

Military-Media Relations in Post-Colonial Nigeria

Clashes, Ethics, and Prospects

Edited by

Olunifesi Suraj and Allwell Uwazuruike

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Table of Contents

List of Tables	ix
List of Figures	x
Introductory Note	ix
Chapter 1: Nigerian Press Under Buhari Military Autocracy and Civil Democracy: A Critical Analysis of Why History Could Not Repeat Itself .	1
Chapter 2: Investigating Robot Journalism, National Security and the Future of Military-Media Relations in Nigeria	36
Chapter 3: Historical Context and Perception of Military–Media Relations in Nigeria (1966 – 1998).....	64
Chapter 4: Revisiting the Jackboot: Censorship of Nigerian Press under the Military Regimes of Generals Ibrahim Babangida and Sani Abacha (1985-1998).....	89
Chapter 5: Media-Military Relations and Democratization in Contemporary Nigeria	125
Chapter 6: Military-Media Relations and the Boko Haram Crisis: A Diplomatic Analysis	158
Chapter 7: Alternative Media Platforms for the Nigerian Military in Combating Insurgency in the Northern Region	176
Chapter 8: State, Politics and Military-Media Relations in Nigeria: A Theoretical Statement	197
Chapter 9: Recent Military Takeover Announcements in Africa and Media Channel Preference	224
Chapter 10: From South Africa’s Apartheid System to Nigeria’s EndSARS Upsurge: The Role of The Media in National Rebirth	245
Chapter 11: Youth Online (Facebook) Identity Deception and the Question of National Security in Nigeria.....	277
Chapter 12: Freedom of Expression and National Security: A Human Rights Analysis of the Nigerian Democratic State	302
Chapter 13: How Deep is Deepfake Technology in Nigeria? Zooming in on the Dark Side of the Internet in the Context of Cybersecurity.....	324

Chapter 14: Constitutional Boundary of National Security Exception to Freedom of Expression in Nigeria	361
Chapter 15: Social Media Influencers and the Question of National Security	391
Chapter 16: Media Portrayal of Military Counter-Insurgency Operations in Nigeria: A Study of <i>Punch</i> and <i>Vanguard</i> Newspapers	411
Chapter 17: The Media and Military Use Of Schools In Conflict Zones in Nigeria	436

List of Tables

Table 1: Respondents disaggregated by media sector and sex	45
Table 2: Challenges faced by journalists in Nigeria.....	46
Table 3: Perception of media practitioners on military-media relations ..	47
Table 4: Media industry positioned to adopt robot journalism disaggregated by media ownership	48
Table 5: Perception of credible news source.....	49
Table 6: Perception of journalists on covering military-related issues.	49
Table 7: Media Practitioners and Knowledge of Robot Journalism	49
Table 8: Perception of media practitioners on military action on automated journalism.....	50
Table 9: The perception of media practitioners.....	52
Table 10: Categories of Military Counter-Insurgency-related Reports...	423
Table 11: Dominant Manner of Military Counter-Insurgency Related Reports of Punch and Vanguard Newspapers.....	426
Table 12: Interpretative Functions of Features, Editorials, Interviews and Opinion Articles in Support of Military Counter-Insurgency Operations.....	426

List of Figures

Figure 1: The Economist (London). 2000. ‘Africa: The hopeless continent’, 13–19 May.230

Figure 2: Countries in Africa with the highest number of coups since 1952, Jonathan Powell in Giles and Mwai (2020)230

Figure 3: Entities involved in online deception. (Source: Tsikerdekis & Zeadally, 2014).....285

Figure 4: Interaction with deception (Source: Tsikerdekis & Zeadally, 2014).288

Figure 5: Interaction with deception (Source: Tsikerdekis & Zeadally, 2014).288

Figure 6: Some of the most notable emerging cybersecurity threats for 2030 (Source: ENISA, 2022)331

Figure 7: Some of the common uses of deepfakes employed to cause cybersecurity problems (Source: Fortinet, 2022)341

Introductory Note

Olunifesi Suraj & Allwell Uwazuruike

Despite concerted efforts to bring military institutions to terms with the “Fourth Estate of the Realm” (the Media), military–media relations remain strained. The confrontations between the two institutions saddled with the unique responsibility of ensuring national security and patriotism have continued unabated. Still, the two institutions represent, perhaps, the most important ones as far as the issue of national security is concerned. Perhaps, the perception of what constitutes national security appears to be at the heart of the persistent conflict. While the media believe that *the right to know* ought to be the guiding principle behind national security, the military arguably adopts the position that *the need to know* should rather be the emphasis. Hence, the challenge appears to be on how to balance the seeming conservativeness of the military with the libertarian nature of the media, especially with regard to the freedom of expression.

In many instances, media outlets in a competitive race to outwit each other, especially in breaking news, oftentimes inadvertently provide the enemies of the state with information that could hinder military operations. The military on the other hand, in ensuring information orderliness in the public space, often put up what in certain quarters has been deemed an “overzealous reaction”, which oftentimes has been adjudged to be detrimental to press freedom and the safety of journalists. The real conflict notwithstanding always borders on whether or not the media’s reporting represented “constructive criticism” or was a “malicious attack” against the military institution.

In the event of coercive actions to restrain the media, the issues of press freedom, human rights, freedom of expression and the public right to know have always been on the front burner. Media actors often express a feeling of being caged in their efforts to report accurately and publish matters they believe the public ought to know. The military on the other hand is often reactionary towards the publication of potentially sensitive information

that could jeopardize national security. This has called into question the social responsibility function of the media and the military's accountability to human rights and freedom of expression.

Therefore, in the light of national security, there is a need to ponder on how the media deals with the public's right to know, and if that right to know can compromise national security. Moreso, how should the military accommodate the public's right to know without putting its covert operations in jeopardy? How should the military handle its information management in an emerging egalitarian society without infringing on press freedom? How should the military relate with the media in such a way that the public's right to know is balanced with the public's need to know? Can one arrive at an acceptable definition of what constitutes national security with regard to information management?

