

Review Paper

What Has Changed? A Critical Analysis of the Law of Sedition and the Press in Nigeria since 1914

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Abstract

This study is situated within the normative theoretical framework, which focuses on the press in nations where the press is expected to assume the coloration of the political milieu within which it finds itself. The British colonial masters discovered the power of the press in the early 16th century and devised numerous schemes to restrict publication. Such policies were extended to her majesty's colonies; for instance, the law of sedition in Nigeria. Freedom of the press is a right but it is a right that has been won only through many hard-fought legal battles like the one fought by John Peter Zenger in the seditious trial of 1735. There were several such trials for sedition in the colonies, and despite the acquittal of John Peter Zenger, the British colonial government went ahead to adopt such laws in her colonial territories. This was exemplified in the seditious offence ordinance that was in force in 1909 in Southern Nigeria. This study adopts the historical, legal research and critical paradigm technique to examine how the law of sedition has fared in inhibiting press freedom in Nigeria since 1914. The study provides an understanding of how colonial influence may affect laws regulating how the media function in independent States.

Keywords

changed, sedition, press, freedom, publication

1. Introduction

The task of this paper is to examine the law of sedition and how it has influenced the notion of press freedom and other laws regulating the press in Nigeria. To do this, the study undertakes a critical and historical approach and observes that, though freedom of the press has been part of the English legal

tradition, it is a right that has been won only through many hard-fought legal battles. This observation underpins the hostile relationship that has been the hallmark of government (and her agencies)—press relationship in Nigeria. On the other hand, Aliede (2020) suggests that the press perform multiple roles towards the growth and development of politics, governance and democracy. Further, the study traces the origin of repressive press laws in Nigeria to colonial instruments and enactments and infer that the cat and dog relationship that exists between the press and government agency borrow from experiences gained from colonial styled governance. Finally, the study shows empirical evidences to prove that such attitudes are harmful orientations that Nigerian leaders have refused to unlearn even after over one hundred years since the law of sedition emerged and despite clear indications that contemporary dynamics do not support the use of seditious laws in gagging the press. Justice Olatawura's statement captures this vividly "we are no longer the illiterates or the mob society our colonial masters had in mind when the law (of sedition) was promulgated" (Justice Olatawura's Judgment in *Nwankwo Vs the State*, 1985, cited in Akinola, 2014 Daily Sun). Having outlined the focus of this paper, we now revert to the full discussion of the issues.

In human society, law is a necessary ingredient for ensuring correct conduct. Law concerns itself with issues about rights, duties/obligations, values and justice (NOUN, undated). However, due to vested interests, contradictions arise in the enactment and use of law. Ibhawoh (2002) has examined the tensions and contradictions in the use of law as an instrument of coercion to consolidate British control in Nigeria and the legitimizing rhetoric of human rights and social justice employed within the context of the operation of the law. His study explored the effects of laws introduced mainly to foster British colonial hegemony against the background of the aspiration to guarantee social justice and forge a "modern" regime of rights and liberties for native subjects in the colony. He probed the circumstances that made the rhetoric of rights and liberty imperative for both the colonial regime that employed it to legitimize the empire and the African elites who appropriated it to strengthen their demands for representation and self-rule. One of the legal instruments that the African elites (most of them Journalists), used to draw attention to their demands for representation and self rule, were laws pertaining to freedom of the press—a freedom that confers on the press the responsibility to monitor the polity.

The importance of the watch-dog (surveillance) function of the press in the development of a society can never be over-emphasized. Iwokwagh and Akurega (2012, p. 249) assent and note that, "Journalists play crucial roles in society as purveyors of information. They act as watchdogs of society by calling attention to issues that portend danger...and to issues that are germane to development and social transformation". The performance of this role makes the Press to monitor government and public servants' activities to ensure that they live up to acceptable standards for which they hold governance in trust for the people (Odoemelam, 2018; Odoemelam et al., 2020). To continue to perform this role,

there must be freedom to operate. Part of this freedom has constitutional support: Section 3(1) of 1979 of the Nigerian constitution states that, “Every person shall be entitled to freedom of expression including freedom to hold opinions and to receive and impart idea and information without interference”. However, this watch-dog role has variously come under government intimidation especially from hostile administrations and those who hold public offices and who shy away from criticism. Historical evidence shows that prior to the constitutional provisions of Section 3(1) of 1979, the British colonial masters set in motion a machinery that marked the beginning of the contestation of this freedom. Omu (1968) provides an insight into why the Colonial government took such step: “Their newspapers were almost unavoidably highly critical, and colonial administrators sought to control them”. But Justice Alatuwara advises: “Those in public office should not be intolerant of criticism. Where a writer exceeds the bounds, there should be a resort to the law of libel where the plaintiff must of necessity, put his character and reputation in issue. Criticism is indispensable in a free society” (Justice Alatuwara, in *Nwankwo VS The State*, 1985, cited in Akinola, 2014).

