

LAW AND OPERATIONAL FREEDOM OF THE PRESS IN NIGERIAN DEMOCRACY

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Abstract

The place of the press (media) in the success of any government both democratic and despotic cannot be overemphasized. But even at this, some governments and the press have mutually suspicious and antagonistic relationships. Hence, while the government has used the instrument of the law to circumscribed press freedom, the press has used every opportunity to crave for more freedom. Nigeria is not an exception. Since independence, the issue of press freedom has been fought relentlessly. However, since the current democratic dispensation in the country, things seem to have positively changed. Using observation and available literature, the researchers examined the operational freedom of the press in Nigeria. The study anchored on normative theory of the press examined key concepts, law and press freedom, freedom of the press under military and democratic governments in Nigeria, Freedom of Information Act and recommended that media practitioners should display professionalism and responsibility in the discharge of their duties while the government should be sincere and give the press enabling environment to operate.

Key Words: Law, Operational Freedom, Press, Democracy

1. Introduction

The press and the law have lived a mutually antagonistic life since the time of authoritarian kings. Those in authority never hid their suspicion of the excesses of the press and had at different times used the instrumentality of the law to circumscribe its operations. The rabid fear of the power and influence of the press and their commitment to the defence of human rights have often constituted the reasons for censorship, (Akinwale, 2010). On the other hand, the press often perceives those in authority as corrupt officials who use the law arbitrarily to chain free dissemination of information. Though, it is obvious that a society without freedom will be grossly tyrannical and extremely suffocating, freedom (total) without limitation breeds anarchy. In the same vein, a society without vibrant and free press will be largely uniformed and ignorant much as press without reasonable restraints will be licentious to that society.

Consequently, while the press professionals and notable statesmen have praised and craved more and more freedom for the press to operate, the law has been very wary of abuse of such freedom. President Thomas Jefferson of the United States, for instance, so highly regarded the press that he once asserted that, "to the press alone, the world is indebted for all the triumphs which have been gained by reason and humanity over error and oppression." He went further to say, in his letter to Col. Edward Carrington in January, 1787 that: "...the basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspaper, or newspaper without a government, I should not hesitate for a moment

to prefer the latter...” Toeing the same line of thought as Jefferson, a former U.S. Supreme Court Justice, Louis Brandeis observed that, “the function of the press ... is very high. It is almost holy. To misstate or suppress the news is a breach of trust...” The same position were canvassed by earlier philosophers like John Milton (areopagitica in 1644), John Stuart Mills and others

The counter argument of the opponents of unrestrained press freedom is no less as impressive. Their position was aptly captured by Lord Kenyon, a renowned British jurist cited in Ekwueme (2008) when he argued that:

The liberty of the press is dear to England; the licentiousness of the press is odious to England. The liberty of it can never be so well protected as by beating down the licentiousness... I say that the liberty of the press was dear to England and I will say that nothing can put that in danger than the licentiousness of the press.

Also, in a famous speech made on November 13, 1969, the former Vice President of the United States, Spiro Agnew voiced his concerns about the unchecked influence of the press particularly the television networks thus:

No medium (TV) has more profound influence over public opinion. Nowhere in our system are there fewer checks on such vast power. So nowhere should there be more conscientious responsibility exercised than the news media... Is it not fair and relevant to question its concentration in the hands of “a tiny enclosed fraternity of privileged men elected by no one and enjoying a monopoly sanctioned and licenced by government?” (www.ucs.louisiana.edu)

The above finds more expression in the very fact that despite the power, influence as well as the necessity of the press to the society, the essence of law in the society stems from the need to uphold the dignity of man and by extension, that of the press itself, for in the words of Thomas Hobbes, ‘a society without law is a society of anarchy’. In such a society where there is no law, life and survival will be the preserve of the fittest and the strongest and elimination of the unfit, and such a life according to Hobbes, will be ‘nasty, brutish and short’. In this sense, therefore, all civilized societies or nations, have to be controlled by the rule of law.

