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**Freedom of the Press  
in Nigeria: The Debate**  
by Barbara Harrell-Bon

he debate over press freedom in Nigeria  
has raised such issues as government  
financial control, bias in the news, ethics or  
moral code for the press, national security,  
the more difficult question, who is  
competent to define "public interest "

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### THE AUTHOR



BARBARA E. HARRELL-BOND is a social anthropologist who has conducted research in England and in West Africa. Her special interests are family, urban problems, law, and the history of the imposition of alien law in colonial Africa. She received a B. Litt. and D. Phil. in anthropology from the University of Oxford. Her publications include *Modern Marriage in Sierra Leone: A Study of the Professional Group and Community Leadership and the Transformation of Freetown (1801-1976)*, the latter being co-researched and written with two historians, Dr. Allan Howard and Dr. David Skinner. She has also published widely in academic journals, lectured in a number of universities including the University of Illinois (Urbana), the University of Helsinki, and the University of Warsaw, and was a Visiting Scholar at

the Afrika-Studiecentrum, Leiden. Appointed a Senior Research Fellow at the School of Law, University of Warwick, in 1976, Dr. Harrell-Bond joined the Field Staff in 1978 to report on West Africa.

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The Nigerian Constituent Assembly has concluded that the press in Nigeria requires no greater guarantees of freedom of expression than those the draft constitution provided for all citizens. This decision is unlikely to resolve many of the issues that have been debated in the press during the past year.

The Supreme Military Council under the leadership of the late Head of State, His Excellency General Murtala Ramat Muhammed, laid down a program that was to lead to the handing over of political power to civilian rule in 1979. Lt. Gen. Obasanjo, who became Head of State after Muhammed's assassination, has continued to follow this program. One of the major steps was to appoint a constitution-drafting committee, which began meeting in September 1975, with one year to complete its task. In 1976 the Constituent Assembly was formed, partially through election and partially through appointment, and was charged with the responsibility of debating and formulating the final version of the constitution, which would be the basis for civilian government. The assembly began its task in November 1977 and the date set for its dissolution is October 1978.

The draft constitution and reports of the drafting committee were printed in two paperback volumes and were widely available for sale throughout the country. The modest cost of ₦1.00 (\$1.65) insured that their contents could be considered by at

least those citizens who are literate in English. It was predicted that two issues — the presidency (the draft proposed an executive presidency along the lines of the United States Constitution) and press freedom — would dominate the work of the Constituent Assembly. Mvendaga Jibo, writing in *West Africa*, predicted otherwise:

*... press freedom will not be a major constitutional issue for a number of reasons. First, journalists themselves have not defined what they mean by freedom of the press, and the Constituent Assembly won't spend much of its time doing this for them. Secondly, and regrettably, not many journalists have indicated a desire to contest the elections into the Assembly (which are via the Local Governments as electoral colleges). In practical terms it means that the issues (including freedom of the press) which are salient to them will get only as much attention as the dominant pressure groups in the Constituent Assembly allow, which will be a pity (August 1, 1977).*

Two sections of the draft constitution pertain directly to press freedom. Cap.II, s.16 charges the press, radio, television, and other agencies of the mass media with the responsibility of upholding the fundamental objectives of the constitution and the responsibility and accountability of the government to the people. Cap.IV., entitled "Fundamental Rights," includes a section on the right to freedom of expression and of the

press. This section guarantees "every person" freedom of expression, including the freedom to hold opinions and to receive and impart ideas and information without interference. It goes on to provide every person with the right to own, establish, and operate any medium for the dissemination of information, ideas, and opinions. This right is qualified, however, by the requirement for federal, state, or presidential authorization for the owning or operating of a television or wireless broadcasting station.

The constitution-drafting committee reported having received some 400 submissions from the public, but from the titles recorded in the draft it would appear that none was specifically concerned with the issue of press freedom. The committee itself reported that many members had pressed for a special provision dealing with freedom of the press that went beyond the protections given every citizen. The majority, however, while recognizing the need to protect the freedom of the press, felt

*... that there are no grounds for giving any Nigerian Citizen a lesser right to freedom of expression than any other person or citizen who happens to be a newspaper editor or reporter. It is felt that the right to freedom of expression is one of the most basic rights in any democratic society, and it should be a right to which every Nigerian should be entitled whether or not he is employed by the Press. Accordingly,*

*apart from guaranteeing the right to own a Press the Committee did not feel able to make any additional provision in respect of the right of the Press to freedom of expression. As regards the right to circulate throughout Nigeria, references were made to the ban imposed upon the circulation of certain newspapers by one of the Regional Governments during the last regime and it was urged that the new Constitution should contain clear provisions that this cannot be done in the future. The majority of us do not support this argument. (xvi).*

The report continues this line of argument by noting that the 1963 Constitution contained clear provisions protecting rights to receive and impart ideas and information without interference.