As the fourth estate of the realm, how can the media ensure national security through its social responsibility function in news reporting? In the midst of technological advances, how do the media function as the principal means of getting credible stories to the public in times of conflict? How can journalists avoid the pitfall of giving "oxygen" to terrorists when reporting conflict-sensitive stories?

As the historian, Norman Graebner, once said:

"A war that goes badly and is still pursued must become, by its very nature, a public relations war. If a war must be explained and defended every day of the week, one might as well drop it because the reasons for fighting and dying have to be more obvious than that".

In light of the above considerations, this book reviews the past relationships between the military and the media since Nigeria's independence. Importantly, it considers how the military has been and can conduct its military operations in the age of social and digital media, in a manner that will safeguard lives and protect the security of their operations while keeping the Nigerian public informed without trampling on their privacy and freedom of expression. As a means of exploring the narratives in-depth, the book can be conveniently divided into two themes.

The first addresses the historical context and praxis of the military-media relationship in Nigeria. In this section, a historical exploration of the military-media relationship is undertaken with the aim of establishing the root cause of the strained military-media relationship. The chapters in this part deal with the environment that determines the nature of media-military relationships in Nigeria. The authors explore the military-media modes of operations, the prevailing political climate, the military interregnums and milestones in Nigeria's media sector, ethical and professional consideration for Defence Correspondence, the media ownership structures, the regulatory bodies, media laws and the military-media relations and the need for alternative media for military operations. The section also explores the actions of the military in controlling the information space and the subsequent reactions of the media, their internal mechanism for responding and managing information, the series of court injunctions and judgments, the effectiveness of the rule of law, the media resilience, etc.

The second deals with several interventions, impacts and influences of information management influencers such as the relevant professional associations, academics, media education and training, and military-media outreach initiatives in managing the military-media edgy relationship. It deals with the impact of technology and its consequent information disorders. The authors illustrate the role of citizen journalists, social media influencers, online media, online stakeholders, artificial intelligence, and social media platforms in shaping the media space narratives. They also explore how the dangers to military operations and national security especially the phenomenon of fake news, hate speech and other vices. The section also explores the issue of press freedom and freedom of expression and its likely effect on national security.

Chapter 1

Nigerian Press Under Buhari Military Autocracy and Civil Democracy: A Critical Analysis of Why History Could Not Repeat Itself

*Chris Wolumati Ogbondah, PhD**

Introduction

When Nigeria's 15th head of state, retired army general Muhammadu Buhari, returned to power as a democratically elected president in 2015, many wondered whether he would clutch the press with the iron fists he used to suppress it during his eighteen-month military dictatorship that lasted from December 31, 1983, to July 29, 1985. One of the institutional measures he used to clutch the press was Decree No. 4 of 1984 known as Public Officers (Protection Against False Accusation) Decree. It was the promulgation and enforcement of that press decree more than anything else that many remember Buhari's eighteen-month brutal military dictatorship.

Scholars who looked at Buhari as a democrat within the context of Decree No. 4 of 1984 may have wondered whether history could repeat itself: would he be able to utilize the draconian measures that he used as a military dictator to control the press? This is the major question addressed in this study. If he was unable to control the press with the same iron fists, what factors pragmatically explain his inability to do so? This is the second question addressed in the study. This study hypothesizes that as a democratic president, Buhari would be unable to draft and enforce the

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same draconian control measures against the press. The ancillary objectives of the study are to analyse the provisions of Decree No. 4 and its impact on the Nigerian press.

This study is important because it will critically explain why erstwhile military dictators like Buhari will find it difficult to suppress the media if, and when, they return to office as democratic leaders. The study is also important because it will provide data for scholars interested in comparative analyses of state-press relations during a military dictatorship and civil democratic rule. To achieve its objectives, the paper will describe the institutional measures that Buhari utilized to control the press during his military dictatorship. After that, it will analyse the provisions of Decree No. 4, the most obnoxious press law that Buhari used to control and minimize the freedom of the press. Following this, the study will highlight Decree No. 4's impact on the media. It will conclude with a critical analysis of the pragmatic factors that made it more difficult for Buhari to suppress the media in the same way as he did as a military dictator.

Data Collection

Data for the study was gathered from primary and secondary sources, using traditional historical and legal methods of inquiry. The method of historiography drew upon government documents that were synthesized in a narrative expository history. The study relied extensively on the Federal Republic of Nigeria *Official Gazette* as one of its primary sources of information. This is because it serves as key primary source documentation where legal notices, new laws, decrees, treaties, court decisions and government announcements are published. This author relied on it extensively because it is the authoritative version, and commonly, the only published version of press decrees that were promulgated by Buhari's dictatorship. Other primary sources utilized for the study are the Constitution of the Federal Republic of Nigeria, official European colonial documents, law reports, military tribunal reports, private, and government newspapers and magazines. Other sources used for the study included *International Press Institute Reports*, a publication of the Vienna, Austria-based International Press Institute (IPI) which defends media freedom and defends independent journalism around the world as well as *Index on*

Censorship, a quarterly publication of the UK-based charity Index on Censorship that raises awareness about threats to freedom of expression. Both are repositories where significant cases of threats to press freedom around the world are accumulated. In more than 50 years both sources have become storage houses, repositories and depositories of cases of media censorship and attacks against the press. Archival records and the morgues of *The Guardian*, the newspaper that was most victimized by Decree No. 4, were utilized as additional primary sources. Other dailies were used as additional sources because newspapers do not only reflect and document events of the times in which they were published; they are also an important part of the academic publishing landscape (Meyer, 2018). This author also relied on newspapers as sources of information because much can be learned about what happened during Buhari's military dictatorship from studying the press. Coleman (1960) used the press, for example, as one of the ways to study nationalist motivation, objectives and organization in Nigeria during British colonial rule. Former editor of the *Daily Herald*, Williams (1969) amply pointed out that:

Newspapers are unique barometers of their age. They indicate more plainly than anything else the climate of the societies to which they belong. This is not simply for the obvious reasons that they are a source of news about their time but because the conditions in which they operate, the responsibilities they are expected, or allowed to fulfil, the pressures they have to meet...and their relationship to their readers, all provide a direct insight into the nature of their communities (p. 1).

