

INFLUENCE OF NATIONAL SECURITY LAWS ON PRACTICE OF JOURNALISM IN NIGERIA

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Abstract

The political environment of a country determines the mode and practice of journalism. The legislative framework of a nation affects the media practices. Since the colonial administration in this country, laws have been made, reviewed and amended by the legislature. When the military took over the mantle of leadership in Nigeria's politics, they assumed legislative functions and promulgated various decrees. Since the return of democracy, more and more laws are made on regular basis. A historical survey of these laws and their effects on media institutions currently operating in Nigeria reveals that all the legislations exert varying pressures on media practice in this country. A category of legislations impinges with increasing intensity. These are precisely legislations enacted to ensure national security. They have significant influence on the behaviours of all practitioners of journalism in Nigeria. Consequent upon the diverse effects of national security laws, media people throughout the federation recognise, more than ever before, that they have a paramount obligation to the society and that the duty must be done. Based on the findings, appropriate propositions were made to safeguard journalists and ensure that their performance is in conformity with the prescriptions of Nigeria's national security laws.

Keywords: Authority, Information, Law, Legislation, Nation, Politics.

Introduction

Media influences are constantly at work in forming and transforming the individuals and society in Nigeria. Each person is significantly conditioned by newspapers, radio, television, movies, internet and social media. This makes news-bringing, story-telling and music-making fundamental to the needs of every citizen. And the curiosity to satisfy these needs makes Nigerians to esteem highly all agents of announcements, news and entertainment. The agents who are operating the radio, television and newspaper houses throughout the country programme contemporary media publics to be better informed and better disposed, than their predecessors, to contribute to national cohesion and stability.

Given this state of affairs, Nigerians are, therefore, shocked when the government officials clamp down on some media establishments in the name and interest of national security. Such attacks of the media puzzle the Nigerian public whose understanding of national security legislations is as inadequate as their knowledge of the relationships between those legislations and the entertainment, information and education they obtain from the mass media.

The Nigerian history is replete with numerous duels, feuds, and even wars aimed at protecting cherished reputations. Many innocent citizens were victims of various conflicts. Gradually, as man's tradition and culture evolved, the rulers came up with rules and regulations to control certain behaviours and to ensure peace and safety of life within the society. The government therefore stopped such breaches as the slander of the chiefs, the Igwe and the Oba, and offenders were punished appropriately.

As the mass media evolved in Nigerian society, rulers sensed the potential power of these new institutions and regarded such media slander or criticism as a communication crime. The authorities objected to all categories of dissent; and for protection, they created some seditious regulations. Offences based on criticism gradually became sedition. The colonial administrators formulated such fundamental laws of sedition known to the Nigerian society in 1903. It prohibited

any criticism of the government, its policies or officials. It marked the beginning of national security laws that affect media practice in this country. Ever since, the law books are replete with laws and decrees enacted to curb excesses of the media and thus shield the authority of the government. The 1903 law itself has undergone many restructuring from the 1909 ordinance, through the 1917 enactment by Governor Lugard to the 1962 Official Secrets (Amendment) Act.

Whether in the form of pre-independence ordinance or in the nature of newspaper laws or military decree the presence of these regulations testify that all governments maintain rigid secrecy in issues related to national security. And it is the prerogative power of the government to manage information of this cadre by itself. For instance, Decree No. 2 of 1984, on State Security (Detention of Persons) empowered the Chief of Staff Headquarters to arrest anybody considered too dangerous for the survival or safety of this country.

The defence of one's country or national security is considered a most serious obligation of the citizen to the government. Media practitioners might not be called upon to take up arms and fight for their country; that would be the primary duty of the men of the armed forces. But media practitioners have the responsibility to protect the integrity of their nation by adherence to the laws of the land especially in matters related to national security and defence.

When Nigerian journalists show high regard for national security through their publications and transmissions, foreigners would accord Nigeria the honour it deserves in the comity of nations. Foreign media men might never get to the source of certain vital information in a host country unless home agents let them into it. As the traditional adage puts it, it is the rat of the homestead that would inform the rat of the farm that there were some fish in the kitchen raft. Should the fish be tampered with, therefore, the rat of the homestead would not feign innocence with impunity. One would hasten to add that in matters of national security, the media personnel are not the only custodians of information. Granted that secrets might ooze out of varied sources, it takes a good and responsible journalist to refrain from rushing to publish them for the masses.

The role of the media in crises-perforated nations like Nigeria seeks redefinition. Should emphasis be on the responsibility of the media as the mouthpiece of government, or should the crusader function of the media be given prominence? In other words, should the present-day media enhance their roles as watchdog, ever-ready to confront the government and the officials? Some persons tend to believe that the media, as the Fourth Estate of the Realm, would be failing in their responsibilities whenever they limit their activities to checking the excesses of Nigeria's political authorities. Others are of the view that the media should act as a go-between, presenting the government's programmes and policies to the masses and also informing the government about the opinions of the public regarding the formulated policies and programmes.

Although some critics think that there are many restrictions impinging on the activities of media practitioners, the author is of the opinion that the legislative arm of government would be failing in its responsibility the moment it stops making laws for this country. However, when a specific law is found to be unjust to a section of the population, the media should not only identify such legislation but also convince the legislature to repeal or amend the regulation. Nevertheless, it is an imperative of legislations that compliance should be maintained even when the people perceive a particular law to be repulsive or vindictive. Contravention is apt to attract sanction and ignorance is never an excuse.

