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REVIEW ARTICLE

PRESS FREEDOM AND THE MEDIA

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ABSTRACT

The paper appraised the media vis-a-vis press freedom with specific implication for a developing country like Nigeria. Based on the discussions surrounding the assumptions of the concept of press freedom which the media are supposed to enjoy in the course of their watchdog role and accountability to the masses and to which they have always lived without, it becomes pertinent to see how with the passage of the freedom of information bill into law can help things move well for the Nigerian journalist as he carries out his responsibilities. Anchored on the libertarian and social responsibility theories, the concepts of press, media and press freedom have been explained, how the law can be best utilized as well as the journalists' understanding of same. The conclusion is that, press freedom is an integral part of the FOI Act and should be preserved and sustained by all concerned while journalists should not on their part abuse the said freedom. The paper recommends amongst others that given the enabling atmosphere, the media should facilitate the promotion of positive judicial attitudes to the FOIA. It is also imperative to sensitize the courts on the import of the law and secure the "buy-in" of judges which most times stands in the way of smooth judicial processes in order to ensure effective implementation of the Act.

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INTRODUCTION

It is a common observation that human beings everywhere demand the realization of certain values to ensure the individual and collective well being. It is also a common observation that the demand for these values is painfully frustrated by exploitation, operation, persecution and other forms of deprivation. The result of these observations is what gave rise to what is known as Human Rights. In the Declaration of American Independence, her President, Thomas Jefferson made a powerful eloquent speech which he proclaimed that, "*we hold these truth to be self evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights, that among these rights are: life, liberty and the pursuit of happiness*". It is based on this premise that every society, organization and profession observes certain ethical values as well as prescribes some rules or laws that guide or regulate its conduct. Journalists live and work in an organized social system that is governed by rules and regulations. The import is that the activities of journalists can impact and be impacted upon by other elements existing within the social system. Thus, journalists can only live up to their responsibilities and withstand societal pressures by understanding the legal rights and privileges accruing to them within the social system or framework. They also need to know the limitations, constraints or challenges facing them in the pursuit of their professional calling.

Article 19 of the Universal Declaration of Human Rights, which proclaim freedom of individuals and groups to freely seek and exchange information, provides legitimacy for the operation of the media globally. It is from this universal convention that most media organizations across the world derive their legitimacy since the national constitution may not adequately enunciate the place of the media in the governance process.

The press

The notion of the press has different meanings to different people. It may be interpreted generally to include all the media of mass communication; or it may be defined more specifically as the print media. We have adopted the former here; hence this study discusses print and media freedom in Nigeria. The activities of the press are very crucial to societal development. They are simply known as the gate-keepers, through message selection, shaping, display, timing, with-holding and repetition. They attach certain weight to news stories through placement, size and frequency of appearance of such stories, thus setting agenda in their reportage. The press therefore affects cognitive change amongst individuals, structure their thinking and organize the world generally. Similarly, the press is seen as the engine room of democracy. It is only a democratic environment that can foster the best of journalism practice. Infact, everywhere across the globe, there has never been a place where democracy came to being and nurtured outside, an atmosphere inimical to the provisions of plurality of ideas and opinions which the press promotes.

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Obviously, that is why Thomas Jefferson, the American President (1801 -1809) said *"Were it left to me to decide whether we should have a government without a newspaper, or a newspaper without government, I should not hesitate to prefer the latter"*.

The media

The mass media are channels through which information passes to the mass heterogeneous audience. The basic role of the mass media in any society is to inform, educate and entertain, (McQuail 2000). However, in a democratic environment, the role of the mass media extends beyond these basic functions. The media, in addition to these basic roles, have the responsibility of sustaining and nourishing the ideals of democratic ethos, and to constantly assure and guarantee the protection of freedom of individuals and that of the media themselves; which is the heart of popular participation in liberal democracies, (Suarez 1978). Mass media across nations therefore, saddle themselves with the responsibilities of monitoring governance, protecting the interest and rights of the weak in the society and advocating for issues and causes that enhances the growth and development of the society within which they operate, (Siebert, Peterson and Schramm, 1963).