Journalism historian, McKerns (1983), articulated this point when he said that the press reflects the dominant ideas and ideals of the public and its government, while the cultural historian, Carey (1989) noted that newspapers, like other media, supply news accounts of daily events. This is why it can be argued that journalism is history written in a hurry. Griffith (December 15, 1999) calls journalism history on the run. Relying on newspapers as part of the sources of information for this study enabled this author to gain direct deep insight into the nature of Nigerian society and Buhari's military dictatorship.

Some secondary sources were utilized for this study because as Wimmer and Dominick (2022) and Babbie (2021) noted, secondary sources have their values in social inquiry. These sources were books, journal articles, conference papers, Masters' Theses and Doctoral Dissertations. The primary and secondary sources were collected when this author travelled to Nigeria. Others were collected from the United States Library of Congress in Washington, D.C., the New York Public Library (photographic section) and some university and college libraries in the U.S., including the Morris Library at Southern Illinois University at Carbondale, Rod Library at the University of Northern Iowa and Melville Herskovits Library of African Studies at Northwestern University, Evanston, Illinois.

Buhari the Military Dictator, and the Nigerian Press

Mohammadu Buhari forcefully seized power from President Shehu Shagari on December 31, 1983. No sooner did he ascend to power than he made his impatience with the press known. In his first press interview with three editors of *Newswatch* magazine – Ray Ekpu, Dele Giwa and Yakubu Mohammed – Buhari said of Nigerian press freedom: “I am going to tamper with that. It’s because I know Nigerians very well” (Ogbondah, 1994, p. 99). Ojo (2015) copiously described that interview in his doctoral dissertation titled, *The Nigerian press 1984-1999: Magnificent and heroic* at the University of Sussex in the United Kingdom. The institutional measures that Buhari enacted to tamper with freedom of the press during his military dictatorship were:

1. Decree No. 1, Constitution (Suspension and Modification) Decree of 1984: This decree suspended sections of the 1979 Constitution, and empowered the federal military cabinet “to make laws for the peace, order and good governance of Nigeria or any part thereof with respect to any matter whatsoever.”¹ Section 5 of the decree provided that: “No question as to the validity of this or any other Decree or any Edict shall be entertained by any court of law in Nigeria.”²
2. Decree No. 2, State Security (Detention of Persons) Decree of 1984: Drafted on February 9, 1984, but with a retroactive effect from December 31, 1983, this decree empowered the Chief of Staff,

Supreme Military Headquarters to detain anyone, including journalists and political activists and critics in the interest of national security. It stated that, "If the Chief of Staff, Supreme Headquarters is satisfied that any person is or recently has been concerned in acts prejudicial to state security...he may...direct that, that person be detained in a civil prison or police station or such other place specified by him...."³ Section 4 provided that "no suit or other legal proceedings shall lie against any person for anything done or intended to be done in pursuance of this Decree."⁴

3. Decree No. 13, Federal Military Government (Supremacy and Enforcement Powers) Decree of 1984: Commenced on May 17, 1984, this decree stated that for the avoidance of doubt, decrees made by the junta were supreme over modified or unsuspended provisions of the 1979 Constitution. It blocked all actions in the court that questioned the enforcement of Decree No. 2 of 1984, the decree under which scores of politicians and journalists, were arbitrarily imprisoned (Momoh, 1985).
4. Government Directives: The government issued written directives that cautioned state officials from speaking to the media without "authorization from above." In a front-page news story titled, "Conditions turn more hostile for newsmen," the *National Concord* of July 3, 1984, reported that a circular from the Cabinet Office in Lagos had cautioned public officers against disseminating information to the press without clearance from the appropriate authority. An editorial of the *National Concord* described the directive as, "The New Press Gag Formula."⁵
5. Decree No. 4 of 1984 (Public Officers Protection Against False Accusation) Decree: Promulgated on March 29, 1984, this decree was what Buhari's military dictatorship is most remembered even till today. It was the most dreaded of the institutional measures that the junta utilized in its desire to cut back on media freedom. It was the sword of Damocles that hung directly over the head of Nigerian journalists during Buhari's military regime. It was the human rights apocalypse that Buhari intended to use to destroy the Nigerian media. Although it was primarily directed at journalists, Maikwano (1985), however, noted that it also presented a grave

threat to academic freedom. The decree's most formidable sections provided that:

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

Any station for wireless telegraphy which conveys or transmits any sound or visual message, rumour, report or statement, being a message, rumour, report or statement, which is false in any material particular or which brings or is calculated to bring the Federal Military Government or the government of a State or a public officer to ridicule or disrepute, shall be guilty of an offence under this Decree.

It shall be an offence under this Decree for a newspaper or wireless telegraphy station in Nigeria to publish or transmit any message, rumour, report or statement which is false in any material particular stating that any public officer has in any manner been engaged in corrupt practices or has in any manner corruptly enriched himself or any other person.⁶

The decree conferred on General Buhari, the power to ban the circulation of newspapers, and to revoke the licenses of broadcast stations. For example, Section 2 provided that:

Where the Head of the Federal Head of the Federal Military Government is satisfied that the unrestricted circulation in Nigeria of a newspaper is or may be detrimental to the interest of Federation or of any part thereof, he may by order published in the *Gazette*, prohibit the circulation in the Federation or in any part thereof, as the case may require, of that newspaper; and, unless any

other period is prescribed in the order, the prohibition shall continue for a period of twelve months unless sooner revoked or extended, as the case may require.

