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Democracy and Stiffened Media Freedom in Nigeria

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ABSTRACT

The world over, media freedom is an essential pillar of democracy. A sacred institution that is responsible for informing the citizens of the successes and failures of government, the articulator of the people's needs and desires to the government, and the provider of a platform for the open exchange of information and ideas. The media promotes change, informs and educates the public, and also persuades and entertains the masses on a variety of issues. The media is essential in promoting good governance, especially in a democratic setting. The media can contribute a lot to improving the government's accountability, transparency, rule of law, more efficient markets, and a more informed society. However, reality has revealed a huge gap between the theory of ideal democratic principles that recognise media freedom and the praxis of non-interference in the delivery of the mandate of the media profession in Nigeria. Every passing day, the stiffening of the freedom of the media is felt by the citizens in different forms, including but not limited to: restriction of access to platforms to disseminate and receive information; unwarranted media regulations; harassment and intimidation of journalists, among others. This paper, therefore, sets out to examine and critically analyse the role of the mass media in promoting good governance in Nigeria. The paper determines the extent to which the media, whether print, electronic, or the new media, can be used to promote good governance in Nigeria in this present political dispensation and also provides some recommendations on how best to use the media to make the government accountable to the citizens. The paper therefore recommends that the Nigerian government should allow the media to operate without any form of unjust restraint, as they are the watchdogs of every society. They constantly monitor political, socio-cultural, and economic trends and report back to society.

Keywords: Media; Freedom; Good Governance; Democracy.

INTRODUCTION

One of the most widely used instruments for gauging the level of democratic practice in a country is the extent to which the independence of the media is safeguarded. This is necessary because the media is regarded as one of the most essential tools for educating and informing citizens about democratic processes and governance. It should be emphasised that the media performs both traditional and constitutional responsibilities to serve as a watchdog of the three institutions of government. This is to ensure a better democratic practice characterised by transparency, accountability, probity, and responsiveness in governance (Zainawa, 2018, p. 45). It is only when citizens are adequately informed and educated that they can comprehend government plans, actions, and inactions about democratic practices and governance. In fact, the media serves as a link between the

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government and the governed, thereby playing the role of an intermediary tool through which information is disseminated between the two divides. For example, while the government's decisions, policies, and actions on critical national issues are transmitted to the citizens through the media, the media in turn informs the authorities about people's perceptions and responses to such decisions, policies, and actions (Ojo, 2005).

Similarly, the media sets the agenda for the discussion of critical national issues, collates the views and opinions of the people on the issues, and conveys to the authorities concerned the approval or otherwise of such issues. In the same vein, investigative journalism through the use of the media can uncover and expose scandals and scams, waste, corruption, inefficiency, antisocial activities, and negligence on the part of authorities, especially in a democratic setting (Sawanti, 2000). It is imperative to emphasise again that the media in a democratic and civilised society play three fundamental roles, which are: informing citizens on matters pertaining to public policy and politics by representing and debating alternatives; acting as a watchdog by uncovering political, economic, and corporate corruption, as well as other forms of abuse of power or inept policies; and helping to make citizens aware of civic and political rights and how to exercise these rights. Thus, the media helps to build and sustain transparent, participatory, and accountable governance under democratic practice (Tell Magazine, 2004:47). It is important to note that the history of journalism in Nigeria has been a challenging one. This is because over the years, especially during military rule, journalists have faced lots of intimidation and harassment, which has taken the form of arrest, detention, and seizure of their tools. For instance, Decree 35 of 1993, which empowered the government to confiscate and prohibit the circulation of any publication that undermined security, damaged the press and prevented it from performing its function adequately.

The Public Prohibition Decree 48 of 1993, which proscribed all publications in the Concord Press, in addition to the Newspaper Registration Decree No. 43 of 1993, which cancelled the previous regulations and introduced new and stringent requirements, had made it almost impossible for the press to operate. While the Treason and Treasonable Offences Decree made it an offence to reproduce or publish any information that was deemed treasonable, the police and other security agencies had at different times apprehended and detained journalists without trial, while some hundred thousand copies of newspapers and magazines were confiscated by government agents (Zainawa, 2018:46). Hence, the history of the media struggle for democratisation and democratic practice is full of stories of courageous journalists and social critics who have preferred going to jail in order to ensure democratic practice and good governance rather than accepting undemocratic dictatorial governments. This patriotic attitude contributed immensely to democratic practice and good governance in the country. The main objective of this paper, therefore, is to find out the relationship between the media and democratic practices with a view to highlighting the challenges of the media in deepening democratic ideals in Nigeria.