The opinions shared above make a compelling argument for critical examination of the operational freedom of the press in the present Nigerian democracy. The questions to be asked are: given the immense influence and necessity of the press in the society, has the press been given adequate operating freedom in Nigeria? To what extent has the Nigerian government accommodated the perceived excesses of the naturally adversarial Nigerian press? Using observation and secondary sources of data, the researchers examined the extent of operational freedom enjoyed by the Nigerian press in the present democratic dispensation, review the applicability and relevance of extant press laws in the country including the Freedom of Information Act, the extent of official high-handedness in its relations with the press and makes recommendations.

2. Conceptual Framework

In spite of its usefulness in the society, it is difficult to append a single, all-embracing definition to the term law. Arnold cited in Umechukwu, (1997, p. 79) observes that law can never be defined. Similarly, in these words: “Omnis definitio in jure civili periculosa est,” Lavodenus agrees that it is a dangerous enterprise to give an embracing definition of law. It

is perhaps, because of this lack of consensus on what law commonly means that led to the emergence of two schools of thought – the ‘positivists’ and the ‘naturalists’ on the meaning of law. The Positivists led by John Austin opine that law is the command of the sovereign backed by a threat of sanction in event of non-compliance (Austin, 1977). On the other hand, law is what the government or the sovereign says is law. It is because of this that Decrees and edicts, or laws made under emergency situations (martial laws) are considered laws and enforced. This view of law partly explains why the renowned of French philosopher, Jean Jacques Rousseau cited in Umechukwu (1997, p. 82) opines that man is born free but everywhere he is in chains: in the chains of laws of the land.

On the other hand, the Naturalists led by Aristotle and Thomas Aquinas state that law is a command which is reasonable, given for the common good by one who has the care of the community and which is promulgated. To them any law that is not a command, reasonable, given for common good by a legitimate leader and promulgated fails as law. This view of the law does not mean arbitrariness or tyranny but the need to control human actions because all human beings are born free and equal in dignity and rights; and one’s right stops where another person’s begins.

These two schools of thought have over the time, been used as basis for law making under dictatorial and democratic leadership. In any case, it is the law or the constitution that provides the operational freedom needed by the media to function in accordance with democratic tenets. The phrase ‘according to democratic tenets’ is necessary because the press, from the colonial days was viewed with suspicion as a spoiler and as such, draconian laws were enacted to restrict its access to information, such as Official Secret Acts, Newspaper Amendment Acts, Newspaper Proscription and Prohibition from Circulation Decrees among others.

But not minding the above arguments, this study adopts the definition of law enunciated by Nigerian Institute of Advanced Legal Studies, Lagos (1993), which defines law as a body of rules binding on members of the society either as individuals or as a group, and is enforceable directly or indirectly, by institutions created for that purpose within the society. This definition, by implication means that law is normative, institutionalized and coercive or made to be obeyed by force.

According to Oguniji (1989) freedom of the press means “allowing the press to perform its traditional role of keeping the masses informed about events taking place within and outside their community without hindrance, harassment or legal or social constraints”. Similarly, the Canadian Standard Broadcasting Corporation Limited in a report to the special senate committee on mass media, notes that “freedom of the press guarantees to the public that no influence on the part of government, business, labour or any individual will be allowed to distort, alter or influence the flow of information”. Ndolo (2005) says that freedom of the press means a press free from government and committed to economic growth and quality of life. He pointed out that this cherished freedom of the press is a legacy in antiquity, arguing that ‘no political or social system exists with a totally free flow of information, because the right to publish and to get the truth can be denied under certain circumstances’. Suggesting maturity and responsibility by the government and the media as boundaries, Ndolo (2011, p. 12) elucidates that:

The press should allow the government to govern and the government allows the press to press. It is only when government allows the press to press, guided by its code of ethics and realization that the concept of total freedom of the press is a legacy in antiquity, that a fourth estate of the realm in Nigeria will become REAL.

Accordingly, even though 1960, 1963, 1979 and 1999 constitutions (as amended) as well as the Freedom of Information Act, included provisions guaranteeing the right to freedom of expression and that of the press, Onwosi (2012, p. 212) argues that the constitutional framework under which the press operates in Nigeria is precarious and suggests that freedom of the press should be (more) clearly enshrined in the constitution. He went further to opine that media freedom should adequately guarantee the media the right to receive and disseminate information and that any existing legislation which tends to unduly strangle the freedom of the media should be reviewed otherwise, this great role may be lost where the press is cowed, constrained and handcuffed by government using legal and extra legal measures. For our purposes here, the operational freedom of the press refers to the extent to which press is allowed to perform their functions/duties in relation to the existing laws in the country.