Where the Head of the federal Military Government is satisfied that the unrestricted existence in Nigeria of any wireless telegraphy station is detrimental to the interest of the Federation or any part thereof, he may by an order published in the *Gazette* – a) revoke the license to such wireless telegraphy station under the provisions of the Wireless Telegraphy Act 1961; or b) order the closure or forfeiture to the Federal Military Government, as the case may be, of the wireless telegraphy station concerned.⁷

Journalists and publishers who allegedly contravened the decree were tried by a military tribunal. A serving or retired High Court judge and three members of the armed forces constituted the tribunal whose ruling was unappealable. Under Section 8 which specified punishments for acts violative of the decree, a journalist, newspaper publisher or media proprietor could be jailed for up to two years without the option of a fine, and in the case of a corporate organization, a fine of not less than N10,000 (about \$13,000 at the time).

The decree was clogged with ambiguities, inexactness and vagueness. It raised numerous questions. For example, with reference to Section 1(1), legal critics may want to know whether there were two classes of offences or whether the word, “or” where it links the portion of the subsection “publication which is false in any material particular” with the rest of the sentence dealing with the effect of the publication was to be read disjunctively or conjunctively. One journalist noted in *The Daily Times* of July 19, 1984, that if it was read conjunctively, only one type of offence was committed.⁸

Decree No. 4 was the harshest press law enacted by any military government in Nigeria. About the decree, Ogbondah (1986) in his doctoral dissertation titled, *Nigeria's Decree No. 4: A sword against the pen*, said, “Decree No. 4 was the amalgam of all press laws enacted in the history of

Nigerian press" (pp. 199-200). Professor Tekena Tamuno also made this point in a report in the *National Concord* of July 23, 1984, when he observed that "the letter and spirit of Decree 17 of 1967 survived in sections of Decree No. 4 of 1984."⁹ No previously enacted military decree provided for trial of journalists by a military tribunal. Section 2(1) of Decree No. 11 of 1976 where the immediate roots of Decree No. 4 of 1984 were found, specifically provided for the trial of alleged offenders in a high court. Similarly known as Public Officers (Protection Against False Accusation) Decree, the 1976 decree stated that: "An offence under this Decree may be commenced or proceeded with summarily in the High Court of any State in Nigeria."¹⁰ During the General Yakubu Gowon regime (August 1, 1966, to July 29, 1975), a law also titled, "Decree No. 4, Military Courts (Special Powers) Decree of 1968," was promulgated to establish "Armed Forces Disciplinary Court" for the purpose of enforcing discipline in the armed forces (Supplement to Official *Gazette* Extraordinary, February 1, 1968, p. 7). That military court and any military tribunals established by military regimes that preceded Buhari's did not adjudicate cases of alleged offences against journalists. Any such cases were arbitrated by the courts. However, under Decree No. 4 of 1984, journalists were tried by a military tribunal. That was unprecedented in Nigerian journalism history. Decree No. 4 of 1984 further provided for more severe punishment than its predecessor, Decree No. 11 of 1976. The latter did not provide any fine for offending newspapers but Section 8(1) of Decree No. 4 of 1984 provided for pecuniary punitive action against alleged offending newspapers. It was under this section of the decree that *The Guardian* was assessed a fine of N50,000 (about \$65,000 at the time) for allegedly contravening the provisions of the decree.

By and large, Decree No. 4 of 1984 was the most repressive of the press laws in the history of Nigeria. One writer who made the same point in the *IPI Report* of June 1984 said: "This is the first time in Nigeria's independent history that a concerted attempt has been made to restrain the freedom of the press ... No other regime, military or civilian has ever done that here."¹¹

Impact of the Decrees

Decree No. 4 was repealed when General Ibrahim Babangida became head of state, following the coup that toppled Buhari on August 27, 1985. The

decree took a heavy toll on the Nigerian press -- just as Decree No. 2 of 1984 claimed its toll on political critics. There were more than a dozen cases of arbitrary arrests and detentions of journalists in the first year of Buhari's dictatorship. One of the earliest victims was Haroun Adamu, editorial adviser of the *Punch*. He was arrested and detained under the provisions of State Security (Detention of Persons) Decree No. 2 of 1984, following the publication of a piece in his column that accused the Buhari administration of foot-dragging and double standard in the detention and trial of alleged corrupt politicians. Adamu also wrote about Kano state, where he said that prominent supporters of the corrupt ex-governor Bakin Zowo were in control of government ministries. In April 1984, Lade Bonuola and Femi Kusa of *The Guardian* were arrested and detained.¹² The irrepressible political critic, Dr Tai Solarin, was arrested in connection with his piece in the *Nigerian Tribune* that called on Buhari to step down as head of state, and hand over power to Obafemi Awolowo who finished second behind Shehu Shagari in the August 1983 presidential elections.

A publication of the Imo State government, *The Statesman*, was arbitrarily shut down for two months, and its editor, Pip Iwuagwu, and two reporters were dismissed because it demanded to know why the former Vice-President in the [dethroned] Shagari government, Dr. Alex Ekwueme, was jailed while Shagari was put under house arrest. The article suggested that ethnic consideration played a role in how Buhari chose who to imprison and who to place under house arrest.¹³ In November 1984, the editor of the *National Concord*, Duro Onabule, was detained for writing an article titled, "Bogey of bringing down governments."¹⁴ Prominent among other detainees during Buhari's dictatorship were A.B. Ahmed, Sunday editor of *New Nigerian* and Sam Ikoku, an outspoken critic of the junta. Academics were also arrested and detained. They included Dr Patrick Wilmot, a foremost radical scholar on Southern Africa; Dr Terisa Turner, a Visiting Lecturer at the University of Port Harcourt, and Arnold Baker, a researcher with the UN-Affiliated International Oil Group (Maikwano, 1985). The frosty state-press relations during Buhari's military dictatorship got to its zenith in the Tunde Thompson/Nduka Irabor incident. The incident marked such a watershed moment in Nigerian press history that it will be critically analysed here.