*The action of the particular government in question was plainly unconstitutional and the failure of the Press to take action against the Government to vindicate their rights in no way detracts from the efficacy of the clear provision of the Constitution nor can it justify the argument that additional provisions are required to protect the Press. Section 32 of the Draft Constitution retains the [same]... provision of the 1963 Constitution (Ibid.).*

Given that 15 of the 56 members of the constitution-drafting committee were lawyers, most of whom could remember many attempts to suppress press freedom both before and after independence, it is surprising that these protections were regarded as sufficient. Once the Constituent Assembly began meeting in November 1977, however, debate over this issue dominated the newspapers.

In an editorial in the *Nigerian Sunday Times* Dr. Olu Onagoruwa pointed out that freedom of the press went considerably beyond freedom of expression. He based his arguments for specific constitutional guarantees of press freedom on a comparison of the American and the British legal systems. (The received law in Nigeria is English law.)

*One bewildering paradox of our Press law is that it is a product, not of constitutional law but of the common law and statutes. It is paradoxical in particular because in any age when so much emphasis is placed on constitutionally guaranteed liberties, we still rely solely on the sterile generosity of the common law for the protection of our freedom in respect of our written thoughts and sentiments (December 11, 1977).*

The American Constitution contains a positive injunction to Congress against making laws that abrogate press freedom, while the provisions for press freedom contained in the 1963 Nigerian Constitution are described by Onagoruwa as sounding like "pious expressions of hope." In Nigeria, as in Britain, the provisions for freedom of expression are subject to the ordinary laws of defamation, sedition, obscenity, and official secrets.

During the colonial period, West Africans had ample experience of the application of these laws to the press as well as to other forms of expression. Independence movements in this century often used the press and other publications to attract wider participation and antisedition legislation was frequently employed to ban newspapers and pamphlets and to imprison writers. Only one year after independence the Nigerian government fell prey to the temptation to follow this established practice of using sedition charges to suppress its critics. In 1961 Chike Obi was found guilty of sedition by the High Court of Lagos as a result of his publishing a pamphlet entitled "The People: Facts That You Must Know." The "seditious" element in this pamphlet read:

*Down with the enemies of the people, the exploiters of the weak and oppressors of the poor!... The days of those who have enriched themselves at the expense of the poor are numbered. The common man in Nigeria can today no longer be fooled by sweet talk at election time only to be exploited and treated*

*like dirt after the booty of office has been shared (pp. 3-5, as reported in D.P.P. versus Obi, Nigerian Law Reports).*

In the appeal to the Federal Supreme Court, Chief Rotimi Williams, acting as counsel to the accused, assailed Nigeria's feudal sedition laws and urged the court to declare them unconstitutional on the grounds that they were subversive of the freedoms guaranteed by section 24 which is concerned with fundamental human rights. As he said,

*Any law which punishes a person for making a statement which brings a Government into discredit or ridicule or creates disaffection against the Government irrespective of whether the statement is true or false and irrespective of any repercussions on public order or security is not a law which is reasonably justifiable in a democratic society (Ibid.).*

Rotimi Williams argued that sections 50 and 51 of the criminal code (the sedition legislation) were invalidated by sections 1 and 24 of the Nigerian Constitution which guaranteed freedom of expression.

A "seditious intention" is defined by the criminal code as an intention

*... to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, her heirs or successors, or the person of the Governor-General or the Governor of a Region, or the Government or Constitution of the United Kingdom, or of Nigeria, or of any Region thereof, as by law established or against the administration of justice in Nigeria, or to excite Her Majesty's subjects or inhabitants of Nigeria to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Nigeria as by law established; or to raise discontent or disaffection amongst Her Majesty's subjects or inhabitants of Nigeria; or to promote feelings of ill-will and hostility between different classes of the population of Nigeria.*

Section 50 continues by pointing out

that an act, speech, or publication is *not* seditious if it only "intends" to reveal that the government has been "misled or mistaken," or to "point out errors or defects" with a view to remedying such errors, or to "persuade" the government to procure by lawful means the alteration of any matter.