THE MEDIA AND DEMOCRATIC PRACTICE IN NIGERIA

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In discussing the symbiotic relationship that exists between the media and democratic practice, it is imperative to look at the philosophical and political rationales that encapsulate media and politics in general. The media is conventionally understood to refer to the printed press as well as radio and television broadcasts. In recent years, however, the definition has become broader and more encompassing, including new media, online journalism, and social media. The media has been variously defined by scholars. It is defined as a collective means of communication by which the general public or populace is kept informed and educated about happenings in government, especially under democratic practice, as well as happenings in society. The media is also said to be an aggregation of all communication channels that use techniques to facilitate a lot of direct personal communication between the communicator and the public. The media is also conceptualised as the totality of organisations and agencies that provide information to the general public. Thus, the role of the media in a democratic setting lies in making information common knowledge or facilitating effective communication between the government and the governed (Udeala, 2020, p. 342). The working definition of the media adopted in this does not include what is popularly called the 'Social Media'. Whenever the term media is mentioned, what really comes to mind is information dissemination. This is so because one of the most important functions of the media is its information-carrying function. The Nigerian media has largely lived up to its expectations in spreading useful information to society. Indeed, the performance of the media in the democratic process and practice in Nigeria at various phases of the country's political development has been well documented.

Arguably, the media has remained at the forefront of the struggle to promote the rights of the people through credible democratic practice. As a matter of fact, the media itself finds it difficult to operate in an undemocratic environment. However, this is not to say that the media has been perfect in all circumstances, as in some instances it has been severely criticised for complicity in truncating and subverting the democratic process at various times (Pate, 2012). Similarly, the 1999 Constitution of the Federal Republic of Nigeria recognises the sacred role of the media not only in democratic practice but also in the overall development of the country, as enshrined in Section 22. It stipulates that "the press, radio, television, and other agencies of the media shall at all times be free to uphold the responsibility and accountability of the government to the people." Thus, the media and democratic practice go hand in hand, as they remain the fourth estate of the realm, the watchdog, and the conscience of the nation. In this regard, the obligation of the media, as indicated in Section 22 of the 1999 Constitution, equally endows it with the duty not only to discharge its normal watchdog role in all aspects of governance and in guarding and advancing the frontiers of the people's liberties and freedoms but also the obligation to regard itself as the policing institution over the fundamental objectives and direct principles of state policy as well as the citizen's fundamental rights. The fact that the constitution imposes a duty on the media to monitor governance implies that it should undertake vigilance over the relationship between the government and the people under democratic practice to ensure

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transparency, accountability, probity, fairness, and responsiveness (Udeala, 2020, p. 343–344).

Also, Chapter 4 Section 39 of the 1999 Constitution of the Federal Republic of Nigeria stipulates, "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference," a reinforcement of the significance of freedom of speech to democratic systems and processes within the territorial borders of Nigeria. Extant literature has substantiated the availability of a legislative framework protecting freedom of expression and media at one point or another, including the popular African Media Barometer of Nigeria report published in 2019. Taking a clue from the provisions of the UDHR and the Nigerian Constitution, media freedom empowers journalists and media organisations to go about their duties of receiving and disseminating information of public importance without undue interference.

There are a number of theories that explain the philosophical and analytical bases for understanding the roles of the media in society. Although the theories explicitly refer to the press, it is important to point out that they mean the media in a generic sense. The first is the authoritarian theory. In the words of Siebert et al. (1956, p. 42), "truth was conceived to be not the product of the great mass of people but of a few wise men that were in a position to guide and direct their fellows." Thus, the truth was thought to be centred close to the centre of power. The press therefore functioned for a long period of time to inform people what the rulers thought they should know as well as the policies they thought they should support. With this theory, the government of the monarch was vested with the power to control and own the content, manipulate it, and use the press for mass communication. Besides, no press dared criticise the monarch, governmental officials, or political machinery, as they existed fundamentally to support and advance the policies of the monarch and, by extension, the government. The second theory that explains freedom of the press is the libertarian theory. Proponents of this theory argue that man is a thinking, independent, and rational being that is capable of making a choice between good and bad. Siebert et al. (1956) argued that man is no longer conceived as a dependent being "to be led and directed but rather as a rational being able to discern between better and worse alternatives when faced with conflicting evidence and alternative choices. "Truth is no longer conceived of as the property of power; rather, the right to search for truth is one of the inalienable rights of man, and the press is conceived of as a partner in the search for truth. In a perspective work, Oloyede (1996:3-4) identified three major ingredients of press freedom under libertarianism.

