Chairperson of NUJ by police in Lokoja on 22nd June 2005, raiding of DAAR Communication Limited in Abuja on 14th May 2006 by state security agents to seize a master tape of a documentary, arrest and detention of Fiddis Mbah, of the BBC and Tade Oludayo of SilverBird Television on 10th January 2008 by security operatives among others, their research indicates clearly that though there is an improvement from what was obtainable in the military regimes, yet, even in the democratic dispensations of the third to the sixth republics of Nigeria, the press has still not enjoyed the desired and deserved freedom with which to carry out her responsibilities to the people.

The signing into law of the Freedom of Information Act by the Goodluck Jonathan administration in May 2011 is further highlighted as a step "adjudged a positive feat in the struggle to actualize press freedom, as the act gives impetus to journalists and members of the civil society to probe deep into issues that are within the public domain" (Suntai et al, 2018, p.108). While one would have said there appears to be light at the end of the tunnel, referring to the President Muhammadu Buhari's administration, they assert that the leadership of the country seem to be taking retrogressive steps on guaranteeing freedom of the press.

It is revealing from the afore-reviewed literatures that the issue of press freedom in Nigeria has been one of great concern even from the colonial era. With the independence of Nigeria from her colonial masters, the actualization of which the Nigerian press played an undeniably leading role, one would have thought that the press would have enjoyed much more freedom than experienced under the suppressive colonial government. This expectation is further heightened with the advent of democracy, especially from the Fourth Republic (1999 till date), which has been uninterrupted by the military as in the case of the First, Second and Third Republics (1963-1966, 1979-1983 and 1993 respectively). The reviewed research of Suntai et al (2018) above has further shown that even till date, there are still many cases indicating that challenges to press freedom still abound, thus, affirming what this research work is putting forth.

Various empirical studies have also been carried out to show the degree of press freedom in Nigeria. A study by Arikewuyo, Adisa and Aliagan (2019) titled "*Measuring Press Freedom in a Democratic Society: A Content Analysis of Nigerian Newspapers*" published in *Communicatio* 13(2) examined the extent of press freedom in the first dispensation/tenure under President Muhammadu Buhari. The study laid emphasis on the coverage of the cabinet of the Federal Government of Nigeria's abuse of public offices for private gains and the president's reaction to the newspapers' coverage of his cabinet's corrupt practices. In other words, the study aimed at assessing whether government's reaction to newspaper criticisms of corrupt practices of public office holders affect news coverage of such issues considered critical to the government. The study employed quantitative content analysis research method, with two private papers, Daily Trust and the Guardian newspapers from January 1st to March 30th, 2016 (3 months) as population of study based on the justification that they are the most widely circulated and read private newspapers in the northern and southern parts of Nigeria respectively and can thus be said to be representative of both regions.

The justification for choosing the period of January 1st to March 30th, 2016 was noted for its intense fuel scarcity and the period of Naira and Dollar devaluation and appreciation respectively, issues which are considered critical to the government and the people and of which the Nigerian populace were interested in knowing how the government was handling them. Findings from this research showed that the press enjoys a relative amount of freedom of reportage with a 40.7% and 66.7% of reports in *Daily Trust* and *The Guardian* newspapers respectively considered critical of government as at the time of fuel scarcity and the subsequent Naira devaluation and Dollar appreciation during the period under review. The study however showed further that there are elements of sentiments in the reportage of news stories in both papers. According to the researchers, the Daily Trust paper which is "from the north tends to have soft spot in covering critical issues that borders on the northern government. This equally explains why ethnicity and political affiliations of the Nigerian newspapers affect objective coverage of news in the communication industries" (p. 63). This therefore reveals the presence of internal loss of freedom to report freely due to the leanings of particular media houses. This research concluded on the note that though the press has enjoyed some measure of freedom, this freedom is far from absolute.

