

FREEDOM OF THE PRESS AND SECURITY CHALLENGES IN NIGERIA: LEGAL ROLES OF MEDIA PRACTITIONERS IN PERSPECTIVE

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ABSTRACT

The increasing menace of insecurity in Nigeria has become a growing concern in Nigeria. Over the years, there has been billions of naira which has been budgeted to combat the menace. Instead of the situation to subside, the reverse is the case. This has given rise to the condemnation of various security agencies in the country. The government has failed to realise that security maintenance in the country doesn't lie only on the formal security agencies; there are other relevant stakeholders in the country which has left out in fighting security in Nigeria. One of the most important of such stakeholder is the press. In order for press to operate effectively, there must be an enabling environment which gives room for press freedom. This paper shall further look into some legal provisions from some

Introduction:

Every nation needs security and safety of its nationals as well as the defense of its territorial integrity. That is partly the goal of government. This responsibility is squarely assigned to security forces and its allies. But the attainment of this goal is also predicated on the approach through which governance is administered. Democracy, for now, is seen as globally acceptable approach. And instructively, press freedom provides oxygen for democracy to thrive as the rights of the government and the

enactments that can aid the press in contributing their quota in curtailing insecurity in Nigeria. Much emphasis shall be made on the provision of the 1999 constitution and the Freedom of information Act, 2011.

Keywords: *Freedom, Security, Challenges, Legal, Media Practitioners.*

governed are not only guaranteed, responsibilities of the both parties are also upheld for the wellbeing of thenation.¹ Historically, the Nigerian press is famed for being one of the key drivers in ensuring Nigeria's independence from colonialism, especially when the Lagos Press helped articulate the case for Nigeria's independence. In the Second Republic, the Nigerian media became the vehicle for pushing and defending democratic norms. These practices survived the end of military dictators and have passed into today's democratic sphere². This shows the importance of Press to the growth and development of the nation. Nigeria has been witnessing various security challenges in the recent years. And this has not left any part of the country unaffected. Press itself has been directly affected as there have been reports of media practitioners being killed. In July 2019, a Youth Corp member who was part of the team of journalists to cover shi'at protest was violently killed during the covering of the incidence in Abuja. This is very painful as such a young lad could be prevented from realizing his potentials as a result of the deteriorating security situation in the country. To this end, everybody has a role to play in enhancing national security particularly the press who are at the helm of collection and dissemination of information to the populace. For an effective contribution of press to the improvement of security in the country, the press must be given free hand to operate. However, the freedom must also be in limitation to the existing national laws.

¹ <https://guardian.ng/features/media/press-freedom-national-security-as-two-sides-of-a-coin/>

² <https://www.africmil.org/press-freedom-in-nigeria-violent-extremism-rule-of-law-and-the-media/>

THE PRESS AND PRESS FREEDOM

Merriam Webster defines Press as the people (such as reporters and photographers) who work for newspapers, magazines, etc³. Blacks Law Dictionary define press as the news media; print and broadcast news organizations collectively. To this end, we can safely conclude that Press collectively encompasses both printing and electronic media practitioners. Freedom of the press or freedom of the media is the principle that communication and expression through various media, including printed and electronic [media](#), especially [published materials](#), should be considered a right to be exercised freely. Such freedom implies the absence of interference from an overreaching [state](#); its preservation may be sought through [constitutional](#) or other [legal](#) protections. Press must be giving a freehand to operate.⁴

Press freedom is practically the same thing with freedom of expression which many people believe is the mother of all freedoms. Press freedom connotes a free flow of information and the rights to disseminate information. The press council ensures that journalists operate within the professional dictates as it monitors and regulates the practice of the journalism profession. Freedom is the right or ability to think, act, speak or write without interference. Press freedom is the ability of the mass media to operate without the interference of the government. It has been acclaimed that modern mass media is said to be "too poor" to buy the "too expensive" absolute freedom.⁵The **history** of this **freedom** goes back to the birth of mass media.⁶The notion that the press should be free could have emerged only after the press itself had become commonplace. However, because of the potential for these ideas to challenge official power

³³ <https://www.merriam-webster.com/dictionary/the%20press>

⁴ https://en.wikipedia.org/wiki/Freedom_of_the_press

⁵Omenugha, KA & Uzuegbunam, CE (2012). "Media, Government and Good governance in Nigeria: arch foes or potential allies?" In A. B. C. Chiegboka, T. C. Utoh-Ezeajugh, E. U. Ibekwe, C.C. Nwosu, N. C. Oguno, K. L. Nwadiolor (Eds.), *The Humanities and Good Governance* (pp. 758-772). Nimo: Rex Charles and Patrick Publications.