The objective of the present research, therefore, is to identify the National Security Laws that affect the mass media in Nigeria with a view to making reliable statement about their applications.

The study examines the effects these legislations have on mass media communication in Nigerian society. To this end, the author attempts to show how improved media information and publicity in favour of national security legislations could safeguard media communicators and inculcate in media professionals increasing degree of social responsibility.

A study of this nature that is aimed at identifying the national security laws and examining their effects on media operations is very important, because it will alert, warn and empower media professionals. The underlying assumption is that acquaintance with these legislations and their implications would increase the knowledge of media agents and boost their confidence in the exercise of their vocation. Knowledge of these laws will save the media practitioners embarrassing and humiliating errors resulting from reckless risks. In Nigeria, as elsewhere, ignorance of the law excuses no one.

On the basis of the educative information inherent in a study of this cadre and the benefits to be derived from it by both practising and intending journalists, this study is of both theoretical and practical utility to scholars and practitioners alike.

Government-Media Relationships

The relationship of the mass media with the political system rests heavily on the type of governmental system that is operational in a particular society. Siebert, Peterson and Schramm (1956, p. 2.) provide a classical analysis of the political philosophies or theories behind the different media systems in the world. It can be discerned from their analysis that there existed some four major systems; namely, authoritarian, libertarian, social responsibility, and communist systems. This classification was determined by the then prevailing politico-economic systems of major countries of the world. As a result, four media theories evolved. These theories corresponded to the political climate of the environment of their operation. Gradually, other systems emerged. For instance, cognisant of the needs of developing nations, informed by practical experience with situations not adequately provided for by the major systems, McQuail (2005) identified two additional systems. These are the development system and democratic-participant media systems. From these systems are derived corresponding media theories that are in operation in various countries of the world.

The authoritarian media system assumes that the state administered by wise persons is the ultimate determinant of the general good of the populace. Furthermore, it assumes that the state is the highest expression of group organisation and that it supersedes the individual in a scale of value since the individual is helpless without the state. Accordingly, mass media are assigned definite roles, which are often the dissemination of instructions and attitudes and ideas of the ruling class.

In a suitable review of the theories of mass media, Ojobor in Okunna (2002, p. 4 - 26) notes that several writers and philosophers like Plato support authoritarianism. For instance, Plato upholds that the state is safe only in the hands of wise men, the magistrates, whom moral authority governs and who use this authority to keep baser elements in society under control. Furthermore, it is the opinion of Machiavelli that the stability and advancement of the state are paramount and that individualistic considerations of the citizens are subordinate. Siebert and colleagues (1956) note that authoritarian system dominated most of the European countries prior to the 19th century. Such was the case in Britain, France, Germany, and Italy. Authoritarian orientation in politics and media practice came into Nigeria through Britain that colonized the territory. In Nigeria, advocates of authoritarianism often claim that the nation is greater than any individual or any of the ethnic nationalities.

The main principles of authoritarianism are aptly summarized by McQuail (1987:112) and acknowledged in Ojabor (2002). In the first instance, authoritarians believe that the media should do nothing that would undermine established authority or disturb public order. Instead the media should always be subordinate to established authority. The media in authoritarian system of government should avoid offence to majority or dominant moral and political values; unacceptable attacks on authority, deviation from official policy or offences against moral codes should be considered as criminal offences. Furthermore, censorship can be justified especially when it is aimed at enforcing authoritarian principles; and media people have no independence within their media organizations. The thrust of Ojabor's analysis is that the media under authoritarian system of government should submit to the authorities and the truth is that statement which supports or is beneficial to the government in power. There is no pretension of freedom of the press under the authoritarian system; and all kinds of control of the media are considered necessary for the power holders to ensure the welfare of the State.

There is no doubt that authoritarianism is practised in various countries of the world today. Udoakah (1990, p. 289) posits that under this system, the government monopolizes the media, and only few individuals are authorized to own media outfits. Moreover, government control is manifest in legislation, taxations, and economic sanctions, enforceable codes of practice and direct appointment of media personnel. Supporting this view, Okunna (1999, p. 28) adds that authoritarianism is practised in such new ways as direct government ownership of the mass media, direct control of production, harsh economic sanctions like taxation, control of foreign media influence, closing down of media houses, appointment of media personnel, and use of code of conduct.

The Nigerian experience reflects in governments' use of the mass media for disseminating information, for mobilizing the populace for developmental purposes. Media ownership and operations are organized within the framework of national unity; media control is heavily in government grips and the methods of control varied according to the prevailing political arrangement of a given period of the nation's history.

According to McQuail (2010, p. 523), there has always been an intimate connection between mass communication and the conduct of politics, in whatever kind of regime. In authoritarian or totalitarian societies, ruling elite use their control of the media to ensure conformity and compliance and stifle dissent by one means or another. In democracies, the media have a complex relationship with sources of power and political system.

In the Nigerian context, the mass media operate under a combination of principles of authoritarianism and democratic participation. In the system there is a combination of government and private ownership of the media throughout the federation. The general view of the neutral and mediating role of the media in politics has sometimes been modified to accommodate the variant forms. As a result, the media often opt to play a partisan role on behalf of a political party, a region or state, interest groups, or they are closely allied to some powerful economic or ideological community.