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Ibrahim, Pate and Usman (2020) carried out a research on “Silencing the Media and Chaining the Watchdog: Threats to Journalist Safety During Elections in Nigeria” which was published in *Handbook of Research on Combating Threats to Media Freedom and Journalist Safety*. The study employed the purposive sampling technique to select 12 journalists for the research, using in-depth face-to-face interviews. The study found that journalists’ safety and press freedom come under the greatest threats especially during election periods. It also found that the freedom of journalists to report their coverage of the polls as well as their safety suffered a decline under the President Muhammadu Buhari regime. According to their finding,

Based on the global ranking of press freedom by Reporters without Borders, RSF (2019a), Nigeria has been ranked 120th in 2019 out of 180 countries. In 2018, it was ranked 119th, a place higher than its current year’s ranking. From 2013 to 2017 it was ranked 115, 112, 111, 116 and 122 respectively. This shows that the press relatively had it far better in terms of freedom during the 2015 election year than the present (2019) polls season, which has been the worst since 2013 (Ibrahim, Pate and Usman, 2020, p.217).

To corroborate this claim, the research also gave several instances of journalists who were harassed, threatened or even abducted during the coverage of the 2019 general elections. The interpretation of this report is that at the time the President Muhammadu Buhari regime came into power, Nigeria’s global ranking for press freedom stood at 111. One year later, it dropped to 116, and two years into his regime, Nigeria’s ranking nose-dived to 122, which indicates an 11 paces backward movement. The implication of this backward movement is that the President Muhammadu Buhari regime is less tolerant of press freedom.

Overview of Press Freedom in Nigeria’s Legal Statutes

Since Nigeria is a signatory to the United Nation’s Charter that produced the Universal Declaration of Human Rights, of which the right to Freedom of Speech is included, one would expect that for all intents and purposes, the Nigerian government, as a respectable sovereign entity, would do all things possible to uphold this right of her citizens. From the colonial epoch, into the military regimes, there were a number of laws and decrees that were passed and enforced, aimed at gagging the press from checking the excesses of the government. Such obnoxious and often draconian laws, which have long been overtaken by changing times and socio-economic circumstances, ought to have been expunged from the legal statutes of Nigeria, but niftily, some of them have been retained till date. Below is a brief summary of the major content of some of these laws, as it affects the press.

Law of Sedition (1918)

The Law of Sedition is contained in the Criminal Code of Nigeria. The Criminal Code does not define sedition, rather a seditious intention is defined. Over a wide span of sections, the Criminal Code provides for the offence of sedition and the treatment of an offender. Thus, by virtue of Section 50 of the Criminal Code and as it concerns press freedom, a ‘seditious publication’ and ‘seditious words’ mean publications or words having a seditious intention.

Sub-section (2), gives the meaning of a ‘seditious intention’ as an intention:

- a. to bring into hatred or contempt or excite disaffection against the person of the President or of the Governor of a state or Government of the Federation; or
- b. to excite the citizens or other inhabitants of Nigeria to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Nigeria as by law established; or
- c. to raise discontent or disaffection amongst the citizens or other inhabitants of Nigeria; or
- d. to promote feelings of ill will and hostility between different classes of the population of Nigeria.

In other words, a seditious intention is an intention that is targeted towards the public to bring it into hatred or contempt towards the government. By implication, any publication that is capable of turning the public against the government is criminalized, even if it is true.

The Official Secret Act (1962, 1990)

The Official Secret Act is a law enacted in Nigeria in 1962, but reviewed in 1990, which prevents the publication or disclosure to the public of any material which the government views or sees as confidential. It protects what government views as confidential records. According to Nwabueze (2014), these confidential matters or materials are tagged “classified” by the government, meaning “secret” and/or “confidential” and as such must not be revealed. According to it, classified matter is:

any information or anything which under any system of security classification, from time to time in use by any branch of government, is not to be disclosed to the public, and which the disclosure to the public would be prejudicial to the security of Nigeria.

The Official Secret Act serves as a check against the publication of highly confidential information or documents that may weaken or limit the integrity of any government and by extension threaten the security of the State (Nwodu, 2006). According to Ewelukwa (2004), quoted in Oduah (2015), its main aim is to ensure national security and to “prevent people who have custody of secret or official documents such as policy decisions, contracts and actions of government from recklessly delivering them to the public.”

