

Mass Media, Freedom of Expression and Democracy: The Nigerian Experience from 1999-2017

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Abstract

This study interrogates media-state relationship under the current democratic dispensation. Libertarian Press Theory serves as the theoretical framework of the study, which argues that freedom of expression is *sine qua non* for democracy to thrive. The ensuing argument and supplied evidences serve to demonstrate that although there exists moments of clashes between the media and state forces, the current democratic experiment holds freedom of expression in high esteem. This is what the vibrant press has been yearning for, since the commencement of the Nigerian project. However, the study argues that the abuse of social media opportunities, coupled with the current rise in hate speech is pushing the state to the wall to device measures that would tame these abuses and hate speeches that are overheating the polity already. The study, therefore, recommends that this cause should be pursued with utmost caution in other not to limit freedom of expression as a result. Above all, the study recommends that journalists across the country should take advantage of the freedom granted them by the current democratic dispensation to expand the frontiers of democracy. This way, they will uphold their revered status in society as members of the Forth Estate of the Realm.

Key words: Democracy, Freedom of expression, Mass media, Nigeria.

Introduction

The mass media in Nigeria have had bitter experiences with the various military governments that emerged shortly after independence. Both in principle and practice, the military administrations were not media-friendly. In principle, several repressive press decrees were churned out by almost each regime to limit the operations of the press. In fact, all the military regimes that ruled the country have a litany of repressive press decrees to their credit. Few of such repressive press decrees include the Newspaper Prohibition from Circulation Act of 1967, Public Officers Protection against False Publication Decree No 11 of 1976; Public Officers Protection against False Publication Decree No. 4 of 1984, Detention of Persons Decree No. 2 of 1984 and Newspaper Registration Decree No. 44 of 1993 among others (Abayomi, 2003).

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In practice, several cases of arbitrary attacks and harassment of journalists, arrest, detention and in extreme cases, killing of journalists, clampdown on media houses, proscription of issues of publications among a myriad of other inhuman treatments that were meted on media workers leave one convinced that a cat and mouse relationship existed between the media and the military administrations (Sambe, 2008, Idumange, 2013, Idumange, 2013b, Ismail 2011, Okoye, 2003 and Abayomi, 2003).

Several reasons account for this unfriendly relationship. First and foremost, the military administrations in their bid to hold onto power permanently required a high level of secrecy, with a lot of information that they preferred concealed. The media on their part saw it as their duty or obligation to keep society well informed. This incompatibility in the goals of the military regimes and the media industry often times, set the stage for confrontations that frequently resulted in hostile operational environments for the media (Okoye, 2003).

Second, government's opposition and hostility to the media was borne out of what the military regimes viewed as constituting "incitement" to civil disobedience and undermining state security. A lot of repressive press decrees had this as a justification, and for non-compliance with their provisions, the press paid the bitter price for the disobedience (Sambe, 2008). Needless to mention at this point, that the society which the media were supposed to feed with quality information was greatly affected.

With the military personnel now in their barracks and civilians at the helm of affairs, one is tempted to make a scholarly guess that media-state relationship is rosy and cordial. However, a careful observation of the situation shows that although the mass media heaved some sighs of relief with the return to civilian rule in 1999, a lot need to be done to actualize the dream for freedom of expression in its entirety. This essay sets out to investigate this deeply. To achieve this goal, it first of all takes a step back in history and recounts the media-state relationship in the post-independent Nigeria which was dominated by military rules before delving into the current, and of course, longest democratic experiment. This is done with a view to assessing the journey so far, and proffering recommendations that would help to entrench and strengthen the principles of freedom of expression, which is a necessary ingredient of democratic governance.