Although the Nigerian media system may be referred to as mixed, the media outfits, whether government or privately owned, are apt to be regarded as the megaphones of the governments of the day. The media practitioners not only explain and defend government policies and programmes, but they also follow government officials to almost every official function.

On their part, the political actors depend considerably upon the Fourth Estate of the Realm for political relevance in terms of image making, information sharing, propaganda and related functions. Consequently, the dominant element in government-media relationship in Nigerian is compliance to legislations.

Nigeria's Media Legislations

A complex web of laws, regulations and court decisions encircles every media practitioner. Some are designed to protect the government, the consumers, and the communities. Some are intended to make contracts enforceable and to protect property rights. Many are designed to regulate the behaviours of media owners and their employees. There is relatively little that a media agent can do in the present society that is not in some way concerned with and often specifically controlled by a law, a decree or a regulation.

What perturbs media professionals and other patriots most is that a desirable national law with social objectives everyone wants might be administered by government agencies in such extra-legal ways as to subject professionals to frustrating regulatory controls far beyond those foreseen when the law was enacted.

Media professionals are expected to know the legal restrictions and requirements applicable to their actions. Thus, it is understandable that media enterprises under various political systems usually have a legal expert close at hand as the media practitioners operate. It is further understandable that media practitioners must respond to social pressures as well as foresee and deal with political pressures and laws affecting their products and services. Some of such laws are outlined in this paper.

On independence in 1960, Nigeria inherited from the colonial masters eight laws that affected media practice. Egboka (1991) identified these laws as follows:

Table I: Media Law at Independence

<i>S/No.</i>	<i>Laws</i>	<i>Year</i>
1	The Newspaper Ordinance/Amendment Act	1903
2	The Seditious Offences Ordinance	1909
3	The Newspaper Ordinance/Amendment Act	1916
4	The Newspaper Ordinance/Amendment Act	1917
5	The Official Secrets Act	1920
6	The Obscene Publication and Indecent Act	1923
7	The Newspaper Ordinance/Amendment Act	1954
8	The Newspaper Act	1958

Adapted from Egboka (1991)

Furthermore, the Nigerian civilian administration of post-independence era enacted eight laws to control the mass media; these laws are:

Table II: Media Laws of post-Independence era

<i>S/No.</i>	<i>Laws</i>	<i>Year</i>
1	The Seditious Meeting Act No. 48	1961
2	The Defamation Act No. 66	1961

3	The Official Secrets Act No. 29	1961
4	The Official Secrets (Amendment) Act No. 39	1962
5	The Defamation (Amendment) Act No.1	1963
6	The Cinematograph Act No. 7	1963
7	The Constitution of the Federation: Adaptation of Laws (Miscellaneous Powers) Order L. N. 172	1964
8	The News (Amendment Act) November 1964	1964

Adapted from Egboka (1991)

When the military came to the scene it promulgated many decrees:

Table III: Media Decree of the Military Regimes

<i>S/No.</i>	<i>Laws</i>	<i>Year</i>
1	Defamatory and Offensive Publication Decree No. 44	1966
2	Newspaper (Prohibition of Circulation) Decree No. 17	1967
3	Armed Forces and Police (Special Powers) Decree No. 24	1967
4	Cinematography Amendment Act	1969
5	Supremacy and Enforcement Decree No. 28	1970
6	Trade Disputes Decree No. 7	1976
7	Public Officers' (Protection Against False Accusation Decree) No. 11	1976
8	Prohibition of Circulation Order	1978
9	Nigerian Press Council Decree No. 31	1978
10	State Security Detention of Persons Decree No. 2	1984
11	Public Officers' (Protection Against False Accusation) Decree No. 4	1984
12	Media Council Decree No. 59	1988
13	State Security Detention of Persons Decree	1988
14	Advertising Decree No. 55	1988
15	Nigerian Institute of Public Relations Decree	1988

Adapted from Egboka (1991)

Problems remain for many a contemporary journalist. In an analysis of Nigeria and West African security environment, Oladimeji (1989) observes that security, in the vein of motherhood, is universally and indisputably regarded as sacrosanct because it has direct links with the survival of individuals and nations. The concept of security is so central that in its name freedoms are curtailed, and in its name it is often possible for the advocates of national security of different political orientations in Nigeria to go to extreme of actions to protect their vital interests, often under the cover of national security.

In Nigeria today, the problem of the mass media and national security is multi-dimensional; it is manifest in arrests, detentions, molestations, demolitions, dismissal transfers, imprisonment and

even murder of a media practitioner. At times, when non-Nigerians are involved in media information tangle, they are summarily sent packing.

These problems are sometimes inherent in the media practice itself but most of the time they result from the media practitioners' lack of awareness of the legal restrictions and responsibilities of specific situations. Illustrative instances abound where articles written in good faith by well-meaning citizens, who are ignorant of the laws of the land, got journalists into trouble. In such circumstances, the seemingly beginning and adventurous journalist deserves our sympathy. However, there are occasions when a fully-fledged journalist writes an apparently irresponsible article, regardless of the ethics of the profession. This portends danger not only for the erring journalist but also for other practitioners in the field.

When a media professional goes about his profession without adequate knowledge of the restraints imposed upon him by the law, disaster threatens the society. The state risks having its secrets disclosed to unwarranted public and thus inviting public disorder and political instability. Furthermore, the nation may have its relations with other countries endangered and indiscreet mass media information.