2. Method

To fully understand the phenomenon which this article discusses, the paper was situated within the qualitative method. According to Reinard (2001, pp. 1-9), qualitative studies try to describe the human condition by using general views of social action. Three techniques were involved in the study: the legal research method, the critical paradigm and the historical techniques. The legal method involves examining specific court cases (Tang, 2016). For this article, it was sedition related court cases from 1914 to 2014. The critical paradigm, according to Wimmer and Dominick (2011) draws from models used in the humanities. The authors further observe that, critical researchers are interested in such concepts as the distribution of power in society and political ideology. In adopting this technique, the paper observed patterns of power relations and compared them with colonial governance on the one hand, and the notion of communication power, including the motivation to control the press. It also examines the ideological framework in normative press laws especially the authoritarian media paradigm within which repressive media legislations incubate and thrive.

The historical method on the other hand, comprised the techniques and guidelines by which historians use primary sources and other evidences to research and then to write histories in the form of accounts of the past (Wikipedia, 2014). In this regard, we systematically examine documents, case laws and judicial precedence with the aim of tracing historical patterns in the use of repressive press laws by government agencies. We further compare these patterns with extant or contemporary developments in government-press relations. To gather data for these techniques, internet searches and data base searches were conducted using key words for each of the concepts.

To analyse the data from these two techniques, the constant comparative technique was adopted (Glazer

& Strauss, 1967, cited in Wimmer & Dominick, 2011).

3. Justification

The year 2009 marked One hundred years since the Seditious Offence Ordinance was introduced in Southern Nigeria. Meanwhile, the year 2014, marked One hundred years since the amalgamation of the Northern and Southern Protectorates as a single unit. This suggests that the Seditious Offence Law is a press law that has its origin from British colonial documents and was one of the instruments which the colonial masters used to consolidate their hold on the colonies' affairs and press. That singular event as studies show has opened the gate for repressive enthusiasm against the press in Nigeria. This is reflected in such media laws as: Public Officers (Protection Against False Accusation) Decree No 4 of 1984, The Nigerian Media Decree No 59 of 1998, or even the Nigerian Press Council Act No 85 of 1999, which Omole (2000) and Iwokwagh and Akurega (2012) have argued, is totalitarian in structure and responsibility. Several years after these incidences, it has not been made clear how the law of sedition still influence media law, and how this influence manifests in government-Press relations. Despite the importance of examining the patterns that have emerged within these periods (1909-2009, for seditious offence ordinance, and 1914-2014 for amalgamation), and the necessity to compare them with current press laws in Nigeria, very few studies have examined these perspectives. Consequently, knowledge on this subject-matter remains scanty. It is against this backdrop that this paper adopts a mixed qualitative approach to examine the seditious offence ordinance and to analyze its influence on extant communication laws in Nigeria. As a result, the study raises the following questions: What has been the pattern of legislative instruments on the Nigerian Press since 1909 when seditious offence ordinance was enacted? How has the seditious offence ordinance influenced media law in Nigeria? How has this influence manifested in government-Press relations? In other words, have subsequent governments and their agents, used seditious offence laws as cover for executive arbitrariness.

4. Theoretical Framework

In this segment, we examine theories that explain the phenomenon of repressive media laws and the political milieu that support such structures. In this regard, there is the theory of Power relations and the Authoritarian Media theory.

4.1 Theory of Power Relations

The theory of Power relations as espoused by Manuel Castells (2009) is very relevant to this discourse. Geoff Mulgan, according to Castells theorized the capacity of the state to assume and exercise power through the articulation of three sources of power: violence, money, and trust.

The three sources of power together underpin political power, the sovereign power to impose laws, issue commands and hold together a people and a territory... It concentrates force through its armies,

concentrates resources through exchequers, and concentrates the power to shape minds, most recently through big systems of education and communication that are the twin glues of modern nation states... Of the three sources of power the most important for sovereignty is the power over the thoughts that give rise to trust. Violence can only be used negatively; money can only be used in two dimensions, giving and taking away. But knowledge and thoughts can transform things, move mountains and make ephemeral power appear permanent. (Mulgan, 2007, p. 27). According to this theory, communication is the vehicle via which thoughts could be transformed and therefore is a portent threat especially when such communication power is in the hands of the “enemy”.