The Nigerian Mass Media has however come a long way in the struggle for the enthronement of democracy in the country. Indeed, the mass media can unarguably be said to have started and championed the struggle for the enthronement of democracy in Nigeria right from the pre colonial era. Historically, the agitation for the nation's independence and by general implication, the enthronement of democracy, came to the fore front after the establishment of Iwe — Irohin by the Scottish Reverend gentleman, Henry Townsend in 1859 in Abeokuta. Townsend intended to use the newspaper that later became bi — lingual (Yoruba and English) in 1860 as light to show the people the way to follow religiously, socio - culturally and politically (Ajibade 2003).

Townsend's paper reawakened the political and social consciousness of the people. That consciousness formed the beginning of both covert and overt agitations for self determination in the country. Other newspapers after Iwe — Irohin agitated against the colonial government. They demanded for outright independence and democracy for the nation. Some of the prominent newspapers were: Anglo-African, The Lagos Times, The Lagos Weekly Record, The African Messenger, The Lagos Observer, The Nigerian Daily Times, The Times of Nigeria, The Lagos Daily News, The West African Pilot and The Nigerian Tribune. Some prominent individuals who used the media to fight for the independence of the country as well as for her democracy were: Robert Campbell, Richard Beale Blaize, Blackall Benjamin, John Payne Jackson, Thomas Horatio, Nnamdi Azikiwe and Obafemi Awolowo (Ufuofu-biri 2008).

To fully appreciate the role of the mass media in the Nation's democracy, we must understand that unlike many other African countries, Nigeria did not involve in any kind of violent struggle for attainment of independence and democracy. Rather, as earlier stated, the mass media were used as subtle

ways to fight the war instead of lethal weapons and ammunitions.

Mass media, according to Igben (2006:46) are believed to be central to the overall development of the society. This perception which has become accepted by different authorities of mass communication is derived from the long standing traditional role of the mass media as catalyst of change. It is against this backdrop that in Britain, the media are collectively referred to as the fourth estate of the realm of government. An estate in an order of class having a definite share as such in the body politics, and participating directly or indirectly in the governance process (Awolowo, 1958:95). That the media occupies a position of eminence in the world today is a product of protracted evolution. From 1623, when the first paper, the 'Weekly News' was published, newspapers in Britain were subjected to different kinds of restraints; censorship was imposed, any view that ran contrary to the opinions and beliefs of the ruling class was regarded as unorthodox and seditious. The media houses then were forbidden from carrying any story about the government. As the fourth estate of the realm, the Press enhances not only the smooth operation and interaction between the executive, the legislature and the judiciary in the service of the people, but also prevents any oppression of the people by these arms of government. However, journalism like any other profession, can also affect the society negatively. The Press can cause war and create peace, it can promote development and at the same time cause difficulties in the way of development. That is what most scholars refer to as the dysfunctional function of the media. It is therefore dangerous for any society to create conditions for the press to exhibit its negative sides because of the consequences which may be difficult to curb.

The controversial issue of how to relate with the Press in order to ensure a peaceful atmosphere in the society brings about the need for journalistic ethics and laws. Ethics are moral principles that determine what is right and wrong while laws on the other hand are rules of conduct or procedure established by agreement or authority. Therefore, any discussion on news writing and reporting will not be complete without reflecting on the aspect of law which influences journalism practice. The above assertion brings us to our main discourse.

Press freedom

Press freedom has been and may continue to be a very controversial issue in media practice and law. It couldn't have been otherwise given that press freedom encapsulates the freedom of individuals in the society (Nwodu, 2005:158). The concept is so crucial to media men and government that is why it registers heavy presence in the constitutions of most nations including human rights - based organizations' charters.

In the United States of America for instance, the popular and widely quoted Bill (1970) of Rights dubbed First Amendment Act states inter alia:

Congress shall make no law...abridging the freedom of speech or of the Press or the right of people peacefully assembled and to petition the government for a redress of governance.