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Nigerian Press Council Act (1992)

The Nigerian Press Council was set up to regulate the activities of the press in order to check any possible excesses. Section 3 of the Act setting up the Council, which deals with the Functions of the Council, reads in part:

The Council shall be charged with the duty of –

- a. enquiring into complaints about the conduct of the press and the conduct of any person or organization towards the press and exercising in respect of the complaints of the powers conferred upon it under this Act;
- b. monitoring the activities of the press with a view to ensuring compliance with the Code of Professional and Ethical Conducts of the Nigerian Union of Journalists;
- c. receiving application from, and documenting the Print Media and monitoring their performance to ensure that owners comply with the terms of the mission statements and objectives in liaison with the Newspapers Proprietors Association of Nigeria;

The provisions of this Act mean that the license to own and operate a newspaper medium, as well as the activities of newspapers is to be regulated by the Council.

The National Broadcasting Commission Act (1992)

The National Broadcasting Commission Act of 1992, which has been amended by National Broadcasting Commission (Amendment) Act No. 55 of 1999, is a Federal Legislation which sets out amongst other things to regulate and control the broadcast industry and set policies with respect thereto. Section 1 of the Act establishes the National Broadcasting Commission (NBC), the regulatory authority, and section 2 lists the extensive powers of the Commission, and it reads in part:

2. (1) The Commission shall have responsibility of -

- a. advising the Federal Military Government generally on the implementation of the National Mass Communication Policy with particular reference to broadcasting;
- b. receiving, processing and considering applications for the ownership of radio and television stations, including cable television services, direct satellite broadcast and any other medium of broadcasting;
- c. recommending applications through the Minister to the President, Commander in Chief of the Armed Forces for the grant of radio and television licenses;
- d. regulating and controlling the broadcast industry

Section 2(2) prohibits transmission by cable, television, radio, satellite or any other medium of broadcast except in accordance with the Act. Furthermore, the Act provides for the procedure for obtaining licenses and the granting of licenses as well as terms of a license and of renewal thereof. The Commission is imbued with the power to enforce the National Broadcasting Code made pursuant to the Act.

Chapter 3, Section 39(2) of the 1999 Constitution

This section of the 1999 Nigerian Constitution qualifies and tactically curtails freedom of expression and of the press. Subsection 2 of Section 39 states:

Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas, and opinions: provided that no person, other than the government of the Federation or of a State or any other person or body authorized by the President on the fulfillment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

This craftily places prior restraint on the ownership of the media for the exercise of freedom of speech particularly on the broadcast media. Chigbo, (2007) observes that Section 39 (3) validates and justifies any law made for the purpose of preventing disclosure of information received in strict confidence while in the service of the state in government. Section 45 of the Constitution further limits the exercise of freedom of expression and the press. This shows that even though press freedom is guaranteed in the Constitution of Nigeria, it is only a mere say as there are techniques used by government to dodge what has been guaranteed in the constitution.

The Freedom of Information (FOI) Act (2011)

The Freedom of Information Act was enacted to promote, enhance and develop Nigeria's precarious democracy. The Act (which is an expansion of Section 39 of the Constitution of the Federal Republic of Nigeria), was signed into law on 28th May, 2011 by the President Goodluck Jonathan administration. According to Dawodu (2016), the purpose of the Act is to make public records and information more freely available, provide for public access to public records and information, and protect public records and information to the extent consistent with the public interest and the protection of personal privacy. The FOI Act is also intended to protect serving public officers from adverse consequences for disclosing certain kinds of official information without authorization and establish procedures for the achievement of those objectives.

With the enactment of the Act, every Nigerian, more so the press, now has a legal right of access to information, records and documents held by government bodies and private bodies carrying out public functions. This is very significant for the Nigerian press because as it were, the provisions of the FOI Act should overrule most of the provisions of other previous laws which denies

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access to information considered useful to the public. This revolutionary law provides a good opportunity to put to test the wider issue of the government's commitment to transparency, accountability and good governance. Segun (n.d) asserts that before the promulgation of the Act, Nigeria had no law which guaranteed access to public records and information. On the contrary, many Nigerian laws have secrecy clauses prohibiting the disclosure of information, for example, the Official Secrets Act, the Criminal Code, the Penal Code, and the Evidence Act. She further argued that the Official Secrets Act for instance, prohibits the unauthorized transmission of any information which has been classified by any government branch as being prejudicial to the security of Nigeria. Needless to say, that with such a legal provision, there were arbitrary classifications of several information as antithetical to national security, and that was sufficient to deprive the public of such relevant information. It is in the light of the above that the FOI Act is seen as a revolutionary pro-free press legislation.