4.2 Authoritarian Media Theory

The Authoritarian Media theory is part of the normative theories of the press. The original understanding of the normative theories of the press, which is found in the seminal works of Siebert et al. (1956), focused on the political milieu of nation-states, where the press is expected to assume the coloration of the political milieu within which it finds itself (Okoro, Ukonu, & Odoemelam, 2014). The Authoritarian Media theory is operationalised as strict control of content by the state and a general lack of freedom for the press to criticize state policies (Ostini, *undated* cited in Okoro, Ukonu, & Odoemelam, 2014). The authoritarian media existed to serve the government in power and were forbidden to criticize the government or its functionaries (Folarin, 2002). In the main, the theory helps to explain the ways in which societal communication rules impinge on mass media structure and performance and highlights the consequences of non-convergence between societal principles and mass communication principles (Folarin, 2002 cited in Kidafa et al., 2011; cited in Okoro, Ukonu, & Odoemelam, 2014). In this scenario, the press is controlled by mostly repressive governments and those segments of the press not directly controlled by government are apparently expected by the ruling elite to at least maintain neutrality, even in the face of bad governance (Folarin, 2002).

According to Folarin, the instruments of authoritarian control of the media are many and varied. They are employed in various combinations by different authoritarian governments. They include repressive legislations (including decrees), heavy taxation, direct or subtle state control of staffing and of essential reproduction inputs such as newsprint, even more obviously repressive and objectionable measures such as prior censorship and suspension of publications (2002, pp. 27-28).

These theories (Power Relations and Authoritarian media) are quite axiomatic to the discourse on sedition law and its influence on press laws and press freedom in Nigeria. The power relations theory provides an explanation to why States may decide to control the press since the press is perceived as instrument of power. As Castells argues, to control the press (communication) is to control and consolidate power (Castells, 2009). On the other hand, the authoritarian media theory gives insight into an understanding of political and social structures that support the control of the media.

5. Review of Literature

5.1 Communication and Power Relations

To understand why States use repressive laws to gag the press and invariably inhibit freedom of the press, it is important to, in brief; examine the theory of power relations that may inform the promulgation of the seditious offence ordinance in Southern Nigeria. To do this, we make recourse to the works of Manuel Castells titled: *Communication Power*. According to Castells (2009, p. 1) “power is based on the control of communication and information, be it the macro-power of the State and media corporations or the micro-power of organizations of all sorts”. We note that the theory of power relations is axiomatic to the powerful media effect paradigm which underlined popular press ideological stance within the 19th and 20th century. This was manifested in Colonial State policies and decisions that point to the fear of the press as subsequent analysis show.

The British discovered the power of the press in the early 16th century and devised numerous schemes to restrict publication. Criticism of the government, called seditious libel, was outlawed. Licensing or prior censorship was also common. In addition, the Crown for many years used an elaborate system of patents and monopolies to control printing in England (*No name*, n.d.). This was also extended to her colonies like Nigeria where the Crown was consolidating power and communication was seen as a veritable instrument of power-obviously a reflection of Castells’ ideology of communication power:

Power relies on the control of communication, as counter power depends on breaking through such control. And mass communication, the communication that potentially reaches society at large, is shaped and managed by power relationships, rooted in the business of media and the politics of the state. Communication power is at the heart of the structure and dynamics of society (Castells, 2009, p. 3).

Even though press freedom, as Okoro and Agbo (2003) had posited, is a basic principle of human freedom and libertarianism, studies (Aturu, 2010; Odii, 2013) have shown that governments do not feel secure when the media seek to express that freedom. Two assumption may explain this phenomenon: The first could be gleaned from the arguments of Pool (1973 cited in Okoro & Agbo, 2003; Okoro & Odoemelam, 2013; Odoemelam, 2018) that, “no nation will indefinitely tolerate a freedom of the press that serves to divide the country and to open the floodgates of criticism against the freely chosen government that it leads”. Okoro and Odoemelam on their part, argue that, controls like laws and regulations are designed to streamline media practice within the ambit of what is lawfully permissible (2013). This perhaps informs the strained inter-course with the Press which most governments in Nigeria borrowed from colonial precedence.

A jaundiced understanding of the second assumption could be found in the works of Castells (2009, 2010, 2010, 2010) in which he argued that power lies in the control of communication, in which case, those who wish to consolidate power, must control communication. However, the control of communication within the context of press freedom, government relations and repressive laws as is found in Nigeria, is in sharp contrast with the ideology of consolidation of communication power as espoused by the works of Castells. Again, we argue that, the history of press laws like seditious offence ordinance is the history of colonialism in British West Africa and particularly in Nigeria. A brief chronological account in the next paragraph, of the emergence of seditious offence law in Nigeria, may be helpful in understanding its emergence.