Press in the context of this study is the act of gathering and disseminating of news items, comments, features and opinion articles and other literary materials to the public through the various media of mass communication like newspaper, radio, television, magazine, telegraphy and recently, the Internet. The people who professionally engage in this are the pressmen or journalists. In this study, press, media and journalism are used interchangeably. In a democracy which has been famously defined as the government of the people, by the people and for the people, a free and vibrant press is one of its cornerstones. As the fourth estate of the realm, it exercises enormous checks on the other organs of the government and is the bastion of all forms of human freedoms. This explains why Onwosi (2012) further asserted that the much chanted freedom of the press has to go beyond lip-service to having a legal restraint on the government and its agencies from 'arbitrary interference, harassment and closure of media houses'. It is to this end that the operational freedom of the media becomes very necessary given the vital role of the media in a democratic setting.

3. Theoretical Framework

It would be almost normal for one of the four normative theories of the press to form the theoretical framework of this paper given the topic of discourse: operational freedom of media. However, a number of media analysts have argued that the classification is incomplete. Nerone (1995) for example, argue that even the title, 'normative' is misleading because the four theories are only but one theory presented in four different forms. This is because, every communication system reflects in its structure, policy and behaviour of the environment where it operates.

Commenting on the deficiency of the normative theories, Denis McQuail (2000) posits that the theories are not broad enough, arguing that the state intervention is almost necessary especially in broadcast media. Consequently, Hachten et al (1981) have proposed additional (fifth) model: Developmental Model by which the media is seen as a building tool for national identity and economic growth. Also, Piscard (1985) has evolved a theory that gives allowance for state intervention, particularly through economic controls to protect citizens from press concentration and to provide for society's needs.

However, since media freedom and rights does not connote lawlessness and irresponsibility but, freedom to gather and disseminate information in so far as they do it within the ambit of the law, the social responsibility theory of the media becomes apt in explaining this study. Social responsibility theory allows free press without much censorship but at the same time the media should accept some obligations ranging from public interference or professional self-regulations or both. This means that the theory keeps certain areas free for the media while at the same time putting much responsibility on media. Because of this, it is neither authoritarian nor libertarian. It calls for private media

ownership. It emphasizes not just factual reporting (objective reports) but also puts much premium on investigative and interpretative reporting. Interpretation was so important to the Hutchins commission that they observed unequivocally that total news is, “no longer giving facts truthfully rather than giving a necessary analyzed or interpretative report on facts with clear explanations,” (Siebert et al, 1957).

The core tenets of this theory include that the media have certain obligations to society; that they must show truth, accuracy, objectivity, and balance in their reports; that the media should be self-regulating (in obedience to codes of conduct and ethics); that the media are pluralistic and should reflect diversity of society and various points of view, serve as forum for ideas; that the media ownership is a public trust and the journalist is accountable to his audience/readers.

The question to ask therefore is, the extent to which the media in Nigeria in this democratic dispensation are free to operate and hence perform the desired functions and responsibilities. This forms the relevance of this theory to this study.

4. Literature Review

A thorny global for centuries, the literature on operational freedom of the press is by no means skimpy. The very first struggle against stifling the freedom expression and by extension, freedom of the press began with the authoritarian kings who stood against critical opinions by granting and withdrawing patents from press men. This brought about many critical opinions from scholars and philosophers like John Milton, John Stuart Mills and others. In a piece presented to the British House of Commons by Milton in defence of intellectual and press freedom in 1644 (*Areopagitica*, since hailed the noblest piece English prose), he argued that, “civil liberty could be attained only if complaints were heard, deeply considered and speedily reformed.” He further argued that:

He who kills a man kills reasonable creature, God’s image; but he who destroys a good book, kills reason itself, kills the image of god, as it were, in the eye. Many a man lives a burden to the earth; but a good book is the precious lifeblood of a master spirit, embalmed and treasured up on purpose to a life beyond life.