Several years ago, the erstwhile chairman of the *Daily Times* group of Nigeria, Babatunde Jose, identified some 25 enactments, which severely constrained Nigerian journalism. As noted by Dare (1985), some of the legislations made nonsense of the duty of the press, as mandated by the Nigerian Constitution. Indeed, the existence of some of the laws in the statute books tends to hamstring the media. However, some observers like Ekwelie (1979) are of the opinion that the Nigerian press is free to lead, inspire, criticize, and even challenge the governments within the limit of the laws of the land. One thing is eternally important: that every journalist should operate within the confines of the law.

Laws are generally regarded as the expressions of society in prescribing how citizens should behave. The mass media industries constitute a significant component of the society; and practitioners are obliged to observe the laws of the land.

Legislations are ordinarily passed as a result of social pressures and problems, they are often repealed when circumstances that necessitated their formulations and application change. However, national security laws persistently stay in the book of statutes even after socially perceived need for them seemed to have disappeared. In fact, these laws are as perpetual as the art of governance itself.

Perceptions of National Security Measures

A nation is a society of persons politically organized for common purposes. As an organization, it has certain needs or wants, among which is the need for national security. The concept of national security communicates realities in two perspectives. In the first instance, it includes the security of the total population of a nation, whereas in the second perspective, it encompasses but a segment of the population.

A nation is considered secure when it is free from the threats of external invasion and there is absence of unrest or rebellion within its borders. Nigeria's national security today is a perpetual problem that is rooted in domestic, foreign and military policies. Its campaigns gather reliable intelligence and bring complex strategies together. Understandably, national security, in this context, is an intermingling of the political and military. It is the principal responsibility of the government in time of peace, emergency, or war. A government neglects national security at its own peril.

According to Carr, Morrison, Bernstein, and Snyder (1951, p. 947), security is the dominant national objective because the modern nation-state would hardly survive if it did not provide minimum protection for its citizens. Hence, the major preoccupation of the federal government of Nigeria is to ensure national security, even though the practical organization involves the governed. Thus, in the realisation of the aims of national security, the proper relationship between the civilians, the police, the military and the political leaders must be decided and all agencies that can influence decisions and public opinions must recognize the importance of solidarity and patriotism in complying to the determined national policy of Nigeria.

In order to ensure success in this all-important task, the efforts and contributions of all the agencies concerned need to be constantly co-ordinated. All must realize that any act of neglect, omission or commission is apt to spell doom for the entire populace.

The organization of national security in this perspective, therefore, is the mutual responsibility of both the military experts and the civilians. This is informed even further by the fact that military actions have political implications and political decisions have military implications.

A rather subtle view of national security concentrates upon the security of a segment of the total population that, the citizens agree, tacitly or otherwise, the government should espouse. Demonstrative examples of this notion of national security abound in the numerous arrests and detentions of persons by some agents of the government, especially where persons so detained were denied trial.

Furthermore, the various bans or closures of media houses in Nigeria are all practical examples of efforts to protect a section of the population, often the rulers, all in the name of national security. The agents in such circumstances as outlined here and in the preceding paragraph, are deemed to be acting in the interest of national security of the second cadre.

There is no denying the fact that this aspect of national security is open to abuses. For instance, some selfish pressure groups often put their parochial interest ahead of the interests of the whole nation. When this happens, the people are confused; unnecessary conflicts arise and even national security is itself threatened. There were very many such abuses of national security during the military rule in Nigeria.

However, despite the abuses by some Nigerians in certain quarters, the fact still remains that national security interests fall within one of the above-illustrated categories and may fall within both dimensions. Given the Nigerian situation, it is rather difficult to exaggerate the number of forces, persons, and agencies involved in the organization and maintenance of national security. The statistics are imposing and the volume of resources enormous. The processes involve concentrating knowledge and skills, power and intelligence to ensure lasting security. In fact, the processes are too complex to be exposed in this brief study.

Given the Nigerian situation, it is necessary to highlight here that serious problems grow out of its national security measures. And, such serious problems generate more perplexing consequences. This phenomenon is indicative of the way Nigerians adjust their positions and lifestyles in the face of national security manoeuvres orchestrated by either military or civilian government.

It is clear to many Nigerians today that political authoritarianism has taken the form of increasing dominance of the state in the life of the individual members of the society. Perhaps, the long years of military intrusion into governance has tended to misrepresent facts and to poison the mentality of many Nigerians. They have tended to twist the legislative system turning it into vast

military and political mechanisms for controlling the life of the citizens. The freedom of the citizens has become a freedom to do what the national leaders permit them to do. What the nation demanded of its members was the kind of instant and unquestioning loyalty that could be depended upon in its struggles with other nations. To some people, this is a kind of patriotism.

Patriotism as applied to national security matters should take the forms that would encourage uncritical adherence to the policies of one's own nation: *my country right or wrong!* This is to be complemented with a blunting of the imagination as to the needs, rights, and attitudes of the people of other nations. This does not mean that nationalistic patriotism in this regard should discourage linkages of understanding, sympathy, and co-operation with other nations, nor with the people of those nations. This would tend to encourage a kind of exclusiveness that fosters suspicion and hostility. Far from that, what is required is a kind of red-hot fanaticism that seeks to safeguard the overall security of one's country without damaging its relations with other nations of the world.

National Security Laws in Nigeria

Laws that are applied to maintain national security affect the media practice. Some of such laws focus on media ownership and the establishment of agencies, whereas others prescribe the conditions of the media operation.