The Supreme Court sustained the verdict of the High Court which had found Obi guilty of sedition. The words "hatred" or "contempt" in the criminal code were interpreted by this court to mean "not merely the absence of affection and regard, but disloyalty, enmity and hostility." The word "disaffection," according to the judges, "connotes enmity and hostility, estranged allegiance, disloyalty, hostility to constituted authority or to a particular form of political government." While it was admitted that it was legitimate (and the Constitution guarantees the right) to criticize or discuss any grievance against government policy, it was not permitted to criticize the government in "a malignant manner" for such attacks tend to affect the public peace. The court held that *truth* is no defense in a charge of sedition when the seditious intention is clear. As regards the question of whether section 24(2) of the Constitution was contradicted by the criminal code, the court declared that section 50(2), which provides every citizen with the right to make corrective comments with a view toward remedying certain errors, was sufficient protection of the rights of freedom of expression. Finally, with regard to the question of whether acts prohibited by the constitution must be found to lead *directly* to disorder was, in the judges' opinion, to take "too narrow a view of the constitutional provision."

... for it is justifiable to take reasonable precautions to preserve public order and this may involve the prohibition of acts which, if unchecked or unrestrained, might lead to disorder, even though those acts would not themselves do so directly (Ibid.).

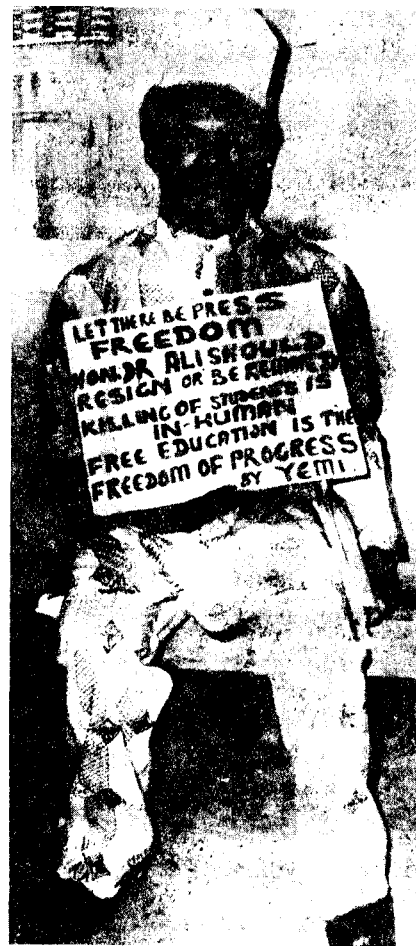
Thus it was no defense that the accused, Chike Obi, had not in fact incited or intended to incite others to violence and that his allegations were true.

It is ironic that one of the cases cited by the Supreme Court judges to establish that violence was not a necessary ingredient in the offense of sedition was that of *R. versus Wallace Johnson*, a case that had been decided by the West African Court of Appeals during the colonial period. During the decade leading up to World War II, Wallace Johnson, a Sierra Leonean, had been a political activist and had organized an independence movement that represented a threat to the survival of colonial rule in Sierra Leone.

Wallace Johnson (b. 1895) began his political career in 1920. In 1931 he moved to Nigeria, where he founded the Nigerian Mine Workers Union. As the result of his article in the Nigerian *Daily Telegraph*, exposing the maltreatment of African workers by their colonial masters, he was forced to leave the country by the colonial government. He then organized the West African Youth League and wrote regularly for the *Gold Coast Spectacular* and the *Africa Morning Post*. For an article entitled "Has the African a God" he was prosecuted for seditious libel, a case that went as far as the Privy Council in England. He started a magazine, *The African Sentinel*, which the British confiscated, and he also founded the Youth League's official newspaper, the *African Standard*. In 1939 he was again arrested and detained. He was found guilty of sedition (this legislation along with other repressive measures directed toward undermining the freedom of expression had been hurriedly enacted in Sierra Leone during 1939). The courts were thus used to eliminate Wallace Johnson's political activity: he was found guilty and exiled. Even today he is viewed as one of the heroes of this period for daring to stand up to the outrage of imperialism. In May 1978 a seven-foot bronze bust of Wallace Johnson, by Italian sculptor Peppe

Romano, was placed in front of the new city hall in Freetown. It bears the inscription: "Indomitable freedom fighter, vanguard politician, pioneer trade unionist, fearless journalist and pan-Africanist."