Mass Media, Freedom of Expression and Democracy: A Conceptual Discussion

The entire gamut of arguments in this essay hangs on three key concepts: mass media, freedom of expression and democracy. To a layman, the mass media refer to the channels or technological devices through which messages are conveyed to a large heterogeneous audience, Asemah (2011) notes that, they are vehicles used for conveying messages from a source to a large destination. However, this study views the mass media more than mere channels of passing information. Instead, the interaction between the personnel, technological installations or facilities and society for the purpose of producing and massively disseminating information is the main concern here. To illustrate this point clearly, let us subscribe to Sambe (2008) who

views the mass media from a dual perspective: First, as technological artefacts, then as social institutions. In his explanation, he posits that:

As technological artefacts, the media refer to the various systems of modern communication that make information consumption possible. These will include: newspapers, magazines, books(print media), and television, radio, film or cinema (electronic media).As social institutions, the media refer to those highly organized social system with well-defined authority relationships, and are responsible for the gathering, processing, packaging and dissemination of information or messages for public consumption (p.159).

The perception of the mass media in the study is inclined to this view of the mass media as a social system; a perception which goes a long way to confer on them the revered status of the Fourth Estate of the Realm.

Freedom of expression is a universally recognized human right, as it is enshrined in several regional and international documents such are the African Chapter on Human and People's Rights, the Universal Declaration of Human Rights (1948), the French Declaration (1789) and the England's Bill of Rights (1689) (*see* Reporters without Borders, Paul Hastings and Thomson Reuters Foundation, n.d.). Article 19 of the Universal Declaration on Human Rights (1948) states that: "everyone has the right to freedom of opinion and expressions; this right includes freedom to hold opinions without interference and to seek, receive and impact information and ideas through any media and regardless of frontiers."

The crucial role of freedom of expression to democratization process can never be overemphasized, in the words of Corazon Aquino, one time President of the Philippines; "freedom of expression-in particular, freedom of the press-guarantees popular participation in the decision and actions of government and popular participation in the process of our democracy." The Nigerian constitution of 1999 as amended provides for freedom of expression in section 39, thus:

(1)Every person shall be entitled to Freedom of expression, including freedom to hold opinions and to receive and impact ideas and information without interference. (2) 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... (Nigerian constitution 1999 as amended. Section 39, subsections1&2)

Putting accent on the press and its obligation, section 22 of the same constitution provides 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". From the foregoing, it is clear that in principle, the Nigerian constitution provides for freedom of expression and of the press.

Democracy in our contemporary society tends to be the most acceptable form of government. Suntai and Targema (2017) submit that, democracy entails freedom of each individual to participate in the political community's self-government. According to the duo, political freedom lies at the heart of the concept of democracy. Democracy connotes rule by the people through free and fair elections among other forms of participation, and that is why the Athenians of ancient Greece, progenitors of the concept, defines it as, "government of the people, by the people and for the people." Galadima and Goshit (2013) note that, democracy entails popular sovereignty, political equality, recognition of the consent of the governed as well as regular and periodic free and fair elections. Quoting Powel (1982), the duo outline the five basic criteria that are key to identifying contemporary national democracies as follows:

1. Legitimacy of government rests on its claim to represent the desires of the citizens. Government exists and is therefore accountable to do what the people want;
2. There is regular and competitive electoral process for choosing political leaders and voters can choose from alternative candidates;
3. Most adults can participate in the electoral process both as voters and as candidates for election;
4. Citizens vote in secret, free from coercion and;
5. Citizens and leaders have freedom of speech, assembly, press and organization.

The last factor relates most to this study, which seeks to explore how the present democratic dispensation in Nigeria accords respect to freedom of expression. Nigeria as a country has had democratic experiences from 1960-1966, 1979-1983. The 1993 attempt to return the country to democratic rule resulted in a stillborn third republic; and today we have the fourth republic from 1999 till date. The question here is this: with regards to freedom of expression, is there any significant difference between the military and civilian administrations? Supposing there is; what are the implications for democratic consolidation in the country?

Theoretical Framework

This study is premised on the tenets of Libertarian Press Theory. This press theory emerged in Europe in the 17th century, in opposition to the Authoritarian Press Theory. This was the period when Monarchs ruled most of Europe (Sambe, 2008), with series of anti-press laws that were aimed at restricting freedom of expression. Proponents of the theory such as John Milton, John Stuart Mill and John Locke advocate for "a free market place of ideas" where both good and bad ideas will float freely, with the conviction that good ideas will naturally "sell" and be preferred by the masses at the expense of the bad ones (McQuail, 2005, Nwabueze, 2014, Bitner, 1989 and Sambe, 2008). As a result, any limitation to freedom of expression (formal or informal) violates the tenets of this press theory. The theory is a normative theory; hence, it serves to explain the workings of the media within the operational environment.