5.2 The Seditious offence Ordinance: A historical Perspective

Shortly before the amalgamation of the Northern and Southern British protectorates as a unit called Nigeria, in the year 1914, by her Majesty's representative, Lord Frederick Lugard, (an occurrence which many people either politically motivated or scholastically informed have called a marriage of strange bed-fellows) the foundation for the future repressive experiences of the press in the hands of the government, was laid by her Majesty's Colonial government. The period referred to here, was the year 1909. In September that year, the Seditious Offence Ordinance came to be part of the ordinances that anyone who had the ambition to monitor and criticize the government or those holding such power, may have to think through adequately before delving into such lofty enterprise. According to Ogbondah and Onyedike (1991) the ordinance was published in September 1909 in the official *Gazette* and reprinted in an extraordinary issue of the government *Gazette* dated October 1, 1909. The Seditious Offences Ordinance under Sections 3 and 5 provided that:

Whoever by words, either spoken or written... brings or attempts to bring into hatred or contempt... the government established by law in Southern Nigeria, shall be punished with imprisonment which may extend to two years or with a fine or with both imprisonment and fine.

Whoever makes, publishes or circulates any statement, rumour or report, with intent to cause, or which is likely to cause any officer of the Government of Southern Nigeria or any person otherwise in the service of His Majesty to disregard or fail in his duty as such officer or servant of His Majesty... shall be punished (Gazette, 1909; cited in Ogbondah & Onyedike, 1991, p. 63).

According to Akinola (2014) and Ogbondah and Onyedike (1991), the law of sedition is a by-product of colonialism. As Ogbondah and Onyedike (1991) note, the event that precipitated the 1909 newspaper law was Herbert Macaulay's publication of a pamphlet titled, "Governor Egerton and the Railway".

The pamphlet leveled charges of maladministration against the governor and drew attention to allegations of corrupt practices in the Egerton administration. Concern about the effects of unrestricted press criticism led to the drafting of a law based on the Indian Penal Code which read inter-alia:

which would allow reasonable freedom of discussion of government policy but which would give the government power to punish publications... designed to influence an excitable and ignorant populace the bulk of whom are absolutely under the control of Headman [sic] and chiefs who themselves have only recently emerge from barbarism and are still actuated by the old traditions of race (Omu, 1968).

According to Ogbondah and Onyedike (1991), an examination of colonial documents and statutory provisions regulating the Nigerian press reveals that the roots of this press law are clearly found in the colonial period of Nigerian journalism history. Fragments of the law can be found in the early newspaper laws of Nigeria. One of such laws was the Seditious Offences Ordinance of 1909 which, like Decree No. 4 of 1984, criminalized the publication of false reports or statements that exposed a government official or the government itself to ridicule or contempt.

Ogbondah and Onyedike (1991), in their paper, *Origins and Interpretation of Nigerian Press Laws*, observed that Public Officers (Protection against False Accusation) Decree No. 4 of 1984 was modeled after earlier libel and sedition laws and the Newspaper Amendment Act, all of which criminalize free speech and opinion directed against those in authority. The study found similarities in the motivations behind the promulgation of Decree No. 4 and those behind the earlier libel and sedition laws, i.e., fear of those in authority of criticism. This obviously was a direct cultivation and learning from their British Lords.

The above provisions clearly show that Section 1, sub-section (i) of the 1984 press law was modelled after the 1909 newspaper law. Section 6 of the Seditious Offences Ordinance empowered police, magistrates and district commissioners to check seditious publications in their areas of authority by requiring suspected offenders to execute a bond, to be of good conduct for one year or for such a period as the police, magistrate or district commissioner would be satisfied with the alleged offender's behaviour and conduct.

5.3 Empirical Views on Press Freedom and the Laws of Communication

It seems that even though Nigeria claims to be independent of colonial rule, it is yet to wean itself of the harsh orientation against the press. May be it is a case of the proverbial old hen that has refused to learn new dancing steps due to years of dancing the old steps. Aturu (2010) avers that, "these laws were enacted to repress the press and prevent criticism of the government in power. That is the connecting thread... it must never be forgotten that the repressive laws are still being used by the state to harass and

intimidate journalists. Present events no doubt continue to point to the fact that laws regarding the press are still off-shoot of the colonial styled ruler ship”.