In yet another case in post-independent Nigeria, Ibidojo Fatogun and the Amalgamated Press of Nigeria were charged with sedition. Once again counsel argued that the antisedition legislation contained in the criminal code stood in contradiction to the constitutional guarantees of freedom of expression. In its findings, however, the Federal Supreme Court went even further than it had in the Obi case and concluded that section 24 of the Constitution guaranteed nothing but *ordered* freedom and that it could not be used "as a licence to spread false news likely to cause fear and alarm to the public" (*Queen versus The Amalgamated Press (of Nigeria) Ltd., Nigerian Law Reports*).



This narrow and conservative policy of the highest court in Nigeria had some significant political results. An editorial in the *Sunday Times* traces some of the events that followed these decisions and that led lawmakers and politicians to become "more adventurous in their violations of any remnants of our freedom of expression through the printed word. The sedition laws became very pliable and convenient instruments for the suppression of unacceptable views" (December 18, 1977). For example, a commission of inquiry (the Coker Commission) was set up to investigate those corporations controlled by the Action Group, the government of the then Western Region, and its report was criticized as a "huge document of legal inconsistencies." As a result, the critics (Dr. Olu Odumosu and others, including the editor of the *Daily Express*) were convicted of sedition.

The years 1964 and 1965 were marked by an increase in the number of incidents in which regional governments and local authorities banned the publication or circulation of newspapers whose views were considered "uncomplimentary." The government of the then Eastern Region banned the publication of both the *Morning Post* and the *Daily Times*. At one point seven newspapers were banned in one fell swoop.

This method of attack on newspapers was temporarily halted by the new military government through its "Newspapers Decree No. 3 of 1966." This decree provided a punishment of a fine or imprisonment for its violation. Unfortunately, however, by May 8, 1967 another edict enacted by the government of the former Western Region of Nigeria came into force, specifically banning the *Morning Post* and the *Sunday Post*. The federal military government did not invoke the penal provisions of its "Decree No. 3 of 1966," which prohibited such an action to interfere with this region's actions. Clearly the banning of newspapers served as a

more effective means of suppression than mere censorship. Both the regional and the federal governments became bolder in enacting legislation that subverted press freedom. One such law was the infamous "Newspaper (Amendment) Act." Its objective was to inhibit pressmen's freedom to publish news and under its provisions "speculations" were to be considered a dangerous "diversion" for newspapers, editors, and reporters. At one point some *Tribune* journalists, typists, and clerical staff were arrested and detained without trial until they were released by Lieutenant Colonel Fjuyi after the 1966 coup.

Although the military government had inspired some initial optimism through its "Newspapers Decree," the state of emergency during this period of the civil war provided it with a convenient pretext for developing its own methods of suppressing press freedom. The "Decree No. 24 of 1967" (otherwise known as the "Police [Special Powers] Decree") empowered the police to control and arrest subversive characters. Unfortunately, these powers were regularly abused to muzzle unpopular opinions. Dr. Tai Solarin was detained for publishing a pamphlet entitled "The Beginning of the End" in which he attacked the Gowan government for having gone back on its promise to hand over political power to civilian rule in 1976. In another case a Mr. Aper Aku was detained because he made allegations of corruption against the late Joseph Gornall, a relative of Gowan. (The present military government vindicated Mr. Aku's charges.)

These examples represent only a fraction of the cases. Perhaps one of the most notorious illustrations of the suppression of press freedom concerns the arrest and treatment of Mr. Amakiri, the chief correspondent of the *Observer* who was detained, shaved, and given 24 strokes of the cane for publishing an article about a teachers' strike in Rivers State. The reason for this oppressive treatment

was that publication of the item coincided with the birthday of the former governor of the state, Mr. Diette-Spiff, who apparently took offense.

In view of these and other events during Nigeria's first 17 years of independence, it is perhaps not surprising that many critics of the draft constitution's provisions were preoccupied with those sections concerned with Rights to Personal Liberty (28) and the Right to Fair Hearing (29), which lays down that any person who is arrested or detained should be informed in writing and within 24 hours (in a language that he understands) of the facts and grounds for his arrest or detention. The draft constitution also imposed strict limits on the time that may elapse before the accused is brought to court: if the courts fail to try a person within this period, the person must be released while awaiting trial. Moreover, people who have been unlawfully arrested or detained are entitled, under the draft constitution, to compensation and to a public apology. The debate in the press, however, continued to stress the inadequacy of these protections.