The Thompson- Irabor Incident

The incident began on April 11, 1984, when officers of the then National Security Organization (NSO) arrived at the premises of *The Guardian*, whisked away, and detained Tunde Thompson, the paper's diplomatic editor. On April 17, NSO officers returned to the paper and arrested Nduka Irabor, the assistant news editor. Both remained in detention until July 4, 1984, when a military court made up of Justice Joshua Olalere Ayinde, Major Sanni Ahmed Fari, Squadron Leader Clifford Maigani and Lieutenant Commander Joseph Ekeng-Ewa, formally brought charges against them. Both were accused of publishing false statements in *The Guardian* of March 31, April 1 and April 8 of 1984, and had thereby contravened Section 1(1) of Decree No. 4.¹⁵ Justice Ayinde read the charges as follows:

That you, Tunde Thompson, being the Diplomatic Correspondent of *The Guardian* newspapers on or about the 31st day of March 1984, at Rutam House, Isolo, Lagos, Nigeria, published a statement which was false in every material particular, to wit: "11 Foreign Missions to be Closed."

That you, Tunde Thompson, being the Diplomatic Correspondent of *The Guardian* newspapers, Nduka Irabor being the Assistant News Editor of *The Guardian* newspapers, Limited, publishers of *The Guardian* newspapers on or about the 1st day of April 1984, at Rutam House, Isolo, Lagos, Nigeria, published a statement which was false in every material particular, to wit: "Eight Military Chiefs Tipped Ambassadors" in *The Guardian* newspapers edition of April 1, 1984, published as volume No. 289.

That you, Tunde Thompson, being the Diplomatic Correspondent of *The Guardian* newspapers, Nduka Irabor being the Assistant News Editor of *The Guardian* newspapers, Limited, publishers of *The Guardian* newspapers on or about the 8th day of April 1984, at Rutam House, Isolo, Lagos, Nigeria, published a statement which was false in every material particular to wit: "Haruna Replaces Hananiya as UK Envoy," in *The Guardian* newspapers edition of April 8, 1984, published as volume 296.¹⁶

The tribunal acquitted both journalists on the first two counts but not the third. It sentenced them to a one-year jail term each. *The Guardian* was assessed a fine of N50,000 (about \$70,000 at the time). That amount was N40,000 above the minimum fine stated in Section 8(1) of the decree. In its ruling, the tribunal said, "However, the tribunal will be failing in its duty if it failed to impose a penalty that will serve as a deterrent to others."¹⁷ The tribunal's ruling reflected Buhari's determination to scare off the publication of diverse news and views in the press. Ironically, the ruling was made on the same day that *The Guardian* was celebrating its first anniversary as a daily newspaper. Reacting to the ruling, Ray Ekpu, former editor of *Newswatch* magazine pointed out that, "Mr Tunde Thompson and Mr Nduka Irabor...were actually sent to jail for one year for publishing the truth" (Ekpu, November 30, 2021). Clifford Day, in a *New York Times* report, quoted Ray Ekpu saying on another occasion that: "This is the first time in Nigeria's independent history that a concerted attempt has been made to restrain the freedom of the press.... They are demanding press sycophancy at gunpoint. No other regime, military or civilian, has ever done that here" (Day, April 30, 1984). Another journalist wrote about the impact of the decree in the *Concord Weekly* of June 20, 1985, and said:

One evident effect of Decree Four, especially after it was given teeth through the jailing of Thompson and Irabor, is that the Nigerian press recoiled into a comatose condition. Apart from occasional cartoons which rely on the intrinsic subtlety of the art to make concise, incisive and effective criticism of the Nigerian social and political condition, editorial opinions and commentaries have lost their characteristic Nigerian boisterousness and vociferousness. News headlines and reports in both government and private newspapers are now too identical because investigative journalism is hazardous to even contemplate. Editors in government and private press alike will vouch that no week passes in which one major report or another is not suppressed for fear of Decree Four.¹⁸

The *Daily Times* echoed the above opinion in an editorial: "The decree as it stands appears to over cripple the press in the function watching some of those public officers who may have corruptive tendencies in the conduct of their duties."¹⁹ The Nigerian Union of Journalists (NUJ) appealed the

tribunal's verdict which it lost in December 1984 (Anyadike (April 1, 1985). The Thompson-Irabor incident has been analysed by a number of writers, including Adeyemi (May 1995) and Ogbondah (1994; 1993; 1986), Ojo (2015), Ekpu (November 30, 2021).

Through Decree No. 4, the Buhari led-military government did not only nip dissemination of pluralistic views and news in the bud, but it also considerably minimized the ability of the press to publish the truth – just as it incapacitated its ability to investigate, validate and publish news of corruption, stealing, embezzlement and illegal private capital accumulation among members of the ruling junta. Ironically enough, the Buhari regime said that it toppled the Shagari-led democratically elected government on December 31, 1983, to fight the avalanche of corruption in the country.