The constitutional provision shows at least, on a face value, the degree of importance the American government attaches to freedom of the Press and that of man in society. Similar provisions were enshrined in the Nigerian constitution. Section 36 (1) of the 1979 Constitution, now section 39 (1) of the 1999 constitution also stated inter alia:

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 is consistent with Article 19 of the Universal Declaration of Human Rights as earlier stated. Earlier, in 1966, the International Convention for Civil and Political Rights added its voice to the pursuit of Press and individual freedom. The conventions' Article 19(2), which took effect in 1976, maintained that:

Everyone shall have the right to freedom of expression. The right shall include freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

These constitutional stipulations and human rights declarations clearly indicate that:

- There is a thin line between Press freedom and freedom of expression.
- Individual freedom to seek, receive and impart information and ideas can only be guaranteed in a social climate where the Press enjoys unrestricted freedom.
- Information is sacred. Restricting its flow therefore would amount to gross and brazen denial of human rights to freedom of expression.

The power to gather, process and disseminate information is divine rather than a privilege which the Press must enjoy to the fullest without hindrance by any individual or authority within the society. From these indications, Press freedom means that the Press must be free to carry out its sacred function of information gathering, processing and dissemination in any society without the slightest form of internal or external control. A free press promotes individual rights and liberty, good governance and democratic ideals, economic stability and growth, intellectual harvest and maturity, cultural norms and values, religious tolerance and national integration. Indeed, a free press creates enabling environment for the enthronement of an egalitarian society. But the extent to which the press has enjoyed these constitutionally approved rights to freedom leaves much to be desired. The most worrisome part of press freedom still harbor clauses that limit the said freedom. An example is the European Convention on Human Rights in its Article 10 of 1950 which states clearly the press freedom, is still laced with a damaging clause that made its application more cumbersome. It states that: *These articles shall not prevent state from requiring of broadcast television or cinema enterprises.*

The truth is that if really the freedom to seek, receive and impart information and ideas of all kinds are to be enjoyed

without frontiers as provided for in the article, then the channels through which ideas, opinions and information are to be disseminated and received need not be subject to any dubious licensing. This is even truer, given that licensing is restrictive in nature as license is not given without condition.

In Nigeria, the situation is more pathetic. Various military regimes in Nigeria came up with draconian decrees that not only gagged the press but also diminished in alarming proportions and brazen manner, its freedom to function in a healthy atmosphere for exchange of ideas. An example is the 1984 Decree tagged 'Public Officers (Protection against False Accusation) Decree. Section 1 (1) stated that:

Any person 'who publishes in any form, whether written or otherwise, any message, rumour, report or statement, being a rumour or statement 'which is false in any material or 'which brings or is calculated to bring the Federal Military Government or the Government of a state or a public officer to ridicule or disrepute shall be guilty of an offence under this decree.

The burdens with this decree are legion. First, in an unsocial climate like ours where those in government are always suspicious of journalists, how can journalists carry out their watchdog role freely alongside this obnoxious Decree? Second, a situation where information divulged in public glare are quickly denied upon publication, how can one fathom out what is the actual demarcation between public right to know and the reputation of government officials? If the federal and state governments have the right to prohibit the circulation of any newspaper, what is the guarantee that such power will not be abused or dubiously used against a newspaper considered to be critical of governments' anti -people actions? The result here is that absolute press freedom does not and may not exist. Unrestricted press freedom, no matter how boldly enshrined in any legal document is an elitist concept that cannot be fully realized in practical terms. It is against this backdrop that a concerned group sponsored the Freedom of Information (FOI) Bill to solve this problem.