⁶ <https://www.livescience.com/21312-freedom-of-the-press.html>

structures, some political and religious authorities actively suppressed publications that they deemed subversive.⁷

PRESS FREEDOM UNDER THE NIFGERIAN LAW

The provisions for the Press freedom are a fundamental right of the people of Nigeria which can't be taking away or restricted except in the instances and the limitation imposed by law. This is why it is being placed under Chapter IV of the 1999 constitution which generally deals with Human Right. By section 39(1) of The Constitution, Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. Subsection 2 provides that:

(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:

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the President on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for, any purpose whatsoever.

From the above provisions of section 39(1) and (2) of the constitution, Press freedom is duly guaranteed. The law further gives credence of private press outlet, but such outlet must have gotten necessary qualification and approval. This is in line with the proviso contained therein in section 39.

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the President on the fulfillment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for, any purpose whatsoever.

⁷ <https://www.britannica.com/story/250-years-of-press-freedom>

From closer examination of section 39(1), the word used is “every person” which means this right does not belong only to the press, but it used the word everybody. From here, we can receive and impart information without any unlawful interference.

A further look into the constitution, Section 22 of the 1999 Constitution of the Federal Republic of Nigeria as amended entrusted the media with the power to monitor governance and uphold the Fundamental Objectives and Directive principles of State Policy as enshrined in Chapter 2 of the Constitution.

Aside the constitution, one other enactments needs to be considered. Freedom of Information Act, 2011 whose preamble provides that;
An Act 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 for disclosing certain kinds of official information without authorization and establish procedures for the achievement of those purposes and; for related matters.

The enactment of this act can be traced to the agitation for press freedom in Nigeria. The Act since its Enactment in 2011 has so far only been adopted by few states of the federation.⁸ Section 1 of the act provides that every citizen whether adult or minor is entitled to have access to any records under the control of the government or public institution. The application for the information can either be in oral or formal form and the applicant does not have to demonstrate any specific interest in the information applied for. This Act went further to protect the interest of the illiterate and the disabled applicants where it allows an illiterate applicant to request for information through third party. Section 3(3)

Hence, Freedom of Information Act is aimed at making public information accessibility to citizens as a matter of legal right.

⁸ <https://www.lexology.com/library/detail.aspx?g=2f3432be-c8ff-4ff1-b396-3cd25682fdee>

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorized by the President on the fulfillment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

(3) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society-

(a) for the purpose of preventing the disclosure, of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or

(b) imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police Force or other Government security services or agencies established by law.

Press freedom can further be restricted in areas specified in section 45 of the 1999 constitution which provides that nothing in section 39 among other sections of the constitution shall invalidate any law that is reasonably justifiable in a democratic society in the interest of defence, protection of public interest of defence, public safety, public order, public morality or public health; or for the protection of rights and freedom of other persons. The Act guarantees the right of access to information held by institutions, irrespective of the form in which it is kept, and is applicable to private institutions where they utilize public funds, perform public functions or provide public service.

Also, it requires all institutions to proactively disclose basic information about their structure and processes and mandates them to build the capacity of their staff to effectively implement and comply with the provisions of the Act.

It makes adequate provision for the information needs of illiterates and disabled applicants.

Furthermore, it recognizes a range of legitimate exemptions and limitations on the public's right to know, but it makes these exemptions

subject to a public interest, such that may override such exemption in deserving cases.

It creates reporting obligations on compliance with the law for all institutions affected by it.

It can be argued that the Freedom of Information Act has provided freedom to the press in information gathering and investigation however, it also has its cons. The Act has been criticized for containing more exemption sections and clauses than sections that grant access to information. This means that mischievous public officers can use these sections for unjust and mysterious purpose⁹

ROLE OF THE PRESS IN ADDRESSING INSECURITY IN NIGERIA

The media determine dominant values, perceptions and attitudes of the society by its impact on it. The importance of the media in addressing national security in a democratic setting cannot be overemphasized as it is the bridge between the people and its societal activities. For any activity to get noticed, it must be reported by the media. The media must therefore make national security part of its principal agenda so as to make positive impacts.¹⁰ The point has been made that the press are crucial in the achievement of society-wide objectives, be it in the area of social, health, infrastructural, political, educational or security development. The press constitutes one of the most important institutions of socialization and in fact, the major cultural industry responsible for the distribution of ideas in the Nigerian society.¹¹ Other institutions of socialization such as the

⁹ Onwubere, C. H. (2013). Press freedom, the Nigerian journalist and the freedom of information (FOI) act: What does the law say? *International Journal of Social Sciences and Humanities Reviews*. 4(1), 171 -178.

¹⁰ M.guardian.ng/features/youthspeak/tackling-security-challenges-the-role-of-the-media/

¹¹ Pate U. A. (2011). Practice and Challenges of Media Performance in conflict phone multicultural Nigeria. In Oso, L., Soola, D. and Pate, U. (Eds.), *Media, Governance and Development: Issues and Trends*. Mushin: Primus Prints & Communication, pp. 47-59.