The Cyber Crime Act (2015)

In 2015, the Nigerian government passed into law, the Cyber Crime Act, aimed to make the cyber space a safe place for Nigerians. It stipulates on the right use of the cyber space and prescribes punishment for different cybercrimes ranging from fines, to imprisonment or both. As it concerns journalism, the Act is meant to guard against cyber stalking, which many independent citizen journalists engage in. According to Adibe, Ike and Udeogu (2017), "in the digital media world, it has become common practice for users to ridicule, harass, or insult those who disagree with their point of view." This is indeed a cause for worry. However, the Cyber Crime Act, studied closely, is seen to also affect press freedom and free speech. Section 24 (1b) of the Act states that any person who knowingly or intentionally spreads messages or other matter by means of a computer network system that "he knows to be false, for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent" faces the same possibility of punishment. It is needless to say that this leaves much to be desired, because it creates a leeway that can be readily manipulated by government to silence journalists.

Critical Appraisal of Nigerian Media Laws

Perhaps some of the media laws and regulations so far identified fall into the category which Section 45 of Nigerian Constitution says may be reasonably justifiable in a democratic society in the interest of defense, public safety, public order, public morality or public health; or for the purpose of protecting the rights and freedom of other persons, but their implementation are often inimical to media practice in Nigeria. It is therefore necessary to call for moderation in the urge to control the media in the country. This is because, although some media reports occasionally inflict pain on some people and their families, the public is the main beneficiary of the media exposure of events and ills of society. It should be constantly borne in mind that as the watchdog of society, it is the media which points out danger signals in the horizon to forestall a woeful end. In addition, it is inappropriate to gloss over the commendable role of many media professionals in several matters of public interest to impute that they are always used for only ignoble purposes.

While it may appear that the legal statutes on the press in Nigeria guarantees and promotes a free press, this is only on the surface, as a closer and deeper look will reveal otherwise. Writing on the provisions of Section 39(2) of the 1999 Constitution, Iredia (2015) argues that a proper scrutiny of the provision reveals that it merely protects the interests of owners and not those of media professionals who are the real operatives to police the fundamental objectives and directive principles of state policy enshrined in Chapter 2 of the Constitution. What this suggests is that the media is yet to be empowered to meet its constitutional mandate. Similarly, Aturu (2010) made the same point when he warned that care must be taken not to mistake the empowerment of media owners for that of the media. The purport of the above provisions of the 1999 constitution is that a person who is in custody of certain pieces of information which the press considers to be of interest to the public, can hide under this law and refuse to grant same to the press. Moreover, such journalist and/or media house cannot legally and freely invoke the provisions of section 1 of the Freedom of Information Act which guarantees right to freedom to seek for and have access to information. The reason is simple: the Freedom of Information Act, no matter its superficial trappings and attractions, is still very much subject as well as a slave to the 1999 constitution (as amended) (Oduah, 2015).

On the Acts setting up Commissions and Councils for the regulation of the media, it is not difficult to perceive that the powers of such Councils and Commissions are only but tools in the hands of the government to continually gag and suppress the media. For instance, Section 2(1)(c) of the Nigerian Broadcasting Commission Act as amended, still reserves the exclusive right and power to grant licenses for the operation of radio and television stations to the President. This presages a huge danger to press freedom in Nigeria because the President can choose not to grant license to the owners of already existing media houses which he perceives as enemies, should they need license to open another media outfit.

Furthermore, the NBC is viewed by many as lacking in independence as it is directly under the control of the Minister of Information and Communications as well as the President. It has been repeatedly accused of being quick to muzzle privately owned broadcast stations with little or no justification while turning a blind eye when government owned stations violate the provisions of the Broadcasting Code, particularly during electioneering periods. A shining example is the case of 2009, when it took the courts to

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save Adaba FM 88.5 Radio, an Akure based station from the claws of the regulatory body. According to Sowole (2009), the decision of the NBC to shut the station was reversed by Justice C. Okeke of the Federal High Court Akure who upheld the plea of the station that the NBC breached its constitutional right to fair hearing, freedom against discrimination and freedom of expression.