Freedom of Information (FOI) Bill has been passed into law and it is expected to give every Nigerian a legal right of access to information, records and documents held by government and private bodies carrying out public functions. It applies to all arms of government: the Executive, Legislature and Judiciary as well as all other tiers of government: Federal, State and Local governments. The Bill sets time limits within which government and public bodies must release information requested and provides for judicial review where access to information is denied. FOI has proven to be the longest Bill in Nigeria's political history, having been at the National Assembly for more than ten years. It was proposed and eventually drafted into law by Media Rights Agenda (MRA), a nongovernmental organization (NGO) in the business of training and welfare of journalists, as well as information management in 1999. However, planning and conceptualization for the bill actually started in 1994 by MRA but has faced so much opposition by government officers. One of the reasons for not passing the bill into law in time was because some members believed it to be a media bill which

would empower the media to have full control over public officers and the generality of Nigerians. But promoters of the Bill on the other hand insisted that the bill would enhance journalism practice, enhance the practice of other professions, and promote development and the fight against corruption.

The FOI bill was actually passed by the House of Representatives. After two years, the Senate followed suit and passed it. Unfortunately, due to some unconvincing reasons thrown up by former President Olusegun Obasanjo, he declined signing the Bill into law until the legislative year ran out. For this reason, it became imperative that the process had to restart under President Umaru Musa Yar'Adua who had continually reiterated his commitment and pledged to assent the Bill into law once it was passed by the National Assembly. Unfortunately, there were calculated attempts by the lawmakers in killing the bill again; but all things being equal; it was recently accented into law by President Goodluck Jonathan.

Theoretical framework

One basic fact that cannot be faulted when we talk about Press Freedom is that the form of political system that operates in a particular society determines the type of press it gets and by extension, the type of relationship that exist between such government and the press. This paper will analyze two theories of the Press: the Libertarian Theory otherwise known as Free Press Theory by McQuail (1987) and the Social Responsibility Theory as enunciated by Hutchins's Commission (1947). The Free Press Theory is the exact opposite of the Authoritarian Theory and it believes that people are rational beings capable of independent thoughts. Therefore, man should be allowed considerable degree of freedom to develop his interest which might be different from other members of the society. Its advocacy, according to Ifeanyi (1999:8) is for freedom of expression and access to various ideas from which people can choose. The Libertarian system stresses the need for an open market place of ideas which rests on the assumption that citizens can freely express their ideas without any molestation.

The implication of this doctrine as Sambe (2005: 263) puts it is that:

The media must be left alone to constitute a free market place of valued opinions. Instead of government checking the media, it is the responsibility of the media checking the government for various lapses so that the people will know whether to accept or reject a particular government.

Succinctly, Ogunsuji (1989:163) states that media under the libertarian theory are free to perform their traditional role of watching and reporting government business without any harassment. It is reasonable to infer from the above statement that for the media to serve as effective watchdogs, they have to be free from governmental control and censorship. The media, whether privately or publicly owned, must be able to criticize any government policy and get away with it. The libertarians accorded so much unbridled freedom to the media until the media, like a spoilt child, became over pampered, careless and irresponsible in the discharge of its traditional duties. Because

of the free market of ideas and opinions, the erstwhile responsible media turned yellow journalism typified by character assassination, sensationalism and other professional and ethical misconducts. As Donald and Jin (1986:10) defines it, "unethical and irresponsible brand of journalism given to hoaxes, altered photographs, screaming headlines, scoops, fraud and endless promotion of self".

This is where the question comes in: what is the place of ethics and what is the future of journalism as a profession? Why has it been so difficult to enforce professional ethics and discipline in our country today especially when it is acknowledged that Nigerian media professionals are as good as any other and in some cases, better than many of their counterparts in other parts of the world (Owolabi, 2008)? At this point, it became imperative that someone has to call the media to order so as to ensure media accountability.

Social responsibility theory

This theory was set up in the United States of America to reexamine the concept of press freedom as enunciated in the libertarian or free press theory. This was because the so called free market place of ideas had failed to guarantee press freedom and to yield the expected benefits to society. Instead, the commercial development of the press and the unforeseen developments in media technology had tended to limit access to the media for individuals and groups. Thus, media power was concentrated in the hands of few businessmen (advertisers) and media professionals who had the means to set up media empires, (Anaeto, Osifeso and Onabajo (2008:58). Sambe (2005:264) affirms that:

Under the social responsibility theory, everyone who has something to say has the community opinion, consumer action and professional ethics. Serious invasion of recognized private rights and vital social interests are forbidden. Ownership of mass media is private unless the government has to take over to ensure public service.