The emergence of national security laws is associated with colonial subjugation of Nigeria. Indeed, the history and pattern of Nigeria's law is traced to her subordination to British imperialism. It is worth noting that prior to the year 1908 and in alliance with the evolution of mass media in this country, the then media practitioner neither questioned nor challenged colonialism in any significant respect. In 1908, however, Herbert Macaulay issued a protest pamphlet that sparked off protest riots in Lagos. According to Jika in Nwosu (1990:174), this incident was to alter the docile role of media men in Nigeria. It led to the promulgation of the Seditious Offences Ordinance of 1909 by the colonial rulers.

The Seditious Offences Ordinance of 1909

Some hundred years before independence, the Presbyterian Mission established a pioneer newspaper known as *Iwe Irohin*. This was published in both the Yoruba and English languages. Its editorial contents suited the evolutionary trends in the political environment of the colonial era. In this way, it was able to enjoy both the approval and co-operation of the pre-independence administrations. It continued for years in harmonious co-existence.

However, when other newspapers like *The Lagos Times*, *The Lagos Critic* and *The Lagos Weekly Record* sprang up in the newspaper industry, the monopoly of *Iwe Irohin* was broken. Then, reporters and editors sought to excel in their task, they soon began to overstep their bounds. Consequently, the relationship between the press and the pre-independence government began to sour because of certain unrestrained criticisms from the new crop of editors and reporters.

This was the situation even before the evolution of the electronic media system in this country. Perhaps journalists of the époque were unaware that governments, the world over, detest all forms of "unwarranted utterances". The colonial administrators then undertook to teach those journalists by enacting the Seditious Offences Ordinance in 1909.

The development of this Ordinance is interesting. Appearing first in 1903 as Ordinance No. 10, it was intended to save the colonial authorities the embarrassment of failure in the bid to locate any publisher of newspapers that had 'seditious articles'. Six years later, following increasing

political agitations, the government enacted the Seditious Offences Ordinance. This enactment was intended to regulate the ownership and practice of media houses. According to Momoh as cited by Jika (1990), it marked the beginning of pre-independence laws on national security, which were meant to restrain media from publishing seditious items. Indeed, the Seditious Offences Ordinance came not only to regulate the practice of journalism but also to secure some measure of control over who could and who could not publish a newspaper.

The assumption in some quarters was that intra-class rivalries within the emergent pre-independence bourgeoisie took some dangerous turns resulting in the then central government promulgation of several laws that essentially aimed at reducing the vociferous mood of the intra-class rivals. Such laws included the Obscene Publications Act of 1961 and The Official Secret Act of 1962.

Official Secrets (Amendment) Act: 1962

A survey of the post-independence press in Nigeria reveals that during the struggle to attain independence, the Nigerian mass media – particularly the press – were used by nationalists to convince the people of the need to confront the colonial masters as the only way to shed the yoke of British imperialism.

Having taken over the reins of government, the post-independence authorities began to have problems accommodating the militant attitude of some media practitioners. The government's development plan was criticized and condemned, the population census was rigged and the government got additional reprove from the mass media. In fact, the press openly criticized government decisions. Worthy of mention is the Anglo-Nigerian Defence Pact of 1960. This arrangement provided that the British government would train men for the Nigerian armed forces, acquainting them with the application of modern techniques of military defence. Nigeria, on her part, would authorize all British military planes to land in any airfield in the country especially during their test flights.

The mass media openly criticized this pact, inspiring some university students who reacted by demonstrating against the government and the policy. The Federal government replied by banning many newspapers that opposed its actions. The lawmakers went into the archives and came out with the hitherto dormant Official Secrets Act of 1920, which they began to apply to the post-independence situations. That was how the Official Secrets Acts of 1962 re-surfaced. Although this law entered the country's statutes book in 1920, it was not to perturb any citizen until the post-independence era when it was amended and made more formidable to save the young republic from presumed media embarrassment. It has since then been enforced on many occasions.

As noted by Elias (1969), Section 1 of the Official Secrets Act of 1962 provides that

“A person who (a) transmits any classified matter to a person whom he is not authorised on behalf of the Government to transmit it or (b) obtains, reproduces or retains any classified matter, which he is not authorised on behalf of the government to obtain, reproduce or retain, as the case may be, shall be guilty of an offence.”

Furthermore, a classified matter is defined as any information or thing that is under any system of security classification from time in use by any branch of government is not to be disclosed to the public and of which the disclosure to the public would be prejudicial to the security of Nigeria.

Although, this law might appear a threat to media practice, the circumstance surrounding its coming into force compels one to believe that it was a healthy development for safeguarding the security of government documents. It would be difficult to imagine the fate of this country without the regulation on official secret matters. Many a journalist would dare to accompany the spirit to kill a man and hurry to join the living in the funeral of the victim of such a manoeuvre!

The Decree No. 4 of 1984

The Public Officers (Protection Against False Accusations) Decree No. 4 of 1984 took many editors by surprise. This is because the military arrived in Nigeria's political scene, they appeared somehow indifferent to the operations of the mass media. Editors went about publishing whatever they wanted without considering sufficiently the impacts of their actions on the society. So, when some years later government found that unrestricted dissemination of information would pose a threat to internal peace and national security, it came up with this measure of media control in the name of Decree No. 4. Many journalists shouted that it was vindictive and that it robbed them of initiative and right to professionalism. They felt that it tended to destroy investigative journalism. The sudden introduction of Decree No. 4 surprised editors, giving the greatest shock in their vocation.