Buhari the Democrat, and the Nigerian Press

Muhammadu Buhari's second chance to head the Nigerian state came when he defeated President Goodluck Ebele Jonathan in the 2015 general elections. He was re-elected in 2019. He had failed in three previous presidential elections in 2003, 2007 and 2011. As a democrat, Buhari promised to uphold the right of press freedom. For example, during his presidential campaign on March 16, 2015, he said, "I won't tamper with press freedom..." (Oloja, August 19, 2018). He also assured members of the Newspapers' Association of Nigeria (NPAN) and the Nigerian Guild of Editors (NGE) that he would uphold the right of freedom of the press. He said:

I want to give you my full assurances that in this democratic dispensation, I will ensure that the Nigerian constitution is upheld. This includes respect for the media, respect for the right to free expression and freedom of speech... I have said elsewhere that I cannot change the past. But I can change the present and the future. Dictatorship goes with military rule as do edicts such as Decree 4...However, I am a former-former..., note the emphasis on the word 'former' – military ruler and now a converted democrat, who is ready to operate under democratic norms. I give you my full assurances

that the Nigerian media will be free under our APC government (Ibid).

This promise was antithetical to the one he made in 1984 soon after he became a military dictator in 1984. At that time, he promised to tamper with the freedom of the Nigerian press which has been described as the freest in Africa by many writers and scholars, including Burkhart, March 1983; Humphreys, November 1960; Seng and Hunt, 1986; Sommerlad, 1966; Ainslie, 1966; Jose, 1975; Oso and Pate, 2011.

Notably enough, Buhari the democrat did not quite make good his promise not to tamper with freedom of the press. Extra-legal detention of journalists persisted throughout his reign as a democrat (Olukotun, 2018; Ogbondah, 2018; Ojo, 2015; Adewale, May 2, 2021; Campbell, December 11, 2019; Omoniyi, November 10, 2019; Ojo et al., May 2, 2021; ANON, June 24, 2021; Abdallah, August 15, 2018). For example, on July 23, 2022, the police arbitrarily arrested and detained Comrade Umar Maradun of the *Leadership* in Zamfara State (Nwannah, July 23, 2022). Two days later, police officers arrested and detained the Publisher of *Taraba Truth and Facts* newspaper and CEO of Rock FM Jalingo, Taraba State, Ayodele Samuel Oloye, on an allegation of cyberstalking and defamation against a senator of the state, Emmanuel Bwacha. This is in spite of the fact that defamation is not a criminal offence. Earlier on May 26, 2022, the police arrested Oriyomi Hamzat, proprietor of Agidigbo FM station in Ibadan. In another extra-judicial action on June 7, 2022, the police detained six court reporters on a mere verbal order of Justice Chizoba Orji of the High Court of the Federal Capital Territory, Abuja. They were accused of not obtaining permission to cover the court. The police confiscated a cellular phone belonging to Wumi Obabori of the Africa Independent Television, AIT, and deleted all the pictures and videos in it (Odunsi, June 7, 2022). On the same day, the police fired canisters of tear gas at journalists to bar them from covering a special convention of the ruling All Progressives Congress (APC) party at the Eagle Square, Abuja.

Other victims of the government's erratic clamp down on the press during Buhari's democratic government were El Zaharadeen Umar, a *Sahara Reporters* reporter; Emmanuel Elebeke and Aliyu Adekunle of the *Vanguard*;

Dapo Olorunyomi, Evelyn Okakwu, Samuel Ogundipe, Musikilu Mojeed and Azeezat Adedigba of *Premium Times*, and Tony Ezimakor of *Daily Independent* (Olaniyi, March 2, 2018). In 2017, Emmanuel Atswen, a Benue State reporter of the News Agency of Nigeria (NAN), was arbitrarily arrested and detained. On February 15, 2018, the police in Ikotun, Lagos, arrested the online editor of the *Vanguard*, Aliyu Adekule (Sunday, February 16, 2018). In the same month, officers of the then controversial Anti-Robbery Squad (SARS) arrested the publisher of *elombah.com*, an online publication, Timothy Elombah, and his brother, Daniel (Erunke, January 8, 2018; Kumolu, January 2, 2018). Jones Abiri, the publisher of *Weekly Source*, was arrested and injudiciously detained by the Department of State Service (DSS) for more than two years (Idio, August 21, 2018; Okakwu, August 15, 2018). Other victims have been documented by Ndinojuo and Udoudo (2021) and Olukotun (2018), and they include Agba Jalingo, publisher of *CrossRiverWatch* in Calabar; Obong Ndutim, publisher of Uyo-based online news portal, *thefactreporters.com*; Omoyele Sowore, publisher of *Sahara Reporters* (Silas, February 24, 2022) as well as Uthman Abubakar and Ibrahim Sawab of the *Daily Trust*. By the end of 2019, nineteen journalists had been extra-legally arrested and detained.

Political critics were also detained illegally under Buhari's democratic government. Prominent among them were Oby Ezekwesili, convener of #BringBackOurGirls movement, and Deji Adeyanju, a socio-political activist and convener of Concerned Nigerians (Essien, April 11, 2018; Sunday, November 28, 2018; Omonobi, November 29, 2018). Religious leaders were harassed and intimidated for criticizing Buhari's poor leadership. Hassan Kukah, Bishop of the Diocese of Sokoto, was probably the most victimized. Another was the chief Imam of Apo Legislative Quarters Juma'at Mosque in Abuja, Sheikh Nurudden Khalid.

The state clamped down on private broadcast stations. In August 2022, the National Broadcasting Commission (NBC), the broadcast industry's regulatory agency and watchdog, arbitrarily shut down 53 stations for failing to renew their licenses. It only reversed its decision following the intervention of the Nigerian chapter of the International Press Institute. In August 2020, the NBC imposed a ₦5 million fine (more than UD \$10,000 at the time) on Nigeria Info 99.3FM in Lagos for a comment made by the

former Deputy Governor of the Central Bank of Nigeria, Dr Obadiah Mailafia, on one of its programmes. The NBC explained that:

In line with the amendment of the 6th edition of the Nigeria Broadcasting Code, Nigeria Info 99.3FM Lagos, has been fined the sum of ₦5,000,000.00 (Five Million Naira) only. The station provided its platform for the guest, Dr Mailafia Obadiah, to promote unverifiable and inciting views that could encourage or incite to crime and lead to public disorder (Erezi, August 13, 2020).