One is the assumption of the presence of a multiplicity of voices on public issues at all times. The second component is the absence of state control in the operations of the press in line with the laissez-faire private enterprise doctrine or philosophical foundation of capitalism, while the third is the financial independence of the press. The major feature of press freedom under libertarian theory is summed up by McQuail (1987:115–116, cited in Sadeeq, 1993). These are: publications should be free from any prior censorship by any third party; the act of publication and distribution should be open to a person or group without permit or licence; attacks on any government official or political party (as distinct from attacks on

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private individuals or treasons and breaches of security) should not be publishable, even after the event; there should be no compulsion to publish anything. Publication of 'error' is protected equally with that of truth in matters of opinion and belief; no restriction should be placed on the collection by the legal means of information for publication; there should be no restriction on export or import of sending or receiving'messages' across nation frontiers; journalists should be able to claim a considerable degree of professional autonomy within their organisation (McQuail, 1987, cited in Sadeeq, 1993, p.103). The third theory is the Soviet Communist Theory of the Press.

Branded as Marxist Determinism and in the harsh political necessity of maintaining the ascendancy of a party, which represents less than ten percent of the people of the country, the Soviet press operated as an instrument of the ruling power, just as in authoritarian theory. But, unlike the older pattern, it is state-owned rather than privately owned. However, in spite of the fact that the Soviet Press was highly controlled, Soviet spokesmen considered their press to be free because it was free to say the 'truth'. The Soviets argued that the American press is not free because it is business-controlled and therefore not free to speak the Marxist truth. Thus, the two systems are diametrically opposite to each other in their basic tenets, although both use terms such as 'freedom' and 'responsibility' to describe what they are doing. The major attributes of press freedom under the Soviet Communist Theory of the Press are that the press is used instrumentally, that is, as an instrument of the state and party; the media are closely integrated with other instruments of state power and party influence; they are used as instruments of unity within the state and the party; and they are used almost exclusively as instruments of propaganda and agitation (Ravitch, 2015). The fourth theory is the Social Responsibility Theory, which was developed out of the fact that the libertarian theory, at a certain point, could not guarantee freedom of the press or expression. This was because, after the collapse of the authoritarian system, the media, especially in the United States of America, fell into the hands of a powerful few. No longer was it therefore easy for the press to be the free marketplace of ideas.

Media owners and managers assumed the responsibility of determining which person, which fact, and which version of the facts the public should be fed with. It was this situation that gave rise to the development of social responsibility theory. This theory holds that the press must assume the role of serving the political system, enlightening the public, safeguarding the liberty of individuals, servicing the economic system, and providing entertainment without necessarily harming the democratic process and development. The power and near-monopolistic position of the media, according to the theory, impose on them an obligation to be socially responsible to see that all sides are fairly presented and that the public has enough information to decide upon; if the media does not take upon itself such responsibility, it may be necessary for some other agencies of the public, such as the government and the audience, to enforce it. The theory is based on the belief that freedom carries concomitant obligations and that the press, which enjoys a privileged position, is obliged to be responsible to society in carrying out certain essential functions of mass communication (Ojo, 2006, p. 76–80).

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KEY MEDIA FREEDOM CONCERNS IN NIGERIA

However, reality has revealed a huge gap between the theory of ideal democratic principles that recognise media freedom and the praxis of noninterference in the delivery of the mandate of the media profession in Nigeria. Every passing day, the stiffening of the freedom of the media is felt by the citizens in different forms, including but not limited to: restriction of access to platforms to disseminate and receive information; unwarranted media regulations; harassment and intimidation of journalists, among others. Therefore, it becomes highly expedient to examine the incoherency between the theory and practice of media freedom in a democratic society like Nigeria in line with standard practices and recognition of peculiar challenges in a democratic society. It is imperative to note that the Windhoek+30 Declaration conspicuously emphasised the continuing relevance, legacy, and role of the 1991 Windhoek Declaration in the promotion and protection of freedom of expression, free, independent, and pluralistic media, and access to information around the world. In particular, the declaration called for countries to create an enabling environment for the protection of journalists and the advancement of opportunities for citizens to exercise their freedom of expression. The Windhoek gathering of critical stakeholders eventually became an historic event that laid the foundation for what is known today as World Press Freedom Day. Also, the popular freedom of information laws that countries around the world are enacting are products of the Windhoek Declaration. In 2011, Nigeria joined other countries to pass the Freedom of Information Act. A legislative framework that empowers everyone to request information, whether or not it is contained in any written form, is in the custody of any public official, agency, or institution, even though activists and media practitioners alike are still battling some ministries, departments, and agencies of government over its compliance.