However, an acquaintance with this law reveals that its first part was similar to Decree No. 11 of 1976, which sought to protect the federal military government from disrepute and embarrassment. The bitter fact, however, is that Decree No. 4 went beyond the provision of Decree No. 11. This decree incorporated Decree No. 11 and even went beyond its attempt to protect the dictatorial government.

Decree No. 4 prohibited media products circulation, revoked licence of wireless media station, and even confiscated the equipment of media outfits. Under Decree No. 4, trial was by a tribunal and only the Attorney General could inquire into the authority of the tribunal. Furthermore, an offender would be imprisoned and, in addition, would pay a sum of ₦10, 000 or even more! No court in Nigeria or elsewhere could inquire into the validity of the decree under discussion. An offence under the Public Officers' Protection Against False Accusation Decree (Decree 4) could be punished as separate offences and rules of procedure were carefully laid down in detail.

Freedom of Information Act of 2011

Democracy thrives in an atmosphere of a free and responsible media system. Under such a scheme, the media would serve the principal objective of mediating between the government and the citizens, irrespective of ownership. Social scientists recognise that the freedom of the press starts where the fundamental interest of its ownership ends. To such scholars as Jika in Nwosu (1990, p. 178), any discourse on freedom of the press is indistinguishable from a hoax, a farce, a propaganda manoeuvre, an ideological ploy, often deployed by an interest group often the ruling class that is determined to legitimise its dominance, legacy and ability to control the press. This probably would provide some insight into the recent drama staged by the political actors of the highest ranking. To affirm that many Nigerians were disappointed would seem an understatement.

The case in point is the political engineering associated with the Freedom of Information Bill that had passed through the National Assembly of the Federal Republic of Nigeria and was waiting to be signed into law by the erstwhile president. The bill suffered total neglect, resulting to dissatisfaction of many concerned patriots. Strange though it seems, President Olusegun Obasanjo refused outright in 2007 to assent to the bill that had passed through proper legislative procedure

since 2nd September 2004. That spelt an ugly omen for Nigerians. However, Nigerians were reassured with the understanding that the bill which re-emerged in the House of Representative was again on course to complete anew the process that would lead to its enactment into law.

Even with the recent anxiety for passing into law of a bill for an Act to make public records and information more freely available, Freedom of Information Bill of 2004, was not informed exclusively by wholesome understanding of the contents of the bill. All is not free in the Freedom of Information Bill! It would seem that Nigerian journalists were by this bill asked to follow the rules that often led them to some place they did not care to go. Perhaps, there is no place a donkey would go and it would be exempted from carrying loads. As the FoI Bill became an Act of the Senate of the Federal Republic of Nigeria on Tuesday, 24 May, 2011, what everybody is convinced of is that the (FoI) Act provides some safeguard clauses on national and international affairs, in defence, and on documents under security classification.

On International affairs and defence, Section 12 of the Act provides thus:

1. *A public institution may deny an application for any information the disclosure of which may be injurious to the conduct of international affairs and the defence of the Federal Republic of Nigeria.*
2. *Notwithstanding subsection (1), an application for information shall not be denied where the public interest in disclosing the information out-weighs whatever injury disclosure would cause.*

The emergence of laws notwithstanding, Nigerian journalists continued to perform their duty by providing information for the people. All in all, the relative increase in newspapers, their accompanying influence, coupled with the parallel emergence of courageous editors, the shrillness of their attacks and growing politicisation of the local population, brought about corresponding increase in the number of legislations in the country. Yet, despite these legislations, or most probably because of them, Nigerian journalists always survive.

Effects of National Security Laws on Journalism

The legislations used to maintain national security affect the Nigerian mass media practitioners with discriminating intensity. Some media people perceive the legislations as vindictive devices intended to strip media men of the protection they had grown to enjoy as a result of the democratic orientation of the federal government. This group of media practitioners claims that such enactments as Decree No. 4 is a rape of professionalism, a dangerous act of dictatorial authority to end an era of investigative journalism.

One known writer, John Payne Jackson of the *Lagos Weekly Record*, strongly objected to oppressive regulations in the guise of 'national security laws' that impinge on media practice. Jackson's confrontational comments of the colonial government eventually made him the first victim of the Seditious Offences Ordinance. Herbert Macaulay later joined in the list, so did the popular mathematician, Chike Obi. Although, the latter was not a journalist by profession, he published, in 1961, a pamphlet that angered the political authorities. Subsequently, the seditious offence legislation was evoked and the great mathematician added to the list of 'offenders'.

Many media practitioners strongly condemned media restriction, especially as reflected in the introduction of Decree No. 4 into Nigeria's statute book. For instance, the *Newswatch* magazine saw the decree as the most 'bad-mouthed' decree ever made in Nigeria. The magazine's editor and feature

writers wanted the decree abrogated. In fact, they appeared uncompromising in their criticism. Whether as individuals or as a group, critics were disappointed at the apparent suppression of free expression and the manoeuvre of the media by the military junta.

Alienation of the Media Practitioners

Several Nigerians, conditioned by the military regimes, were no longer surprised when they heard about editors who were occasionally whisked away for questioning and whose residences and offices were continually raided by government agencies because of alleged irresponsible publications. It had become part of their socio-political evolution. There were abundant cases where media practitioners attempted to assert themselves over government's policies. In response, the government closed down and seized all the publications of such establishments. Some are even banned from further publication.