This was presumed by Ogbondah and Onyedike (1968):

The 1984 press law merely differed slightly from its colonial primogenitor. Apart from this difference, Decree No. 4 of 1984 provided for the exact terms of punishment as the 1909 colonial Seditious Offences Ordinance. Therefore, it could be argued that the Public Officers (Protection against False Accusation) Decree No. 4 of 1984 was a rebirth of the premier colonial press law.

Gunilla Faringa has argued in his paper, *Press freedom in Africa*, that, African journalism first emerged in British West Africa. In his words: “the British are generally regarded as having pursued rather libertarian ideas of the press” (p. 2). But he was quick to agree with popular opinion among media history scholars that, why this was so, was because the early vitality and independence enjoyed by these newspapers was because the British had no intention to settle down in their colonies. And even their first attempts at publications were gazettes which were elitist in nature. This was in stark contrast to the policy of their French counterparts who ruled in accordance to their domestic organizational traditions.

In their seminal work, festus Eribo and William Jong-Ebot, *Press freedom and communication in Africa*, two factors were identified to impinge on press freedom in Africa: internal and external factors. When they narrowed their analyses to Nigeria, they noted that, for the Internal factors, ethnicity and corruption were culprit; and that for the external factors, colonial influence and laws, according to the authors, were conspicuously implicated (Eribo & Jong-Ebot, 1997). The external factors as pointed out by these scholars are of significance to this paper, especially as literatures which have examined government-press relations vis-à-vis press laws seem to contend (Aturu, 2010; Omu, 1968).

The views of Omu (1968 cited in the online version 2009) on the origin of press control in Nigeria is quite instructive in this regard: “One of the most striking features of the African nationalist movement is the great effort that was made to safeguard the freedom of the press. As British subjects, most of whom were trained in Britain; educated Africans assumed that they were entitled to enjoy a free press, which was an essential ingredient in the British political tradition”. A variety of factors contained official repressive enthusiasm, and these provide the key to the relatively small number of press prosecutions and the seeming reluctance to enforce press legislation. The situation is illustrated from the history of the early nationalist newspaper press in former British West Africa.

Aturu (2010) has argued that all the laws, whether it was the colonial Seditious Offences Ordinance of 1909, the precursor of the notorious Public Officers (Protection Against False Accusation) Decree No 4

of 1984 or even the Nigerian Press Council Act recently nullified by the Federal High Court, were enacted to repress the press and prevent criticism of the government in power.

6. Results

6.1 The Relationship between the Seditious Offence Ordinance and other Repressive Press Laws in Successive governments in Nigeria

Perhaps the best way to describe this relationship is captured in the words of Akinola who noted inter-alia:

The sedition law has been a common tool in the hands of successive governments in Nigeria to harass the Nigerian press. Any scurrilous or scathing criticism of the government is termed seditious by the security agents. A thin line of distinction has therefore been drawn between fair criticisms and seditious comments. This has led to the arraignment of a number of journalists for sedition.

The language and provisions of Section 8, sub-section (i) of Decree No. 4 of 1984 are similar to those of Section 3 of the 1909 colonial newspaper law. That section of the 1984 newspaper law provided for a prison term of up to two years for convicted offenders of the law - the same provisions found in the colonial law (Ogbondah & Onyedike, 1991).

Ogbondah and Onyedike (1991) have argued that, the 1984 press law merely differed slightly from its colonial primogenitor and apart from this difference, Decree No. 4 of 1984 provided for the exact terms of punishment as the 1909 colonial Seditious Offences Ordinance. They contend further that the Public Officers (Protection against False Accusation) Decree No. 4 of 1984 was a rebirth of the premier colonial press law. Fragments of the roots of Decree No. 4 can also be found in other colonial statutory provisions. One of those statutes was the 1916 Criminal Code which removed the option of fine found in the 1909 law for the publication of false reports. In the 1916 Criminal Code, false publication was defined as any "statement, rumour or report likely to bring any public officer to disrepute..." (Gazette, 1916). The same phrase appeared in Section 1, sub-sections (i) and (ii) of the 1984 law enacted to control freedom of the press in Nigeria. In addition to this similarity, the draftsmanship of Section 6, sub-section (i) of Decree No. 4 of 1984 was exactly the same as that of the 1916 colonial Criminal Code in the sense that it provided no option of fine for anyone convicted of disseminating false rumour, report or statement. In this sense, it can be logically concluded that the origins of Section 9, sub-section (i) of the 1984 press law are found in the 1916 Criminal Code of Nigeria (Ogbondah & Onyedike 1991, pp. 61-69).