Social responsibility theory believes that freedom of the press carries concomitant obligation. This means, while the press enjoys immense freedom, it must be seen to be carrying out certain essential functions of mass communication. Social responsibility theory therefore, postulates that to achieve freedom and responsibility of the Press, there must be an independent body to regulate media practice. Also, there must be further development of professionalism as a means of achieving higher standards of performance while the media maintains self-regulation, (Owolabi, 2008).

These postulations have thrown up the issues of professionalism and ethics as they relate to press freedom in Nigeria. Every profession has its own professional codes of conduct the same way rules and laws are created in a society to ensure law and order amongst the people. Rules and standards are adopted by each professional group including journalism. There are international principles of journalism and media which are binding on every practicing journalist. Owolabi (2008:163) examined some of the ethical standards set for mass media practitioners at the fourth consultative meeting of

international and regional organizations of professional journalists held in Prague and Paris in 1983 all of which is incorporated in the Freedom of Information and the Journalism Practice Enhancement Acts in Nigeria.

- Peoples' Right to True Information: This means that a journalist or reporter must be ever conscious of the reading public's right to true information. Thus, in writing or reporting a story, a true, accurate, uncolored picture of an event or issue must be presented.
- Principle of Objectivity: It behooves the reporter not only to report what is true but what is objective. For when a true story is given a biased bent, it immediately dilutes its authenticity. So, facts must be presented honestly, consciously and in a proper context,
- Respect for Privacy and Human Dignity: The mass media operate within the same laws that govern other citizens. Thus, the journalist must in the pursuit of his professional duties not contravene the law. Especially as a moral precept, they must respect the rights of an individual to privacy and human dignity in conforming to entrenched constitutional provisions.
- Respect for National Interests: It is with such ethical demands that the social responsibility and professional integrity as well as individual maturity of the journalist come to play. This ethical standard demands that the mass media respects the national interest, national values, institutions and public morals.

Despite these international, regional and ethnic standards, each country still evolves her standard code of ethics. In Nigeria, the Nigerian Code of Ethics for journalists was drawn up by the Nigerian Union of Journalists (NUJ). It demands that, *"a journalist publishes what, to the best of his knowledge, is true, factual and objective; that he refuses any reward for publishing and suppressing any item; that he shall employ all legitimate means to collect and disseminate news, provided people's right to know, to privacy are not tampered with, that he does not plagiarize people's works and finally, that he shall not disclose to anyone, the source of information obtained in confidence"*, (Owolabi, 2005).

These however, are mere codes of conduct agreed upon by media practitioners but which are not legally binding on individual members of the profession. The NUJ will soon commence enforcement of the new Act as it moves from one university to another to intimate the Departments of Mass Communication with this development and to assist them upgrade their curriculum for optimum efficiency. This in turn would make media practitioners and those in training to be more ethically conscious, defend the truth and operate within legality.

Conclusion

From the discussions above, it can be deduced that freedom of the press, which is an integral part of the Freedom of

Information Act should be preserved and be made to sustain the growth and stability of journalism practice. Suffice it to say that with the passage of the FOI bill into law, press freedom will become a reality and practical. By extension, certain things are supposed to be easier for the practitioners and for all stakeholders to be responsive. Therefore, an ideal press, conscious of ethics and professionally cultured is necessary if the objectives of FOI will not be defeated.

Recommendation

The press should therefore note that the added impetus is not an avenue to abuse the freedom but always play their watchdog role in accordance with the laid down principles or code of ethics guiding the profession. Given the enabling environment, the media should do well to help in promoting positive judicial attitudes to the FOIA. It is also imperative to sensitize the courts on the import of the FOIA and secure the 'buy - in' of judges in order to ensure the effective implementation of the Act.

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