When a media house is stopped or banned from practice, fear of the law looms over similar media industries. This restricts the quality of information such an industry delivers to the Nigerian public. In fact, fear of the law not only limits the public's access to information but it also alienates the mass media practitioners to the government.

The alienated media professionals tend to exhibit some feelings of distrust of government and the process of governance. The erroneous assumption is that the media men are not part of the process and that they are aliens in the country. This effect of alienation from the political world is like an eclipse of significant groups' liaison between the government and the populace. To state the least, this estrangement of media people from politics is dangerous to governance since alienation results in secrecy; and in this regard, secrecy breeds anxiety and suspicion; and suspicion often leads to dissident conduct.

Media Professionals' Solidarity Crisis

The irony of the profession of journalism in Nigeria is the 'pragmatism' of its members. This phenomenon obtained mostly during the era of government monopoly of ownership of the media. It was evident in situations where journalists were dismissed, demoted, punitively transferred by political leaders; other journalists eagerly manifested their willingness to replace their humiliated colleagues. This lack of solidarity is a sad affair and the profession is paying dearly for it. Since the media practitioners undercut one another, governments exploit the situation to the maximum, especially in dealing with government-owned media outfits.

Conditioned Compliance of Government Media Employees

As media practitioners realized that adverse relationship between government officials and themselves would be unhealthy for national security and progress, many of them readily adjusted and adapted their pace to the rhythm of Nigerian law. Media professionals with this kind of disposition always feel free and practice their trade within the specifications of the law. Majority of the media people in this category are working in government-owned media establishments.

Complying with the law that established them, such media enterprises do 'reflect Nigerian unity and give adequate expression to Nigerian culture, social and political affairs, and people's opinions'. This is the case with the erstwhile Nigerian Broadcasting Corporation (NBC) whose establishing Ordinance of 1956 made the above-highlighted provision among others. Accordingly,

there is increase in the publication of government programmes in the media. Write-ups, jingles and public enlightenment programmes continue to multiply especially in radio and television.

Momentum for Self-Censorship Habits

The practice of self-censorship is a positive effect of the laws on media practice in this country. Since media practitioners know that they might be called upon for questioning regarding their publications, editors now take time to verify their facts before publishing them. This habit of self-censorship saves many editors and reporters from lots of embarrassing circumstances. What is more important is that it ensures reputation and success for their media enterprises.

Media Ownership in Peril

National security laws have some considerable impact on media-ownership in Nigeria. For instance, a nodding acquaintance with Nigeria's media history would entice one to infer that right from the colonial era, people who would have established media organisations with the sole purpose of sowing discord in the society and thereby destabilising the nation or making it vulnerable to external attack were prohibited by the legislations. Consequently, only responsible individuals and corporate groups were encouraged to own media outfits.

Following the various legal restrictions, there is some reduction in the projected number of media establishments and paradoxically, a considerable increase in the number of newspaper houses and cost of advertising materials. Some observers attribute the increased cost of advertisements to the media owners' need to provide fund for possible litigations. If this is true, then it points to the innate fear of contravening the law. Precautionary measures would be taken by media owners to avoid contravening the established laws of the land.

Cultivation of Respect for National Security Laws

Corrective effects of national security laws on our media personnel and agents are often reflected in the performance of Nigeria's media professionals, especially in their respect of the formal laws. Indeed, it is a common attitude among the media practitioners that legal commands or prohibitions ought to be obeyed even by those of them who might be critical of the law in question. This feeling of obligation depends upon a respect for legitimate authority. We observe that in many media professionals, this respect for formal legislation is probably relatively weak; in some, it is totally lacking, and in others, it might even appear to be negative. Attitude to national security law compliance does change from time to time. However, a certain degree of respect for these laws is considered by Nigeria media practitioners as essential for the smooth functioning of the society and their media organizations.

Enhanced Ethical Considerations Among Practitioners

The idea of ethical considerations dominates the entire existence of a practising journalist. As this angle is pursued, it would serve our purpose to evoke the view of Okunna (2003:17), that the birth of a nation-state generates various ideas about how members of a particular society or state should behave so as to achieve a harmonious and perfect society. She adds (2003, pp. 41-42) that the purpose of journalistic ethics is to stipulate rules, guidelines, norms, and principles that would guide the journalists in making decisions. The rules and guidelines designed to guide journalists and regulate their ethical behaviours are usually embodied in the journalists' codes of conduct. Such

codes are fashioned by the journalists themselves as instruments of good conduct. Adherence to the prescriptions of the code protects a journalist from falling victim of legal control machinery.

Expansion of Professional Horizon

The national security laws that regulate media practice in Nigeria have greatly enhanced the maturity of the profession of journalism. The need for alternatives to government-fighting has propelled media professionals to discover other aspects of the practice that appeal to the masses and enrich the media industries. In the words of Dare (1985 p. 41), *the Nigerian press is maturing. Decree No.4 had the unanticipated consequences of bringing out the best in Nigerian journalists...as clinical analysis replaced vulgar abuse.* Briefly, national security laws have enabled practising journalists in Nigeria to widen their horizon.

Conclusion

This study has examined national security laws that affect media practice in Nigeria. The trouble with Nigeria lies in the extra-legal application of the laws on good-willed journalists. The presence of these laws is a necessary evil at this stage of Nigeria's socio-political development.