Despite the international and national legislative backing for the actualization and sustenance of the freedom of the press in Nigeria, the media system is still faced with a myriad of issues undermining the freedom, pluralism, and independence of the press in the country. Thereby limiting access to platforms to disseminate and receive information on the one hand and intimidating media professionals from seeking information of public importance from different channels. Specifically, some of the key media freedom concerns in Nigeria in recent times are as follows:

Twitter Ban

Following the ban of Twitter on July 4, 2021, by the Federal Government of Nigeria through the Minister of Information, Alhaji Lai Muhammad, who ordered the telecommunication companies operating in Nigeria to restrict Nigerians' access to the Twitter platform, sanctions were promulgated against anyone who circumvened the restriction and faced prosecution and imprisonment. The Nigerian government outlined certain conditions around national security and cohesion, registration of physical presence and representation, fair taxation, dispute resolution, and local content as preconditions to unban the platform. The implication of the ban and the conditions to unban freedom of expression is that the restriction is an interference with the freedom to receive information and impart

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ideas in contravention of the provisions of the UDHR and the 1999 Constitution of the Federal Republic of Nigeria as amended. The whole Twitter ban saga has set a bad precedent in Nigeria vis-à-vis the freedom of expression of citizens.

Harassment of Journalists

More often than not, journalists in Nigeria face different forms of harassment for coverage and/or the publication of information that is perceived to be offensive to the government or their agents. Recently, Mr. Ononiyi Feranmi was arrested by security operatives while reporting on elections in the last Ekiti State Gubernatorial Election after he recorded and transmitted an incident of violence among voters to his colleagues in the office. Also, in 2021, another journalist, Mr. Obarayese, reported being harassed by members of the defunct Special Anti-Robbery Squad while on duty reporting on protests against police brutality in Osun State. He was arrested and denied access to his equipment for recording a divisional police officer; thus, he was charged with breach of peace, a case that was eventually withdrawn on the order of the state's Commissioner of Police, Wale Olokode. The implication of these trends is that journalists could be pushed to compromise quality and accurate reporting, thereby affecting the efficiency of democratic practices in Nigeria.

Attempts at Social Media Regulation

The role of social media platforms as powerful tools of communication and mechanisms to advance the freedom of speech and expression of people worldwide cannot be overemphasized. Meanwhile, freedom of speech and expression is prescribed, meaning that every person has the natural right to express themselves freely through any means without fear or interference. Unfortunately, in Nigeria, the government and its agents, in their attempt to control the media space, have time and time again introduced one form of regulation or another on social media. An example of such attempts is the introduction of the Code of Practice for Interactive Computer Service Platforms and Internet Intermediaries, a brainchild of the National Information Technology Development Agency (NITDA) tactically created to criminalise offences arising from the violation of the provisions of the administrative instrument. Also, in 2015, a Frivolous Petitions Bill (SB. 143) was sponsored by Senator Ibn Na'Allah and targeted at regulating the usage of social media platforms in Nigeria. Fast forward to 2019, and Senator Muhammed Musa sponsored a similar bill titled "Protection from Internet Falsehood and Manipulations Bill 2019 (SB. 132)" in an attempt to regulate social media, among other legislative efforts. Therefore, it is important to note that all these afore-listed efforts are geared towards suppressing the freedom of speech and expression of Nigerians through some unwarranted media regulations.

Odious Sanctions and Penalties for Media Organisations

In Nigeria, the agency responsible for broadcasting regulation is the Nigerian Broadcasting Commission (NBC), which is statutorily empowered to licence, monitor content, and sanction, among others. Studies have shown that in recent times, the NBC has become an instrument of oppression for media organisations by

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the Nigerian government, whereby unwarranted sanctions and penalties are levied on operators for discharging their constitutional responsibility of informing the citizens. An example of those kinds of sanctions is the fine of five million naira levied on NTA-StarTimes Limited, MultiChoice Nigeria Limited—owners of DStv—and TelCom Satellite Limited for the BBC Africa Eye broadcast by the NBC for documentaries about violence and theft in Nigeria broadcast by the aforelisted media houses. In a similar instance in October 2020, NBC fined Africa Independent Television, Arise Television, and Channels Television between 2 million and 3 million naira each for covering the EndSARS protest, accusing them of playing a part in the escalation of violence across Nigeria. Hence, it became glaring that the NBC is being used to inflict vengeance on the media over the publication and broadcast of what could be referred to as inconvenient truths that are capable of embarrassing the government.