7. Discussion

7.1 Trend Since 1914

In this segment of the paper, we review court cases dealing with seditious offence and other communication laws as well as the judicial judgments that implicate the law of sedition as unconstitutional. We also show that, from the comments and decisions of the presiding justices, the State and some of its agents use the seditious law arbitrarily against the press. As Akinola (2014), Ogbondah and Onyedikeo (1991) and Okoro and Okolie (2004) observed, in the case of the state V the Ivory Trumpet Publishing Co, Ltd and 3 Ors (1993) 5 NCLR at 736, decided by Justice Emmanuel Araka (then chief Judge of former Anambra State) on January 31, 1983, a newspaper called weekly Trumpet with a bias for the defunct National Party of Nigeria (NPN) published in one of its editions between August 24 and September 7, 1980 an article entitled. "Just before the Battle" where former Anambra State Governor, Chief Jim Nwobodo, was referred to as follows:

He has been keeping and spending party money without account and has in the past three months paid out staff salaries direct through the secretary and has refused to pay the Chairman. We have called him to give account of election expenses, more particularly the foundation membership certificates signed by Dr. G.C. Mbanugo, himself as the gubernatorial candidate, myself as the Chairman and Mr T.C. Chigbo as the secretary. The state executive settled the election dispute in Njikoka on March 5, 1980. And the governor supports the dissident minority. He does same in the Women's Wing through this financial emissary. Nearly N2 million had been paid to him from party sales of Premier Beer. He has not paid the money with party account nor rendered statement to the Executive (Akinola, 2014).

The presiding Justice dismissed the charge. In dismissing the charge, Justice Araka held: "Sedition law does not punish someone who makes a publication that merely embarrasses the government or the governor". According to him the law merely prohibits a publication "that has a tendency to create disorder or disturbance of law and order or causes or has tendency to cause incitement to violence, having due regard to the right of free speech guaranteed the citizen under Section 36 (1) of the constitution" (Akinola, 2014).

In another case, the often-quoted cases of DPP V Chike Obi, (1961) IALL NLR 186, Obi was charged with sedition in 1960 for distributing a pamphlet entitled: "The people: Facts that you must know" wherein he stated inter alia, "Down with the enemies of the people, the exploiters of the weak and oppressors of the poor. The day of those who have enriched themselves at the expense of the poor are

numbered. The common man in Nigeria can today no longer be fooled by sweet talk at election time, only to be exploited and treated like dirt after the booty of office has been shared among the politicians”. Dr. Chike Obi was found guilty of sedition by the High Court, but the Lagos State Chief Judge that tried him referred the case to the Supreme Court for the proper interpretation of Section 50 and 51 of the Criminal Code, vis-à-vis Section 24 of the 1960 independence Constitution of Nigeria (Akinola, 2014). Chief Rotimi Williams, counsel to Chike Obi, argued that Sections 50 and 51 of the Criminal Code were inconsistent with the provisions of section 24 of the Constitution. According to him, “any law, which punishes a person for making a statement, which brings a government into discredit or ridicule or creates disaffection against the government irrespective of whether the statement is true or false and irrespective of any repercussion of public order or security, is not a law which is reasonably justifiable in a democratic society” (Akinola, 2014).

In the case of *Arthur Nwankwo V State*, (1985) 6NCLR 228, greater light was shed on the Sedition Law. Chief Nwankwo, a publisher had written a book in 1982 titled “How Jim Nowobodo rules Anambra State”, a book that seriously attacked Chief Nwobodo, accusing him of corruption and tyranny. Chief Nwankwo was charged with sedition before Justice F.O Nwokedi, then of Onitsha High Court and was found guilty and jailed 12 months. At the Court of Appeal, Enugu to which he appealed, the Court made up of Justices Alfa Belgore (later of the Supreme Court Justice) and Aikawa, made a landmark jurisprudential decision that overturned the verdict of the High Court ruled that Sedition law. Section 50 and 51 of the Criminal Code is inconsistent with Section 36 of the 1979 constitution and thereof void (Akinola, 2014; Ogbondah & Onyedikeo, 1991; Okoro & Okolie, 2004).

In his ruling, Justice Olatawura said: “It is my view that the law of sedition, which has derogated from the freedom of speech guaranteed under this constitution is inconsistent with the 1979, Constitution, more so when this cannot lead to a public disorder, as envisaged under section 41(a) of the 1979 constitution we are no longer the illiterates or the mob society our colonial masters had in mind when the law was promulgated. The safeguard provided under Section 50(2) is inadequate, more so where the truth of what is published is no defense” (Akinola, 2014).