Of all the laws against press freedom, the Law of Sedition is arguably the most bothersome. This is because it clearly seeks to muzzle the press against the excesses of government and government officials. This law, by implication, means that even if for instance, a President or Governor is unfit to be in or continue in office, which could be for a variety of reasons, the press cannot speak against such an occupant of the office. This law also, according to Section 50(2)(ii), criminalizes the act of disaffection against a legally constituted office. So, going by the provisions of this law, for example, the press could not have, and cannot argue against the “legally” constituted office of the Commissioner for Happiness created by Senator Rochas Okorocha, when he was Governor of Imo State, even though such an office falls short of every sense of responsibility. Besides, the provisions of this law is open to divergent interpretations; it also leaves the interpretation of what statement can pass for seditious intention open to the government, which shall be the plaintiff in cases of sedition. On this, Igyuve (2018) argues that sedition is a very fluid law; so many things can be taken to be seditious. It inhibits free speech and means that any criticism against the Federal government or a governor can be termed seditious. Such law as on sedition is not contextually relevant in our world of today as it is used as a tool of intimidation. This is why Nwanne (2014) opined that 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.

On the weaknesses of the Official Secret Act, Ezeukwu and Nwanze (1998), quoted in Oduah (2015, p.9) argues thus:

This (Official Secret Act) is a very dangerous and uncharted sea for journalists in this and other countries of the world. Under this law, all government employees, including members of the civil servants take an oath, promising not to divulge “Official Secrets”. This is an Act of all-embracing scope and technically under it, a minor civil servant could be prosecuted for telling his wife what type of biscuit was provided in their office for lunch.

Oduah adds further that it is instructive to restate here that the Official Secret Act “is applicable throughout Nigeria and also binds citizens of Nigeria in diaspora” (p.9).

On the Cyber Crime Act, Adibe et al (2017) argue that in the age of online journalism and extensive use of social media in the redistribution of news, this provision in Section 24 of the Act has immense implications not only for online press freedom in Nigeria, but also for freedom of expression in general. This is quite true because it can be used as a tool to silence, intimidate and harass journalists. Section 1(b) of the Act does not define clearly what sort of publication can “cause annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another...” even if such publication is true. This means that if journalists publish information online which harasses or annoys the government, by the provisions of this Act, such a journalist is guilty of a crime, even if such publication is true.

Since the passage of the Cyber Crime Bill into Law in 2015, several Nigerian online journalists have been arrested, manhandled and detained by the Nigerian authorities for publications they found offensive. Some of such journalists include Jamilu Mubai, arrested by the Katsina State Government in 2016 for causing disaffection for government; Audu Maikori, arrested by the Kaduna State government in 2017 for repeatedly tweeting on the Southern Kaduna killings; Musa Balale Azare and Emenike Iroegbu, arrested by the State Security Services in 2016 for publishing an “unpalatable” article implicating the Abia State Government, amongst others. There was also the arrest of Mr. Samuel Ogundipe, a journalist with the *Premium Times*, an online newspaper, on the orders of the Inspector General of Police, compelling him to disclose the source of an information he published, which the police boss finds offensive. According to a report by Tosin Omoniyi in the newspaper on August 14, 2018, “Officials at the police headquarters told *Premium Times* that the directive to detain the journalist came directly from the Inspector General of Police who is said to be angry at this paper’s critical reporting of his activities.” This is nothing short of an attempt to gag the press using the provision of a clearly obnoxious law.

Whilst it is undisputed that the essence of the Freedom of Information Act is to guarantee the right of access to information held by public institutions, it is important to note that there are limitations and restrictions to these rights. The FOI recognizes that not all information is for public knowledge. As a result, public institutions are allowed to deny or refuse any application for access to certain restricted information. Some of such prohibiting sections of the Act include sections 11, 12, 14 -17 and 19 and they border on such issues as may be injurious to the conduct of international affairs and the defense of Nigeria’s sovereignty, information that may jeopardize ongoing investigations, information that touch on personal privacy, professional privilege such as doctor-patient privilege and trade secrets that are confidential and privileged. Under the Act, an application for information shall not be denied where the public interest in disclosing the information outweighs the injury or harm stated in the exemption (Duru and Ezech, 2018). However, it is important to state that a major snag of the FOI Act is that it did not define the concept of public interest. In the application of the public interest test, public institutions are required to make an informed decision whether in any particular case, it serves the

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interests of the public better to withhold or to disclose information. This therefore, becomes a ground upon which institutions which are required to make information available to any person who seeks it may offer a denial.