A joint committee of the Nigeria media representing the Broadcasting Organization of Nigeria, the Newspaper Proprietors Association, the Nigerian Guild of Editors, and the Nigerian Union of Journalists was formed to make representations to the Constituent Assembly that press freedom be included as a topic for debate and guarantees be made explicit in the final constitution. They published a pamphlet entitled "Constitutional Guarantees, for Press Freedom in Nigeria," which suggested among other things that sections 28 and 29 gave inadequate protection to rights to personal liberty and should include a provision that a person arrested or detained should be granted bail unless there was evidence that he might not appear for trial or unless he was charged with an offense that carried a sentence of life imprisonment or death.

This committee also recommended that section 32 of the draft constitution, which provided for freedom of expression for every citizen, be expanded to provide explicit protection for the freedom of the press to publish any matter of public interest for public information and that this freedom should be "inviolable." They asked for the statement, "There shall be no censorship," to be included. Furthermore, they recommended the establishment of a Nigerian Press Council to be included among the commissions and councils to be established by the federation.

Several press writers noted that even if the Constituent Assembly provided such safeguards for freedom of expression, the federal government would still retain control of the Nigeria Broadcasting Corporation and the Nigerian Television Authority. Moreover, it was also noted that in the recent past the federal and state governments had bought controlling shares in the

following corporations: The Daily Times of Nigeria Ltd., the New Nigerian Newspapers Ltd., the Sketch Publishing Company Ltd., the Kwara State Publishing Corporation, the Plateau State Publishing Corporation, the Rivers State Publishing Corporation, the Star Publishing Corporation, the Cross River State Publishing Corporation, and the Bendel State Publishing Corporation. Finally, it was pointed out, more and more state governments would be running their own radio stations.

There is a considerable difference of opinion in Nigeria whether or not this financial control precludes a free press and media and there is much evidence to support each side of the argument. On the whole, the Nigerian press is one of the most dynamic and outspoken in West Africa. Even in the face of military rule, the press has been extremely active and critical, at least on certain issues. There have been, for

example, a great many unpleasant confrontations between the military and civilians in many parts of the country and these have usually been reported promptly in the press. The press has also been outspoken in its criticism of many of the military government's policies. On the other hand, as has been illustrated, there have been enough incidents of harassment to suggest that the media's right to criticize has been interfered with and that the fears of the press which have led to demands for specific constitutional guarantees of its freedom are not unfounded.

One of the arguments in the debate has been that the very form of government recommended by the draft committee—an executive presidential system—demands special protections for press freedom. In an address in which he outlined the basic differences between the parliamentary and

TO what extent should the people be informed on the affairs of the state? This is a question which a large number of government functionaries in this country think nobody should worry about.

THEY still believe that it is not all that important to let the people know what they are doing or why they are doing it and how it affects people.

MANY government officials think that it is their personalities that must be projected, by the information media set up with public funds. When that is adequately done then they think the people have been informed.

BUT this notion is wrong. The people must be told of events as soon as they happen or about actions taken and why they were taken.

THE Civil Service rule which says only very high government functionaries can disclose information is now obsolete and unsuitable in present-day Nigeria.

THOSE who still worship this rule could not help quarrelling with the style of Dr. Tai Solarin, the former Complaints Commissioner for Ogun, Oyo and Ondo states.

TO them, the ex-Commissioner was a "big mouth" and was often accused of

## SKETCH COMMENT

### THE PEOPLE AND INFORMATION

being too particular about publicity. They would have preferred him keeping quiet and working underground.

THIS is not to defend Dr. Solarin, but it is important that government officials should keep those they govern informed. There should be no limit to how much the people should know except when the information affects the security of the nation.

BUT such information does not break all the time. The power of information is so great and those who have information should be eager to give it out instead of keeping it in the cupboard.

WITHHOLDING information leads to dangerous rumours, creates uncertainty and guesses as to what is happening.

AN example is the misunderstanding in the National Sports Commission (NSC). Mr. Isaac Akioye the NSC Director was suspended by Mr. Dan-

deson Isokrari, the Federal Commissioner for Social Development, Youth and Sports.

BUT the Commissioner did not explain to the public why the director was suspended until after 14 days. This official silence led many people to guess and form different opinions about events at the NSC.

IN present-day Nigeria, more people are enlightened and more sophisticated than before, and are eager for information. They do not want to be kept in the dark as to what is happening around them particularly in government.