John Stuart Mills, almost two centuries later, was equally uncompromising in his denunciations of press censorship. In his exact words:

The peculiar evil of silencing the expression of an opinion is that it is robbing the human race, posterity as well as existing generation, those who dissent from the opinion, even more than those who hold it. If their opinion is right, they are deprived of the opportunity of exchanging error for truth;; if wrong, they lose what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.

While many democrats and statesmen voice their support for freedom of the press, some of their colleagues have equally been leery and pessimistic about it fearing the consequences of its potential abuses. For instance, Poll (1973) cited in Umechukwu (1998) argues that “no nation will indefinitely tolerate a freedom of the press that serves to divide the country and to open a floodgate of criticisms against the freely chosen government that leads it.” The implication of the above is that while it is good for the press to have operational freedom, it should act responsibly. On the other hand, the freedom to operate should not be the licence

to subvert. It therefore, becomes imperative to state the extent of this freedom sought by the media and the specificity of the freedom and rights demanded.

According to Onwosi (2012), the Nigeria courts have found it expedient to draw a line of dichotomy between 'human rights and fundamental rights'. According to them, human rights were derived from and out of the wider concept of natural rights. They are rights which come to human beings just for being human beings. Fundamental Rights remain in the realm of domestic law. They are fundamental because they have been guaranteed by the fundamental law of the country; that is by the constitution. This means that human rights are natural or divine - what man has as human being created by God while fundamental rights are the ones entrenched in the constitution which are necessary to maintain orderliness and respect for one another within the society. The question is: which of these rights do press men claim in order to operate? From the above explanations, it is the fundamental rights.

5. Law and Press Freedom

Thorny as the issue of press freedom has been worldwide, the vital role of the media in a democracy cannot be over-emphasized. The press has since emerged as the most vocal and effective channel for the expression of ideas, opinion, and information. Describing as epochal the function of the media, Ndolo (2011) avers that it is the muscle, ligament, and sinew of the democratic society and that if cut, the nation will be paralyzed. The necessity of this watchdog role is seen from the fact that democracy is the government of the people (majority) and so, the interest and the opinion of the people should be respected and obeyed by the few in the seat of government. Hence, freedom of the press or media has become synonymous with such other freedom such as freedom of speech, expression and information.

With the advent of capitalism and libertarian philosophy particularly in west, man started gaining significant degree of freedom of expression. What this means is that the kind of government philosophy determines the extent of press freedom. Siebert et al, (1956) put it this way: "The ability of a country to pay for the press, the mechanical ingenuity and resources that can be put behind mass communication... the press of different countries reflect simply what people do in different places and what their experience leads them to want to read about."

Udeze (2015) observes that freedoms of the press and expression have remained a contest and that throughout ages in different parts of the world, man has always contested for the right to air his views. He avers that these rights, in some places, were won with relative ease while in some places, lives of many were lost. He concluded that a virile press is synonymous with democratic society whereas a muzzled press is synonymous with an autocratic society.

Okunna (1990, p. 141) weighs in with the assertion that, "the synthesis of the concept of media freedom is that the press can only be free in so far as it operates within the ambit of the law. She goes ahead to say that every society controls its mass media in accordance with its policies and needs and that what matters is the pattern and degree of the control, depending on the political and economic orientation of such society. She referred to the idea of press freedom as a 'media mythology' thus concurring with Ndolo who referred to press freedom as 'freedom in antiquity'. The implication is that in spite of those guarantees for freedom of the press and of information; no press in the world enjoys complete freedom, no matter how freedom is defined.

Other scholars (Ebeze, 2002; Nwabueze, 2004) concur with the above views. Ebeze (2002, p. 289) argues that press is free within the bounds of law to inform people about their government and its policies; concluding that even in United State of America, journalists have no access to certain government information that is very sensitive such as pertains to

foreign policy, defence, trade and secret investigatory files complied for law and environment etc. Nwabueze (2004, p. 142) while arguing that the freedom of the press in a democratic society as enshrined in the constitution should not be played with, opines that in order for the media to enjoy such freedom, the media has a duty to show itself worthy of it; because common sense requires that a free press must be a responsible press. The press must not abuse power. The press that acts irresponsibly should lose its privilege of protecting the source of information.

The above submissions tend to suggest that the mass media have the right to publish and at the same time, protect the sacredness of fact, since all human beings are born free and equal in dignity and right, that the right to publish must respect the right to human dignity and freedom of others. In other words, the rights of the journalists to publish stops where the rights of other people begin.