Though a relatively old press theory, libertarianism is not fully attained in most of the post-independence African democracies. This is not far-fetched from reality that, series of military dictatorships thrived in most of the post-independence African States, where authoritarian principles were held with high esteem in a bid to muzzle the press, and by extension, the civil society so as to have a firm grip on power. Libertarianism was, therefore, an unaffordable luxury. However, with militarization now a thing of the past, there is a tendency that the new democracies would allow some space for libertarianism to thrive in the media. This essay is, therefore, an assessment of the journey so far in the Nigerian media landscape.

Nigerian Media and the Military Administrations: Some Basic Observations

The relationship that existed between the mass media and the military administrations is best described in the words of Okoye (2003) as a “cat and mouse affair.” Several reasons accounted to this description, few of which include mutual distrust from both parties, too much government secrecy, corruption of government officials, refusal of government to take the media into confidence on matters of national interest and undue restrictions imposed by the government through obnoxious legislations and extra judicial actions to curb what government perceived as the pull-him-down tendency of the press (Okoye, 2003).

The Nigerian media had their worst experiences during this era (Targema and Ayih, 2017). It was an era characterized by the presence of several repressive and obnoxious decrees to gag or muzzle the press. Inhuman treatments such as physical assault, harassment and molestation of journalists; arrests, detention and in some cases, killing of journalists; confiscation/proscription of issues of publications as well as clamp down on media houses became the order of the day. Celebrated cases include: The arrest, flogging and shaving of Minere Amakiri by military personnel in 1974, arrest and jailing of Tunde Thompson and Nduka Irabor in 1984, and the killing of Dele Giwa through a parcel bomb in 1986, Duyile (1987) citing Abayomi (2003) notes that “there were many editors and news reporters who were in and out of police custody between 1966 and 1984 no matter how brief in their stay with police.”

The subsequent military regimes were no exceptions to this. In fact, if anything, they were worst in their relationship with the press. Several media houses were closed down during General Babangida and Abacha regimes. In the words of Abayomi (2003), General Abacah’s regime clamped down on newspaper houses at will, proscribed publications, seized magazine copies jailed many news men on allegations of taking part in coup plotting” Some of the repressive decrees enacted to restrict the press by the various military regimes include: Newspaper Prohibition from Circulation Act of 1967, Public Officers Protection against False Publication Decree No 11 of 1976; Public Officers Protection against False Publication Decree No. 4 of 1984, Detention of Persons Decree No. 2 of 1984, Newspaper Registration Decree No. 44 of 1993 among several others, (Abayomi 2003).

These decrees constituted stumbling blocks to journalists, as they were, on several occasions invoked to mete severe penalties to defaulters. Noting this point with great bitterness, Abayomi (2003), quoted Oyebode (1999) saying: “indeed the Abacha years were seemingly unending saga of invasions, vandalization, shut downs, false accusations, arrests, detention without trial, show trials, forced exiles and countless heinous crimes against people wielding weapons not more lethal than their pens, recorders or laptops.” This was the fate of the press during the era of the militarization in Nigeria. Abati (1998) summarizes the plights of the Nigerian press as follows:

Nigerian press has faced several challenges since 1960, but no challenge has been more of a problem than the menace of military rule and threats to the freedom of the press and the capacity to fulfill its mission as the voice of the voiceless and defender of the oppressed... so serious is press censorship in Nigeria that between 1903 and 1998, there have been 29 anti-press legislations in the books... (p. 14).