What stands out clearly from what has been thus far enumerated is that though the laws of Nigeria provide for a free press, in praxis, it is a different scenario altogether, as the same laws are used as yardsticks to gag the press. By implication therefore, one can say that the press in Nigeria is free, but at the same time, not free. This means that the freedom of the press in Nigeria is not absolute. However, one can argue, and debatably so, that there is nowhere that the press enjoys absolute freedom; what can be talked about is the degree of freedom enjoyed by the press in different nations of the world.

Summary, Conclusion and Recommendation

This paper has clearly highlighted some of the challenges of having a truly free press environment in Nigeria. The observations drawn from the various reviewed literary works and press laws examined in this paper shows that the 1999 Constitution of the Federal Republic of Nigeria, as amended, upholds freedom of expression and the freedom to own and operate various means of mass communication, implying that the media should be able to operate freely without much hindrances and challenges. This is in line with one of the basic tenets of the Libertarian Theory upon which this paper is based. However, this paper also exposed the fact that though the media is constitutionally free, other existing laws impede the full expression of this freedom, and this has continually posed a big challenge to the free operation of the press. This is akin to giving with the right hand while taking back what was given with the left hand. The normative theories of the press explored in this study shows clearly that the media is free only to the extent that the government allows it, thus, to have laws that assures press freedom and laws that restrict same at the same time and in the same social context is a fine recipe for humungous challenges to arise.

This paper also shows that despite the enactment of the Freedom of Information (FOI) Act (2011) which provides for free and easy access of the public to official records, the enforcement of the Act has been less than optimal, hence, the intended purpose of the Act is not being achieved. This is a major setback for press freedom in Nigeria as Nigerians are denied access to information that may be relevant for nation building. The Social Responsibility Theory, one of the theories used in supporting this paper, emphasizes among other things, the watchdog role of the media in the society. The media is meant to hold the government accountable to the people, and this function is one of the basic reasons for the enactment of the Freedom of Information Act. However, as shown by the research of Arikewuyo, Adisa and Aliagan (2019) reviewed in this paper, there is a less than optimal enforcement of the Freedom of Information Act, thus, denying the Nigerian press the desired level of freedom.

From the foregoing, it is evidently clear that the Nigerian media is encumbered with a myriad of challenges and thus, deprived of true press freedom. One may dare to even add that such challenges worsen as the years go by. These challenges of press freedom, as has been revealed by this study, include harassment and intimidation of journalists by government agencies, unlawful sanctions on media houses from government regulatory bodies, economic condition of journalists, deliberate targeting of media houses for physical attack and the confiscation and destruction of property, threats, unlawful arrests and detention, abduction and torture of journalists, inability to secure access to information in government agencies despite the existence of the Freedom of Information Act as well as other legal constraints.

Based on the above, the following recommendations are considered germane and are thus, put forward:

1. The Constitutional provisions for the operation of the media should be strictly adhered to. This assurance from the highest body of laws in the land will not only protect the media from unlawful interferences but will also ensure that the media is able to operate fully, freely and within lawful bounds to full capacity.
2. Other existing anti-press laws, including sections of the Constitution which contradict the Constitutional provisions for a free press environment ought to be reviewed and repealed. Oftentimes as this paper has shown, recourse has been made to such anti-press laws to harass and intimidate the media.
3. The judiciary must uphold the tenets of the law and protect the media from the constant harassment from the government and her agents. Cases of unlawful arrests and detention of journalists as well as unlawful sanctions of media houses must be immediately overturned by the law courts to protect the integrity of the press.
4. Security operatives, government regulatory bodies and other agencies of the government must follow the rule of law and avoid the constant harassment of the Nigerian press. One of the greatest challenges of press freedom in Nigeria has come from agents of the government. If the government continues to intimidate the press with all her machineries, then there is no way there can be real press freedom, and this will lead to further breakdown of law and order in the society.
5. Media practitioners on the other hand, must also ensure to work only within the provisions of the law. Individual journalists and media organizations must ensure to verify all information they publish and ensure that they are factual.

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