Summarily, the relationship between law and freedom is that of 'carrot and stick' in diplomacy. It is the law that states, guarantees and protects the freedom of the journalists on the one hand and it is the same law that punishes the journalist for abuse of the same freedom, on the other hand. Put in another way, it is the same law that gives the press the freedom to operate within certain limits that will turn round to punish the press for the abuse of other people's rights. Though the 1999 constitution of the Federal Republic of Nigeria (as amended) provides that "every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference," this provision is not absolute. This explains why some constitutional provisions of media freedom has been criticized in that what the law provided with the right hand, it has taken with the left hand by inserting certain clauses that are inimical to the operational freedom of the press such as official Secrets, Libel, Contempt of Court, etc, (Udeze, 2012: p. 20-55). This is perhaps, why Alhaji Babatunde Jose, former chairman of the *Daily Times* once observed, "if the society decays the journalist cannot claim to be healthier than the body and if law and order break down and there is chaos, and no reader. In order words, the media has the responsibility to the society to uphold peace and order.

6. Press Freedom in Nigeria: Then and Now Then:

Before independence in 1960, the press in Nigeria had 'cat and mouse' relationship with the colonial administrators in the country. The adversarial posturing of the press earned it negative attention and by extension, restrictive laws by the colonial masters. As early as 1903, the first restrictive press law in Nigeria namely Newspaper Ordinance was enacted and was quickly followed by the Seditious Offences Ordinance of November 9, 1909. Apparently incensed by the relentless vitriolic criticisms by the press, Lord Lugard who was the then Governor-General of Nigeria enacted the Newspaper Registration Act of 1917 (whose breach carries a fine of 100 pounds, 12 months imprisonment or both) as a permanent censorship ostensibly as a safeguard against any emergency, (Umechukwu, 2003). This Act which Momoh (2002, p.10) described as perhaps the most notorious press gag law. The Act did not receive the approval of the colonial office in London as the then Secretary of State for the Colonies, Walter Iti questioned the provision of censorship in the Bill and consequently advised against its passage. Under these obnoxious press laws, early journalists like James Bright Davies, John Payne Jackson and others were either jailed or fined. Despite the punitive nature of these laws and the public outcry that greeted them, they were reinforced in 1940, 1942 and 1949, (Akinfeleye, 1987).

Attainment of independence did not in any way sound the death knell of these restrictive laws rather, most, if not all of these laws were carried over by the Nigerian leaders. Besides the laws inherited from the colonial government, other restrictive laws were promulgated namely: Defamation Act of 1961; Emergency Act of 1961; Obscene

Publications Act of 1961; Official Secrets Act of 1962. Upon military takeover in 1966, The Circulation of Newspaper Decree of 1966 and Newspaper (prohibition from circulation Decree of 1967 were enacted.

As Nigeria moved from one military dictatorship to another via the instrumentality of coup d' etat, each military leader, naturally intolerant of the perceived excesses of press enacted its own anti-press laws (Decrees). Ufuophu-Biri (2006, p.149) cited in Nwanne (2014) 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.

In 1984, the military regime of General Muhammad Buhari enacted the Public Officers (Protection Against False Accusation) Decree No. 4 under which he jailed two reporters: Nduka Irabor and Tunde Thompson for publishing a story on ambassadorial postings entitled 'Haladu Replaces Hannaniya.' The simple reason for their incarceration was that the story embarrassed the government.

Not long after General Babangida took over from General Buhari in a palace coup, a new dimension was introduced in the enactment and enforcement of press laws (Decrees). This time around, laws were enacted to proscribe a newspaper. This implies that such decrees lack the universal applicability of law rather they target a particular offending newspaper. This trend stretched to the dark days of General Abacha's dictatorship. Among the Decrees enacted during this time include:

- Newswatch (Proscription/Prohibition from Circulation) Decree No. 6 of 1987;
- Offensive Publications Proscription Decree No. 35 of 1993;
- The Reporter (Proscription and Prohibition from Circulation) Decree No. 4 of 1993;
- Treason and Treasonable Offences Decree No. 29 of 1993;
- Newspaper Registration Decree No. 43 of 1993;
- The News (Proscription and Prohibition from circulation) Decree of 1993;
- Newspapers Etc Proscription and Prohibition from Circulation Decree No. 48 of 1993 (proscribing Concord, Punch, Sketch and Observer Groups of Newspapers);
- The Concord and African Weekly Magazine (Prohibition from Circulation Decree No. 6 of 1994;
- The Punch Newspapers (Proscription and Prohibition from Circulation) Decree No. 7 of 1994;
- The Guardian Newspapers and Guardian Weekly Magazine (Proscription and Prohibition from Circulation) Decree No. 9 of 1994;
- Concord Newspapers and African Concord Magazine (Proscription from Circulation) (Extension of Time) order of 1995 and;
- The Guardian Newspapers and African Weekly Magazine (Proscription from Circulation) (Extension of Time) Order of 1995.

It is simply stating the obvious to say that many pressmen were harassed, arrested, detained, tortured and sometimes, jailed while others lost their lives under these Decrees. The worst form of assault on freedom of the press was the assassination of Dele Giwa, the founding editor-in-chief of the Newswatch magazine through letter bomb on August 19 1986. In fact, Nigerian press never had it so rough. Among the innumerable journalists either detained, harassed, tortured or jailed during these perilous periods are: Etim Etim (Guardian); Bisi Oloyede (Lagos News); Ikpe Etukudo and Tunde Ogungbile (New Horizon); Tony Ukpong (Weekly Metropolitan); Femi Akintunde-Johnson (Fame); Chris Anyanwu (The Sunday Magazine); Akina Deesor (Radio Rivers); Oni Egbunine (Horn); Okezie Amarube (News Service); Idowu Obasa, Wole Odofin and Tajudeen Suleiman (The News); Adewale Adeoye (Punch); Toyin Coker (AIT); Jerry Needham (Ogoni Star); among many others. It got so bad that any journalist that has not been harassed, tortured, detained or jailed was considered spineless just as these ill-treatment of journalists shored up their reputation and prestige. But tried as the government and its security agents did, they could not silence the press. In fact virulent attacks were hauled at them from different quarters.

Now (Under Democracy)

A new lease of life was given to the Nigerian media when on May 29, 1999, the military handed over power to the civilians as Chief Olusegun Obasanjo's government was inaugurated. Despite his well-known short temper and dislike of the press, he tried at times unsuccessfully, to control his bad temper and even though he publicly spoke of the need for a free press, his disposition and body language were far from these public statements, (Nwanne, 2014, p. 16). His intolerance of the press soon manifested itself as his security agents invaded the premises of African Independent Television. The hullabaloo that followed that ill-advised act kept Obasanjo in check throughout his eight-year rule as little or no such crass abuse of press were recorded.

Perhaps the administration of Umaru Yar' Adua who took over from Obasanjo will go down as the most press-friendly leadership. His mild-manner, forthrightness and disposition as a true democrat ensured that he had smooth relations with the press. He only showed anger when the press, specifically, Channels television carried stories on his deteriorating health and the political maneuverings that accompanied it.

When President Goodluck Jonathan took over after the death of Yar' Adua, everybody expected a continuation of the friendly press relationship his predecessor has sown. He did and in several occasions voiced his support for free press. It was only when he came under concentrated press attack that he tends to lose his cool. For instance, he ordered the arrest and suing to court of two reporters attached to *Leadership* newspaper Tony Amokeodo and Chibuzor Ukaibe though the charges were withdrawn shortly. Again, in mid 2014, he had skirmishes with *Leadership*, *Daily Trust*, *The Nation* and *Punch* newspapers that took the intervention of the Nigerian press Council to resolve.

But not minding these isolated incidents, Jonathan's administration is credited with the enactment of the freedom of information Act which is indeed a plus for press freedom.

7. The Freedom of Information Act

The quest for more freedom of expression was boosted with introduction and enactment of the Freedom of Information Act. The Bill was introduced by Abike Dabiri during the First legislative Assembly (1999-2003). Not surprisingly, the original intention and wordings of the Bill rang alarm bells in the heads of many corrupt politicians that made up the National Assembly. Their fears were that the bill, if passed could turn into a Frankenstein monster and turn around to haunt them as they will be compelled to reveal their wealth and their sources by trenchant investigative journalists.