He commented further that, to retain section 51 of the Criminal Code in its present form, that is even if not inconsistent with the freedom of expression guaranteed by the constitution, will be a deadly weapon and to be used at will by a corrupt government or tyrant... Let us not diminish from the freedom gained from our colonial masters by resorting to laws enacted by them to suit their purpose. The decision of the founding fathers of this present constitution, which guarantees freedom of speech must include freedom to criticize, should be praised and any attempt to derogate from it except as provided by the Constitution must be resisted (Akinola, 2014).

Akinola notes that this was also in agreement with the view of Justice Brandeis in *Whitney v California*, 274 US 357 where he espoused: Those who won our independence believed that public discussion is a

political duty and this should be fundamental principle of American government. They recognized the risks to which all human constitutions are subject. But they know that order cannot be secured merely through, fear of punishment for its infraction, that is hazardous to discourage thoughts, hope and imagination; that fear breeds repression; that repression breeds hate, that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely and propose remedies and that the fitting remedy for evil counsels is good ones (Akinola, 2014).

In a more recent history, precisely on Tuesday April 1, 2014, these headlines emerged on page 47 of *The Sun* newspaper (a daily national newspaper in Nigeria) “**T.A. Orji, Ebere Wabara and Sedition**”. There was also another headline on page 46 which read: “**Police slam 10-count charge on hospitalized, *The Sun* Editor... Court issues bench warrant against him, surety... lawyer writes CP**”. In the incidence reported above, the Abia State Police command (Nigeria), purportedly on the instructions of the Governor, T. A. Orji (Governor of Abia state), went to Lagos (Nigeria) and arrested the *The Sun* Editor and drove him back under handcuffs to Abia State where he was arraigned the next day on a 10 court charge of sedition against Governor T. A. Orji (Alarape, 2014). In order not to be prejudicial this paper will not comment on the outcome of the case. However, we will keenly watch to see how the case will go down in the annals of the fight for the freedom of the Press vis-a-vis the law of sedition.

The opinion of Aturu (2010) that, all the laws, whether it was the colonial Seditious Offences Ordinance of 1909, the precursor of the notorious Public Officers (Protection against False Accusation) Decree No 4 of 1984 or even the Nigerian Press Council Act recently nullified by the Federal High Court, were enacted to repress the press and prevent criticism of the government in power seems to be true. These repressive laws are still being used by the state to harass and intimidate journalists. We are reminded by him Aturu (2010) that, under the so called democracy in the fourth republic, Journalists were charged with criminal sedition for publishing stories indicating that presidential jets were not new but refurbished. Media houses have been shut down by the Nigerian “democratic” governments because of publishing news that embarrassed the state. The closure of Channels Television and Insider Magazine in Nigeria recently, demonstrated the fact that qualitatively there is little difference between the so called democratic governments and the undemocratic regimes (Aturu, 2010). The case mentioned above of the Abia State Governor, T. A Orji, the Abia State Police Command and *the Sun Editor*, is just one of the examples of executive-press clash that borders on media law, specifically the law of sedition.

8. Conclusion

Other press laws have emerged since the 1909 sedition offence ordinance and these laws seem to be replications of the repressive stance of the Law of sedition. It is obvious that government and her agencies continue to use sedition law to intimidate Journalist. But one thing seems to be recurrent: the judiciary has consistently ruled against the unconstitutionality of the law of sedition. Given these

circumstances, there is need to review the Nigerian constitution and expunge the semblances of repressive press laws. In addition, agencies like media law centre should file suits against government agencies and agents who use the law of sedition as an umbrella for intimidation of Journalists.

It has been shown that, press freedom is a basic principle of human freedom and libertarianism; yet, governments do not feel secure when the media seek to express that freedom. It arguably true that no nation will indefinitely tolerate a freedom of the press that serves to divide the country and to open the floodgates of criticism against the freely chosen government that it leads, yet, seditious offence law was deliberately intended to silence the press. While measures in such as laws and regulations are designed to moderate media practice within the ambit of what is lawfully permissible, there are circumstances in which the press abuse such freedom. We had expressed the view elsewhere in this paper that, such indiscretion by the press may result in a strained relationship between political power holders and the press. At such times, majority of the governments in Nigeria will resort to borrowing a leave from colonial precedence.