It further explained that:

Dr Mailafia Obadiah's comments on the 'Southern Kaduna Crisis' were devoid of facts and by broadcasting same to the public, Nigeria Info 99.3FM, is in violation of the following sections of the Nigeria Broadcasting Code: 3.1.1 No broadcast shall encourage or incite to crime, lead to public disorder or hate, be repugnant to public feelings or contain offensive reference to any person or organisation, alive or dead or generally be disrespectful to human dignity (Olufemi, August 14, 2000).

Africa Independent Television, Channels TV, and Arise News broadcast outlets were sanctioned for reporting the #EndSARS protests in October 2017. The government suspended Twitter, the social networking and microblogging online service on June 4, 2021, because it deleted one of Buhari's tweets (Maclean, June 5, 2021; Paquette, June 4, 2021). It is as a result of these attacks against the press during Buhari's reign as a democrat that the 2021 World Press Freedom Index listed Nigeria as a country that is not conducive to the practice of journalism (Paulinus, April 12, 2022). These attacks notwithstanding, it was more difficult for Buhari to use his previous strong-arm tactics to clutch the press under Nigeria's nascent liberal democracy.

Analysis

When Buhari became civilian president in 2015 many wondered whether he would unleash the level of terror on the press as he did as a military dictator. During his reign as a democrat (2015-2023), Buhari was unable to

repeat the oppressive tactics on the press as he did during his military dictatorship. This was because the political formation in the country had changed by the time he transformed to a democrat. The rules of engagement under military despotism differ extraordinarily from liberal democratic governance. Therefore, the socio-political terrain commencing from May 29, 1999, when Nigeria transitioned to civil democracy made it more difficult for Buhari to considerably unleash a dictator's repressive measures against the press. Therefore, when one contrasts how easy it was for Buhari as a military dictator to repress the press with how difficult it was for him to do so as a democrat one would argue that history could not repeat itself. This was due to a number of pragmatic factors.

Separation of Powers

During Buhari's despotic [military] rule, there was hardly a delineation of the three branches of government, a system of checks and balances through which each branch is given power to check on the others. At that time, the country was ruled by a few selected decisionmakers – 19 of them – that constituted the Supreme Military Council (SMC) with Buhari as chairperson. Legislative and executive powers, even judicial power in many cases were vested in the SMC. The SMC operated like a one-party political system, consequently investing enormously autocratic executive powers in itself, as provided by Decree No. 1 of 1984.²⁰

Paradoxically, however, under the civil democratic formation headed by [the same] Buhari, there was a clearer separation of powers among the three branches of government with an elected parliament/National Assembly. The House of Representatives, the lower house, among other functions, originated bills that were sent to the Senate, the Upper Chamber, after it had undergone stages of debate and considerations (readings) during which the bills' provisions were tweaked, modified or refashioned before they were submitted to the President to be signed into law. In short, there was a clearer delineation of the three arms of government – executive, judiciary and legislature. In a democracy, all three arms are supposed to be constitutionally equal with each given the power to check on the other two. This system of checks and balances under a liberal democratic system, for example, gives the legislature and judiciary power to exercise oversight

function over the executive (Shane, 2003; Chaisty and Power, 2021; Akubo and Abayomi, 2021). Therefore, by 2015 when Buhari assumed democratic leadership, he found that he did not have all the imperial powers of the executive office that he wielded as a military dictator when he lived above board. The democratic system prevented him from arbitrarily drafting a law such as Decree No. 4 and imposing it on the nation as he did when he was a military autocrat. Further, the separation of powers gave the judiciary the independence to provide a greater bulwark against arbitrary harassment of the press, a point that Ekwelie (1986) also observed about the Nigerian press during the Second Republic – October 1, 1979, to December 31, 1983.

Press Freedom Provisions

During Buhari's military dictatorship, sections of the 1979 Constitution, including Section 36 that provided for freedom of expression, were practically rendered indolent and lethargic by the provisions of Decree No. 1 of 1984, Constitution (Suspension and Modification) Decree. This was reversed with the enactment of the 1999 Constitution whose Section 39(1) provides that, "Every person shall be entitled to freedom of expression, including the freedom to hold opinions and to receive and impart ideas and information without interference."²¹ Section 39(2) provides that, "...every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinion."²² Section 22 gives the media the freedom to hold the government accountable: "The press, radio, television and...the mass media shall at all times be free to uphold the...accountability of the Government to the people."²³ According to Section 15(5), one of the responsibilities and objectives of the state is to "abolish all corrupt practices and abuse of power,"²⁴ an objective that is also stated in "The Corrupt Practices and Other Related Offences Act, 2,000."²⁵

The press, therefore, has a constitutional right and obligation to hold the government accountable for abolishing corruption. Section 16 empowers the press with the freedom to hold the governors accountable for good governance.²⁶ In short, the Constitution under the civil democratic system that Buhari transitioned to in 2015, gave the media the freedom to investigate, validate and expose corruption as well as criticize the failure of

the state to deliver the dividends of democracy, including social justice, economic prosperity, the well-being of citizens etc. This constitutional provision dramatically and considerably contrasted with the provisions of Decree No. 4 of 1984. The constitutional change that reinstated freedom of the press to criticize noxious, insalubrious and unhealthy state policies, made it more difficult for Buhari to arbitrarily impose prior censorship on the press. For example, in 2022 when Buhari suddenly pardoned governors Joshua Dariye of Plateau State and Jolly Nyame of Taraba State who were jailed for embezzling public funds in the amounts of N1.6 billion each, the press exercised its constitutional freedom and darted him with vituperative editorials. Examples of those editorials appeared in *The Guardian* of May 9, 2022, titled, “Unpardonable Presidential Pardon;” in the *Premium Times* of April 20, 2022, titled, “Nigerians must reject Buhari’s injudicious pardon of Dariye, Nyame;” as well as in the reports of the *Vanguard* of April 17, 2022, and April 19, 2022, titled, “Withdraw pardon for Dariye, Nyame, uphold oath of office” and “Dariye, Nyame pardon, an egg squashed against Nigerians’ faces” respectively. Under Buhari’s military rule, the editors of these publications would have been arbitrarily arrested and jailed.