Nigerian Press under Democratic Dispensation

Nigeria had two previous experiences with civilian rule before the present dispensation i.e. the first republic, 1960-1966, and the second republic, 1979-1983. The third republic bid in 1993 was still born. By-and-large, the press-state relationship with civilian rulers has been better off. For instance, in a survey on media-state relationship, Okoye (2003) reveals that the Tafawa Balewa administration scored 40% while Shagari and Obasanjo (second era) scored 61% and 62% respectively. When compared with what the military regimes scored in the survey i.e. Aguiyi Ironsi 43%, Yakubu Gowon 42%, Murtala Mohamed/Olusegun Obasanjo 41%, Muhammadu Buhari 26%, Ibrahim Badamasi Babangida 32%, Sani Abacha 11% and Abdulsalam Abubakar 49%; it becomes obvious that press-state relationship have been more cordial with civilian rulers. However, this discussion is more concerned with the present dispensation i.e. from 1999-2015. Temegha (2011) commenting on Obasanjo’s second era notes that:

What is known about Olusegun Obasanjo’s stance as a state’s man was that during his eight-year Presidency, the Nigerian press and Nigerians in general enjoyed a dint of freedom. The press was free for expression, and the people free for association (p. 47)

This may sound like sycophancy. But a critical observation and comparative analysis of the media-state relationship under military dispensation with the present dispensation clears every doubt. Sambe (2008) holds a similar view when he notes that, “since the sudden death of the despot (Abacha) and the subsequent takeover of the reign of Government by General Abdusalami Abubakar who eventually handed over to an elected government, there has been some kind of reprieve for the media”. Okoye (2003) observes at the early stage of the democratic dispensation that:

Two years on, the Obasanjo administration has bent backwards to deliver Nigerians the “dividends of democracy”. The administration has also considerably rebuilt cordiality with the media which had borne the major brunt of military misrule over the years. Freedom of expression has blossomed once again... (p. 7).

Indeed, there were sighs of relief during the transition to civilian rule as most of the repressive decrees were been repelled, with media –state relationship seemingly cordial. However, a careful observation of media-state relationship most especially with regard to treatment of journalists indicates that freedom of expression was not fully guaranteed during the first and second terms of Chief Obasanjo. Instances abound where journalists clashed with security agents and in some cases, they were severely dealt with even in the democratic dispensation. In the words of Ekuma (2012):

Instead of the succeeding democratic regime to depart from humiliating and oppressing men of the press and as well confer freedom of expression and information on the press, without constraints, contrary is the case some journalists’ experience in the country in the democratic era is still worrisome.

Arguing in the same light, Olaide (2011) notes specifically that, unlawful attacks on journalists and media organizations are very common in Nigeria despite the advent of civilian rule in 1999. 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. Idumange (2013) cites the following as a selection from hundreds reported in the media and collated in Media Right Monitor, organ of Media Right Agenda: beating up of Suleiman Osasuji, a sport journalist with All Sports Newspaper on the 14th of 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 Silver Bird Television on 10th January 2008 by security operatives among several other cases (Olaide, 2011, Idumange, 2013).

Aside these cases, the reluctance of the Obasanjo’s administration to sign into law, the Freedom of Information Bill did not go down well with the struggle to expand the frontiers of press freedom, although there was serious improvement on the struggle. The short-lived Yar’Adua/Jonathan administration has no serious record of impunity on the press, and can be scored positively for facilitating freedom of expression. In May 2011, President Goodluck Jonathan signed into law, the Freedom of Information Act. This is 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.

President Muhammadu Buhari has continued in this spirit. From inception in 2015 to date, the administration has stated, and severally reiterated its commitment to guarantee freedom of expression. However, the menace of hate speech that is on the increase in the country by the day has necessitated several attempts by state forces and concerned agencies to reassess the debates surrounding freedom of expression. Top on the agenda of the government is the need to curb hate speech in the mainstream media and on the various social media platforms. Efforts in this direction include the bill to establish an independent national hate speech commission, and the social media bill. Although these bills are still been debated in the national assembly, the extent to which they will limit freedom of expression is glaring, as they contain grave penalties for defaulters that if eventually passed into law and fully implemented, can go a long way to limit freedom of expression. We argue that these are retrogressive steps towards the actualization of freedom of expression in the country. The demolition of facilities of Breeze FM Lafia in 2017 also counts against the struggle towards a fuller actualization of freedom of expression, although the exercise was trailed by series of controversies, claims and counter claims.