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References

- Akinola, R. (2014, April 14). T.A Orji, Ebere Wabara and Sedition. *The Sun Newspaper*. Retrieved June 6, 2014, from <http://www.sunonline.com>
- Alarape, A. (2014, April 14). Police slam 10-count charge on hospitalized *The Sun* editor... Court issues bench warrant against him, surety... lawyer writes CP. *The Sun Newspaper*. Retrieved June 6, 2014, from <http://www.sunonline.com>
- Aliede, J. E. (2020). Mass media and Nigerian political class: Partners in progress or strange-bed fellows. *Idia Journal of Mass Communication*, 5, 2020.
- Aturu, B. (2010, September 3). *Freedom of the press in Nigeria: Some fundamental issues*. Retrieved October 5, 2014, from <http://www.vanguardngr.com>
- Castell, M. (2009). *Communication power*. New York: Oxford University Press.
- Castells, M. (2010). *The power of identity*. United Kingdom: Wiley-Blackwell.
- Castells, M. (2010). *The rise of the network society*. United Kingdom: Wiley-Blackwell.
- Castells, M. (2010). *The information age: Economy, society, and culture*. United Kingdom: Wiley-Blackwell.

- Ibhawoh, B. (2002). Stronger than the maxim: Gun law, human rights and British colonial hegemony in Nigeria. *Africa. International African Institute*, 2(1), 55-83.
<https://doi.org/10.3366/afr.2002.72.1.55>
- Iwokwagh, N., & Akurega, M. (2012). Assessment of Nigerian Press Council in regulating journalism practice. *African Communication Research*, 5(2), 249-260.
- Odoemelam, C. C. (2018). Public perception of media performance during coverage of the 2014 National Conference in Nigeria. *ACSPN Book Series*.
- Odoemelam, C. C., Uchegbu, K., Airen, M., & Odoemelam, Q. (2020). Influence of broadcast media campaigns of political candidates on voters' behaviour in the 2018 gubernatorial elections in Ekiti and Osun State. In Iwokwagh N. et al. (2020), *Journalism: Practice, Teaching and Research in Nigeria. A festschrift in Honour of Prof Tonnie Iredia*. Ahmadu Bello University Press.
- Ogbondah, C., & Onyedike, E. (1991). Origins and interpretation of Nigerian press laws. *Africa Media Review*, 5(2).
- Okoro, N., & Agbo, B. (2003). *Writing for the media society*. Nsukka: Prize Publishers.
- Omu, F. I. (2009). The dilemma of press freedom in colonial Africa: The West African example. *The Journal of African History*, 9(2), 279-298 (Original work Published 1968).
<https://doi.org/10.1017/S0021853700008872>
- Okoro, N. M., & Odoemelam, C. C. (2013). Mass communication ethics: Concepts, theories and principles. In Okoro (Ed.), *Contemporary Readings in Media and Communication Studies*. Lagos: St. Benedette publishers.
- Olatawura, O. (1985). *Appeal court Enugu*. Authur Nwankwo Vs the State. Enugu State Gazzeted.
- Okoro, N., & Okolie, M. (2004). *Mass media, law and politics*. Nsukka: Rhyncex.
- Okoro, N., Ukonu, M., & Odoemelam, C. C. (2014). Mass communication theories and their applications. *Accepted for Publication in the book of reading: Theories in the Social Sciences*. Faculty of the Social Sciences, University of Nigeria, Nsukka.
- Omole, G. (2000). The Nigerian Press Council, 1992-1998. In Akinfeleye et al. (Eds.), *History of Nigerian Press Council*. Abuja: Nigerian Press Council.
- Ostini, J. (n.d). *The Authoritarian theory*. Retrieved November 6, 2013, from <http://epiclawyers.wordpress.com/introduction-to-four-theories-of-the-press>
- Kidafa, I., Odoemelam, C., & Elechi, O. (2011). *Social media and the challenges of regulation: An analytical approach*. Paper at The ACCE conference, Covenant University, Ota. 22 September, 2011.
- Folarin, B. (2002). *Theories of mass communication*. Nsukka: Afri-Link Books.
- Reinard, A. (2001). *Trends in mass communication research*. New York: McGraw Hill.

- Tang, Y. (2016). Laws are a big bell...it will never ring itself! Journalistic Role in China's First Freedom of Information Law. *UB Journal of Media Law & Ethics*, 5(3/4) (Summer/Fall, 2016).
- Wimmer, R., & Dominick, J. (2011). *Mass media research: An introduction* (9th ed.). USA: Wadsworth Cengage Learning.

Non-print Internet Materials

http://books.google.com.ng/books?hl=en&lr=&id=amm2qku9bvuc&oi=fnd&pg=pa51&dq=the+law+of+sedition+and+the+press+in+nigeria&ots=fckf6wzfi&sig=mqghss_81kz_xksfiaxooxyljw&redir_esc=y#v=twopage&q=the%20law%20of%20sedition%20and%20the%20press%20in%20nigeria&f=true

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