It is a welcome development that Nigerian media practitioners are constantly looking inward and discovering that Nigerians are interested not only in catastrophes, murder, and scandal but also in stock market, household suggestions, educational, scientific and development-oriented news. In other words, we appreciate today that rather than government-fighting, contemporary media people are increasing the number and quality of entertaining and educational programmes in the radio and television as well as in the print media. The new wisdom is that even good news might be rated as news.

The fact that the right of free speech is not absolute at all times is better understood by contemporary journalists than did their predecessors. Admittedly, there are in Nigeria today certain well-defined and some narrowly limited classes of speech, whose prevention and punishment have never raised any constitutional problems. The judiciary is often called upon to decide if the actions of the Fourth Estate of the Realm, our media, constitute a breach of the legislation. As the judiciary examines such issues on a day-by-day and case-by-case basis, media enthusiasts are expected to keep constantly in touch with the significant decisions.

Monitoring judicial decisions, in addition to the laws affecting this profession, might hopefully save a practising journalist from the ridiculous experience of relying too much on a less significant case and losing sight of the fundamental laws of national security, whose contravention ineluctably attracts bitter sanctions.

Although, the tradition of freedom is so strong in our society that the Nigerian constitution provides for the freedom of expression and of the press, in matters relating to national security, legal restrictions are applied to the maximum. Freedom has its basis and justification on national security. Nigerian journalists agitating for press freedom often refer to the United States of America and Britain. Perhaps, the press in those countries are better mature to steer clear of sensitive and restricted areas. A child who is ever eager to disclose to visitors where the family treasures are concealed deserves strict measures to speed him or her up to maturity. The reference to the western countries is most probably rooted on the illusion that grasses on our neighbour's lawn are greener than those in ours. One thing, however, is clear; that is, no medium in Britain or the United States of America dares reveal the nuclear armaments of the host country. The nuclear armaments of these

western world powers are shrouded in mysterious secrecy. Sequel to this, the world only knows what each government chooses to reveal and no more! Their media practitioners do not need police or military torture to maintain their national security laws.

Ours is a developing nation and for Nigeria to continue in her role as a leading nation in Africa, world confidence in her national security and politico-economic stability must be maintained by all her citizens, media personnel inclusive. On the basis of the above assumptions, we would recommend regular meetings between top government functionaries and media executives to help to throw more light on government actions and intentions. This would not only curtail unhealthy news speculations but it would also enhance access to information.

Some years ago, the Freedom of Information Bill having gone back to the House of Representative resumed its process and was eventually enacted as an act of the Senate of the Federal Republic of Nigeria. Nigerians eagerly welcomed the Act expectant that it would probably lead the citizenry to a better future. As we reflect on the processes of evolution of media laws in Nigeria, it is rational to invite Nigerian journalists to ponder on the verdict of Greenwood and his colleague to the effect that *the journalist has no legal right to go anywhere, do anything, say anything or publish anything beyond what is the legal right of any private citizen in these matters.*

References

- Akpan, E. (Ed.) (1990). *Communication arts*. Uyo: Modern Business Press.
- Carr, R. K., Morrison, D. H., Bernstein, M. H., & Snyder, R. C. (1951). *American democracy in theory and practice*. New York: Rinehart.
- Dare, O. (October 1985). 126 years of patchy service. *NewsWatch*, Special Edition. p. 41.
- Duyile, D. (1979). *Media and mass communication in Nigeria*. Ibadan: Gong-Duyison.
- Egboka, V. (1991). Press freedom in Nigeria. Unpublished project report. Department of Political Science. University of Nigeria, Nsukka.
- Ekwelie, S. A. (1979). The Nigerian press under the military rule. *Gazette, International journal of Mass Communication*. (xxv) 4.
- Elias, T. O. (1969). *Nigerian press law*. London: Sweet and Maxwell.
- Federal Republic of Nigeria (2011). *Freedom of Information Act*. Lagos: Government Press.
- Greenwood, W. & Welsh, T. (1985). *McNae's Essential law for journalists*. 9th ed. London: Butterworths.
- Jika, A. (1990). The role of the press in Nigerian development. In Nwosu, I. E. (Ed.). (1990: 171-181). *Mass communication and national development*. Aba: Frontier Publishers.
- McQuail, D. (2005). *McQuail's Mass communication theory*. (5th ed.). London: Sage.
- (2010). *McQuail's Mass communication theory*. (6th ed.). London: Sage.
- Momoh, T. (1990). 'Various press laws and practice of journalism in Nigeria' a paper presented at the 30th Anniversary of NUJ symposium, Lagos, May 15, 1985. Cited by Jika, A. in Nwosu, I. E. (Ed.). *Mass Communication and national development*. Aba: Frontier Publishers.
- NewsWatch magazine* (10 March 1985). (p. 4).
- Okunna, C. S. (2003). *Ethics of mass communication*. Enugu: New Generation Books.
- (Ed.) (2002). *Teaching mass communication: A multidimensional approach*. Enugu: New Generation.

- Oladimeji, D. A. (May-June, 1989). Nigeria and West African security environment.
Nigerian Forum. Vol. 9, No. 5. Lagos: Nigerian Institute of International Affairs.
- Siebert, F., Peterson, T., & Schramm, W. (1956). *Four theories of the press*. Chicago:
University of Illinois.