Again, the space that ought to protect the media from unjustified regulations and harassment of the media—the National Broadcasting Commission (NBC)—is an agency of the government, under the Federal Ministry of Information and Culture. The Director General of the Commission reports directly to the Minister of Information and Culture. Hence, rather than protecting the interests of the media, it works as an agency of the government that continues to violate and impede the freedom of the press. The NBC operates under the NBC Act of 1999 as amended and the 6th Edition of the Code of Conduct 2020. It is the Code of Conduct that the NBC uses to arbitrarily control and restrict the media space. Number 3.0.2.2 of the NBC Code of Conduct 2020 opines that hate speech shall be severely punished with heinous fines, a total closure of a media house, or imprisonment for the person who is found guilty. However, it did not define what hate speech means. It implies that any statement could be defined and construed by the government as hate speech. Media houses in Nigeria are therefore cautious and careful not to be trapped into an abrupt closure or a fine that could deflate their media business or risk imprisonment. In past cases, the NBC has unlawfully become both the prosecutor and judge on matters of press freedom. Very recently, on Wednesday, May 12, 2023, a Federal High Court in Abuja gave an order of perpetual injunction restraining the NBC from imposing fines, henceforth, on broadcast stations in the country. Previously, on March 1, 2019, Justice Omotosho also set aside the NGN500,000 (\$1039) fines imposed on each of the 45 broadcast stations. The jury held that NBC is not a court of law and has no power to impose sanctions as punishment on broadcast stations. The imposition of such sanctions is in conflict with Section 6 of the 1999 Constitution, as amended. This court judgement, however, did not exonerate the media, as it is obvious that the executive arm of government in Nigeria has no regard for the judiciary or court verdicts. There are thousands of court orders disobeyed by the executive arm of government at the state and federal levels.

More so, the Cybercrime Act 2015 is very vague in its definition of what is construed as offensive. Most journalists, activists, and media

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practitioners have accused the government that the ambiguous nature of the Act was purposely done by the government in order to shrink the media and civic space.

CONCLUSION AND RECOMMENDATION

Freedom of speech and expression are fundamental rights of citizens in Nigeria, backed by the provisions of the UDHR and the 1999 constitution of the Federal Republic of Nigeria as amended. Therefore, the media, which serves as a platform for disseminating and receiving information, derives its legal backing from the constitution, both directly and indirectly. On that note, it is safe to say that media freedom is pronounced and protected by existing laws in compliance with democratic principles. However, reality has revealed that there is a vast disconnect between the theory and practice of media freedom in Nigeria, which is escalated by a couple of factors, ranging from harassment of journalists to odious sanctions and penalties on media houses, among others. There is no gain in the fact that this article has highlighted some of the negative developments in media freedom in Nigeria since the publication of the last African Media Barometer of Nigeria in 2019. Three years down the line, media freedom has deteriorated significantly in Nigeria. Overzealous security operatives and thugs regularly attack journalists on duty. Media houses are constantly influenced by censorship, obnoxious sanctions, and penalties, among other key media concerns. It is against this backdrop that this piece proposes the following actionable solutions to salvage media in Nigeria from the shackle of repression:

- 1. Stakeholders like the Friedrich Ebert Stiftung of *fesmedia* Africa in collaboration with experts in Nigeria should commission and conduct a comprehensive and independent study on media freedom in Nigeria as an update of the findings from 2019 African Media Barometer for Nigeria to support the advocacy effort for a freer media in Nigeria and Africa at large.
- 2. Media Practitioners in Nigeria should be proactive rather than reactive in the protection of journalists from harassment and undue intimidation in the course of discharging their constitutional responsibility of informing the citizens by establishing a working relationship with the security agency and advocate for the inclusion of protection of journalists in their various rules of engagement.
- 3. Media Organizations and stakeholders should form a coalition to sponsor an amendment of the Nigerian Broadcasting Commission Act to address the continuous infringement on the rights and freedom of Nigerians and practitioners in the media space.
- 4. Stakeholders (both International and Local) should engage more with the Nigerian Government on the role of media freedom to the effectiveness and efficiency of governance and its impact on the sustainable growth and development of the country.

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