Expectedly several obstacles and spurious arguments were raised to frustrate its passage into law. One of these (obviously self-serving) reasons was that the country was not ripe for that kind of law. But those behind the bill were undaunted and they pressed tenaciously for its passage. After a protracted fight spanning nearly ten years, a period during which the contents of the bill has been watered down and suffering other setbacks (including the refusal of president Obasanjo to assent to the bill), it was finally passed into law during the leadership of Goodluck Jonathan in 2011.

The spirit of the Act as enunciated in its preamble is:

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

The contents of the bill have nonetheless, elicited different reactions. Scholars have argued that the tone of the preamble of the Information Act simply means a restriction to an extent - in other words, the mass media is not absolutely free to publish whatsoever. Yakubu (1999) in its preface observe that 'it is imperative that a journalist knows how he stands with the law in effort to keep the public informed of events or issues of national or international importance, and that except this is appreciated, confinement and loss of revenue through payment of damages and loss of credibility may be the lot of many newspaper houses and journalists'. Yakubu citing Omo Obedu went further to note that, 'there is no other group of people who have chats with the police more frequently than the journalist' and that when the police really gets agitated, hair-shaving and whipping can go with the chat... also the journalist runs risk of standing trial for Libel, sedition and other similar offences.'

What the above propositions presuppose is that for the journalist or media practitioners to actually enjoy the freedom to publish or disseminate information, they must take cognizance of the constitutional grounds or legal provisions guiding their operation. Their freedom should not in any way breach the same constitution or the extant laws of the state that gave the enabling powers to operate. Put differently, a free press is the one that is professionally responsible. The responsibility is the ability to operate within the ambit of the law.

This agrees with the summation of Nwabueze's argument that while the media should consummate all the relevant provisions of the Nigerian constitution dealing with freedom of expression and the press, Universal Declaration of Human Rights of the United Nations; African Charter on Human and Peoples Rights, these rights are however, limited by the laws dealing with defense, logistics, public safety, public interest, public order, morality, health, and protection of the right of others.

Therefore, the extent to which the media is allowed to operate (freely) is contingent upon their readiness to be responsible in the discharge of their duties. This is what Analytical Theorists opined that press freedom must be accompanied by press responsibility, because, to every freedom there is a corresponding responsibility and there is a duty and obligation to every right and privilege. They argue that the need to avoid publishing unsubstantiated and easily provocative matter is a responsibility the press owes the society.

8. Conclusion and Recommendations

In view of the foregoing, we conclude that the press in Nigeria has significant freedom with the existing laws of the country to operate. Though there have been one or two skirmishes between the government and the press since the current democratic dispensation, they are nothing compared with the heartless and wholesale clampdown on the press that characterized the dark days of the military dictatorship in the country. In fact, the government has shown remarkable maturity and tolerance in its relationship with the press. Even when President Buhari wished to withdraw the permit of the Aso Rock reporters of African Independent Television, good counsel prevailed and he rescinded the decision.

It is noteworthy that the infamous proscription of newspapers, ceasing of a whole edition of newspapers, sealing off the premises of media houses and undue detention of journalists have stopped.

Given these positive development, we advocate for press or media freedom not just for the media itself but for functional democratic governance. If the media must be free indeed in discharging their duty in a democracy, the constitution which is the bastion of democracy must make a clear provision for the said freedom. That is what we mean by operational freedom. That is, freedom to be free to operate as occasioned by the law. However, we are not advocating a lawless press or freedom to be licentious, but operational freedom backed up with responsibility of balanced reporting and accurate interpretation of event to the general public. This is because no nation will tolerate freedom of the press that serves to divide the country with its reportage.

We also recommend that for bill of rights of citizens and press freedom to become entrenched; there should be an articulate and fearless judiciary that will hold both the press and the government in check and point out as well redress abuses. Where the judiciary is compromised or intimidated, everything is lost and the freedom of press could be undermined.

Moreover, the media will be at its best in terms of professionalism and responsibility. The media should observe to the letter, their code of conduct and ethics. With this, the government should provide a safe legal environment for the press to operate. With this the words of Ndolo that the press will allow the government to govern and the government will allow the press to press will come to fruition.

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