Plates 1&2: Pictures of Breeze FM Lafia, demolished by the Nassarawa State Urban Development Board

Freedom of Information Act (FoIA) and Freedom of Expression: Prospects and Challenges for the Nigerian Media

The Freedom of Information Act provides a constitutional backing to journalists and members of the general public to access information without restrictions. The act which was signed by former president Goodluck Jonathan in 2011 makes public records and information freely available, provides for public access to public records and information, protects public access to public records and information to the extent consistent with the public interest and the protection against personal privacy, protects serving public officers from adverse consequences for

disclosing certain kinds of official information without authorization and establishes procedures for the achievement of those purposes (Freedom of Information Act, 2011). Section 1 (1) of the Act states thus:

Notwithstanding anything contained in any other Act, law or regulation, the right of any person to access or request information, whether or not contained in any written form which is in the custody or possession of any public official, agency or institution howsoever described, is established (p. 1).

The cardinal concern of the Act 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 established procedures for the achievement of those purposes (p. 1).

It is evident from the foregoing that although it does not provide for freedom of expression as such, its provisions have empowered journalists and the masses to seek for information, and have equally provided cover for those who disclose information to the masses. A synergy of this Act with other relevant constitutional provisions will result in a fuller actualization of freedom of expression. For instance, section 39 (1) of the 1999 Constitution provides categorically, 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...” Similarly, section 22 of the same constitution charges the press to hold the state accountable to the masses, what is also described as the fundamental obligation.

With these constitutional provisions, the FoI Act provides a good complementary framework in the pursuit of freedom of expression. Now that the Act has come into being, the challenge before journalists is to understand it and act accordingly in the interest of democracy. In the words of Ali (2014, p. 27): “throwing the journalists’ weight as professionals behind the successful implementation of this Act will also translate to strengthening democracy”. Suntai and Targema (2018, p. 65) also remark in this direction, that the FoI Act has come to stay, and:

It now behoves on journalists and members of the civil society to key into the opportunities and avenues it provides to root out corruption in the country. Until this is done, the Freedom of Information Act remains an Act in the statutes book with little or no impact to the Nigerian society.

With the provisions of this Act and other relevant section of the Nigerian Constitution, the frontiers of journalism in the country have been broadened, and journalists are faced with the herculean task of leaving up to the expectations of their revered status, as members of the Forth Estate of the Realm.

Conclusion

For democracy to be strengthened, the mass media have a very big responsibility to play. Sani and Magashi (2014) outline some of the roles to include: to convey information to the people with the view to letting them know how the mandate they gave their representatives is being discharged; to provide a forum through which the governed could react to government policies and activities; to monitor the performance of governments with a view to preventing their deviation from clearly stated objectives; and to assist in setting an agenda of priorities in the social, cultural, political and economic development of the nation among others. To effectively perform these roles, the mass media require a considerable degree of freedom.

This study submits that, although the early days of the present democratic dispensation saw some abuse to press freedom, by-and-large, the democratic dispensation provides a relaxed environment for media practice. This submission is best appreciated considering the fact that, the maltreatment of press men in this era is a rare occurrence compared to the military era. Of course, freedom is best granted wholly; but to an amateur democracy like Nigeria, total freedom appears an unaffordable luxury. This is, perhaps, the reason for the present administration's move to enact legislations that will regulate the social media, and tame to scourge of hate speech on the mainstream media, the social media and indeed, other media of communication. The study, therefore, recommends that the government pursue this course with utmost caution, lest, it count against, and undermines efforts towards a holistic actualization of freedom of expression.

Amidst all odds, the Freedom of Information Act provides a yardstick to appreciate the fact that, the present democratic dispensation is committed to the course of freedom of expression. Combined with other relevant sections of the 1999 Constitution as amended such as section 22 and section 39, it becomes justifiable to conclude that, the democratic experience in Nigeria from 1999-2017 accords much recognition to freedom of expression which the press has been yearning for. The relaxed operational environment that characterizes the Nigerian media landscape is also a justification to this submission, although we must acknowledge the few instances where media workers are treated with impunity from state forces. Journalists across the country are challenged to take advantage of these positive developments and expand the frontiers of democracy by exposing corruption and other social ills, as well as setting effective agenda that would enhance healthy political participation. This is necessary for democratic consolidation in the country.

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