Cited by ¹¹ Allen Nnanwuba A., Ogochukwu E., Gloria Nwakego C., & Peter Chukwuweike O., (2019) Freedom of Information Act and Journalism Practise in Nigeria: An Appraisal. *Journal of Law and Global Policy Vol.4 No. 1*

church, family, educational institutions, political establishments etc. basically play reinforcement roles to the press by performing their separate functions in the society. This shows that the press impact on the society and determine dominant perceptions, values and attitude. How then can this all-powerful position of the press in the society be utilized in mobilizing against acts of insecurity in Nigeria?

Citizens journalism could play a vital role in the utilization of the press to combat insecurity in Nigeria. Citizens journalism which is also known as public, participatory, civic or street journalism consists of active participation of members of the public in news gathering and dissemination. It has variously been defined as members of the public in playing an active role in the process of collecting, reporting, analyzing and disseminating news and information a wide range of activities in which everyday people contribute information or commentary about news ;secular process of passing information.¹²

The press should be utilized by ordinary citizens in exposing crime and sensitizing the public against acts of terror. The pertinence of citizens journalism in combating crime was played out in the brutal murder of four students of the University of Port Harcourt (UNIPORTH) as Aluu, a community in Rivers State Nigeria. The recording of the clubbing and burning to death of the four boys was uploaded on the internet and in a few seconds the story went viral. The press further spread the story especially from the angle of the public outcry generated by the recorded murder. Cable News Network (CNN) has i-report programme where citizens journalists provide reports that conventional journalists could not get. Citizens journalism makes everyone a reporter. The 2009 presidential election in Iran underscored the pertinence of citizens journalism where virtually every Iranian that had a handset became a reporter and sent stories and pictures of the post election violence across to the world through conventional media such as CNN, BBC FOX News etc. This was

¹² Allen Nnanwuba A., Ogochukwu E., Gloria Nwakego C., & Peter Chukwuweike O., (2019) Freedom of Information Act and Journalism Practise in Nigeria: An Appraisal. *Journal of Law and Global Policy Vol.4 No. 1*

after President had banned foreign media from operating in the country and also attempted to block internet access in the country. The ordinary citizen can also contribute in exposing acts of insecurity through the numerous phone-in programmes on radio and television, the internet media, especially social media and online versions of conventional media.¹³

The Freedom of Information Act comes with lots of benefits to the press especially in the area of investigative journalism. Investigative journalism thrives where there is a free access to information for the journalist. In this sense, the Act opens a blister of possibilities for journalism in Nigeria. This when fully utilized by the press will encourage swift detection of future security meanings that can affect the lives and living of the people of Nigeria and when this discovery is made through investigation, necessary security apparatus will be notified in order for proper measures to be engineered in strengthening the security.

Section 39 (1) guarantees everybody's freedom of expression including freedom to hold opinions and to receive and impart ideas and information without interference. From the wordings of this section, except for exemptions imposed by section 45, the press are empowered to go wide in information gathering and to encourage reportage and discussions of various threat security in Nigeria such as terrorism, kidnapping, armed robbery and other forms of crimes. Through the interactions with the generality of the masses, the press has an ample opportunity of highlighting and exposing the negative impacts of crimes and criminality on the society. This can also be done by getting citizens involved in information dissemination. Thus, this provision of constitution can be a leeway through which citizen journalism in combating crimes can be created.

The Nigerian laws so far have created avenue through which the press can actively participate in curbing insecurity in Nigeria. The security agent can then closely work with the media players for effective crime fighting as the media is also a major stakeholder that link the governmental institution

¹³ Ibid

and common man. Thus, periodic workshops, symposium, seminars on sophisticated crime reporting among others are pertinent to keep the journalist up to date in modern trend in mass media usage in tackling security and criminality in the country.¹⁴

CONCLUSION & RECOMMENDATION

There are laws in place to enhance press freedom in Nigeria and so far, the press have displayed the zeal to enhance the national security within the armpit of the current national legislation. However, the freedom being guaranteed by the constitution is being hampered by the national security agencies. Many instances of media harassment and intimidation have been reported. This is born out of the fact that the security agencies underrate the press as a major stakeholder in securing the nation. There should be proper and regular enlightenment of the press through workshops, seminars, symposiums etc. in order to educate the practitioners about their limit of operation imposed by law and to strengthen their mental ability towards their operational measures in tackling insecurity in Nigeria.

This is a threat for the nation as the press has been forced to operate with fear. Though there is no absolute press freedom in Nigeria, Section 45 of the 1999 Constitution have placed some exceptions and limitations to the press freedom. However, the security agencies should abuse these limitations against the press in their operation.

¹⁴ M.guardian.ng/features/youthspeak/tackling-security-challenges-the-role-of-the-media/