Freedom of Information Act

During Buhari’s military dictatorship, there was no specific law that pointedly guaranteed members of the press and the public access to government-held information. Rather, there was the Official Secrets Act of 1962, a child of the colonial era enacted to prevent espionage and the communication and transmission of information that was vital to the security of the country from getting into enemy hands (Elias, 1969; Nwabueze, 1964; Aihe and Oluyede 1979; Momoh, 2002). The Official Secrets Act, re-enacted as Cap. 335, Laws of the Federation of Nigeria, 1990 and now re-branded Cap.O3, Laws of the Federation of Nigeria, 2004 (Abioye, 2010), enforces a culture of secrecy in the conduct of government affairs (Ogbondah, 2018; Ojo, 2018). However, by 2015 when Buhari transitioned to a democrat the Freedom of Information Act (FOIA) enacted on May 28, 2011, was in existence, and guarantees media and the public access to government-held information. As an editorial of *The Nation* on June 7, 2021, pointed out, even though there are grounds for improvement in the law, the FOIA has brightened the media landscape, a point that

Nwakunor et al. (May 30, 2021) have also articulated. With the statutory provisions of the 2011 FOIA, Buhari the democrat, found it more difficult to menace the press.

Media Liberalization and Deregulation

Prior to Buhari's military regime, the media landscape was dominated by the state (Ekwelie, 1979; Oloyede, 2004; Agbaje, 1992; Onwumechili, 2007; 1996; Aboaba, 1972; Adejumobi, 1974; Akinfeleye, 1974; Aridegbe, 1984; Egbon, 1983; 1982; 1977). State-owned newspapers outnumbered independent newspapers until after the 1967-1970 Civil War (Ciboh, 2004). The then privately-owned *Daily Times* became a semi-government paper after the federal government's acquisition of a majority (60%) of equity shares in the Daily Times of Nigeria Limited by 1975 (Oreh, 1976; Ciboh, 2004) through the promulgation of The Daily Times of Nigeria Limited (Transfer of Certain Shares) Decree No. 101 of 1979.²⁷ The broadcast and telecommunications industry was mostly government-owned until 1992 when the sector was deregulated and liberalized with the emergence of Ray Power Radio followed by Minaj Systems Radio Obosi and others (Okunna, 1998; Onwumechili, 1996; 2007; Ogundimu, 1997; 1996; Ogbondah (1997; 2002); Bourgault, (1995a; 1995b). It was, therefore, easier for Buhari to exercise an iron grip on the press during the period of his military dictatorship. However, liberalization and deregulation of the media sector by the time he became a democrat led to a quantum proliferation of print and broadcast outlets with far more than 100 national and local print titles, many of which were online.²⁸ The "Electronic Privatization Decree" of 1992 which liberalized broadcasting has led to a multiplicity of channels in the country. The 1992 law empowers the National Broadcasting Commission (NBC) to issue licenses for private broadcasting.²⁹ The NBC, which was established by the NBC ACT, Cap. N11, Laws of the Federation 2004,³⁰ regulates the sector. By the time Buhari became a democrat, there had been 625 functional broadcast stations in Nigeria (Adegboyega, September 28, 2021). In September 2021 alone, President Buhari approved 159 new radio and television stations in the country (Ibid).

There was an abundance of channels of information in Nigeria during Buhari's civil rule unlike during the period of his military dictatorship.

There was also the outburst of social media available to Nigerians during his rule as a democrat: Twitter, Facebook, WhatsApp, YouTube, Snapchat, FB Messenger, TikTok, LinkedIn etc. In short, the abundance of independently owned channels of expression by the time Buhari became a democrat, overburdened him to re-exercise the ruthless iron grip he had on the media as a military dictator.

Civil Society Organizations and NGOs

Non-Governmental Organizations (NGOs) did not exist in Nigeria during Buhari's military dictatorship. It was not until about 1992 that an NGO was established in Nigeria, and by 2015 when Buhari became a democrat, scores of NGOs had been established. Many of the NGOs such as the Socio-Economic Rights and Accountability Project (SERAP), established in 2004, are committed to promoting human rights, transparency, and accountability in governance. Others such as Media Rights Agenda (MRA), established in 1993 are committed to promoting and protecting freedom of expression. MRA with its Observer Status in the African Commission on Human and Peoples' Rights, played a critical role in the endeavour to enact the Freedom of Information Act in 2011 (Ogbondah, 2018; Ojo, 2018). The advocacy roles of these organizations in the promotion and protection of human rights, including freedom of the press cramped Buhari's ability to suppress expression in the press as a democrat.

For example, SERAP instituted strategic litigations against Buhari's government with the aim to expose corruption, and enforce openness, transparency, rule of law and accountability. SERAP dragged the government to court on nearly every issue to the extent that some people even wondered how it was able to cope with its litany of court cases against the government, locally and internationally. Notably, SERAP won many of its truckload of court cases against the government. One was against Buhari's Minister of Information in which SERAP sought to enforce the FOIA. In another, SERAP sought an injunction from a Federal High Court in Lagos to stop the police from harassing the #EndSARS and other peaceful protests. In the aftermath of the shooting at Lekki tollgate during the #EndSARS protests, SERAP dragged Buhari to the International Criminal Court (ICC) over the #EndSARS incidents in which security