THERE are more newspapers, radio and television stations and magazines in the country capable of carrying all the information to the people.

BUT the situation at present is that government functionaries are unwilling to give out information. When newsmen go out in search of information obstacles are put in their way by officials who believe the people should not know what's going on.

THE people have a right to know what government officials are doing since their actions or decisions affect them everyday. Nobody should take away this fundamental right.

presidential systems, Alhaji L.K. Janande concluded by saying there were great dangers as well as advantages in the independent power wielded by a president under the latter system and that the society could only be protected against excesses in the exercise of that power through a free press.

*The Press is the fourth power in the republic, and it is my submission that, in accordance with the principle of the division of powers, it should be as independent of the other three as each of them is independent of the others. It seems to be, therefore, that the first essential for the success of the Presidential system is that the mass media should be free from direct control by the Executive or the Legislature... the organisation in the Mass Media have formulated definite proposals for the consideration of the makers of our new constitution. I fervently hope that the Assembly men will do justice to these proposals and see them enacted into law. We are not asking them to do the Nigerian press a favour. We are asking them to perform a national duty for which generations of Nigerians will forever remember them* (Sunday Punch, December 4, 1977).

"WHO IS AFRAID OF A FREE PRESS IN NIGERIA?" This was the question posed as the title of an editorial in the *Sunday Times*, September 11, 1977. Its author, Tunji Oseni, reviewed the pamphlet containing the proposals of the committee of professional organizations noted above, which had been launched a week earlier. As Oseni puts it, "Henceforth, no Constituent Assembly man, no lawyer, no politician (aspiring or old), no member of the public, would be at a loss as to what journalists are demanding in the new constitution." Oseni, however, supported the point of view taken by the constitution-drafting committee, which had argued there were no grounds for giving any Nigerian citizen any lesser right to freedom of expression than any other citizen who happened to be a newspaper reporter or editor. He noted that the reason journalists

"have been most vociferous in their demand for press freedom is that it is they who will experience directly the limitations imposed by the noninclusion of the clause." But, he continued, the demand for the freedom of the press is not only for the protection of professional journalists.

*The university don or student who has a radical view to express, the worker who has a valid criticism of the government, the teacher who is not happy with some aspects of our educational system, the driver who feels he must make a point about transportation — all have a stake in the struggle that is being put forth by journalists.* (Sunday Times, September 11, 1977).

Oseni attempts to answer the question he posed — just who is it who is afraid of a free press? He lists the various categories of persons, including those who have aspirations for political office in 1979 (when Nigeria will be under civilian rule), especially those who have "Nixonian ambitions, who want to perfect their cover-up techniques and who will prefer that certain actions are taken out of the view of the public." There will also be those who feel that the lack of responsibility the press has shown toward the public requires that the day of press freedom be postponed. The majority of those who take this view, however, are, according to Oseni, the very former politicians who themselves contributed to the problems that beset the press today. He accuses these Nigerian politicians of having handpicked those they "made" journalists and "injected a sprinkling of people just a level higher than their thugs who they then proceeded to give instructions as to what to do." Although people still tend to view journalists from this perspective, Oseni argues that today the majority are not of such stuff. He concludes by reminding his readers that those who argue for "investigative reporting" or "in-depth journalism" should remember that to do it well, one needs an atmosphere of freedom.

In a special issue of the *New Nigerian* commemorating the seventeenth anniversary of Nigeria's independence, A.E. Howson-Wright answers Oseni's question, "Who is afraid of a free press in Nigeria?" by saying that *he* is. At the same time, he admits that a free press is desirable. Such statements, he asserts, are not contradictory or confused; rather, they point to the difficulty in defining what is meant by freedom. He raises the thorny issue of how a responsible press is going to define such matters as public interest, integrity, and the like.

The most interesting point Howson-Wright raises is to remind journalists that the one institution most concerned about the dangers of press freedom is the *press itself*, illustrating this by pointing out the Nigerian press reaction to editorials in the British press, which are biased against Nigeria. Nigerian reporters and journalists, he maintains, would be the last to defend the rights of foreign correspondents working either within or outside Nigeria.

*The Third World — including Nigeria which has one of the best and freest presses in that World — constantly decry and resent this attitude of the western press. So great has been this resentment that the Third World has gone through the United Nations Educational, Scientific and Cultural Organisation (UNESCO) [and] taken steps for members to establish and develop their own news agencies which could be at least complementary to the monopolistic and biased foreign news agencies, and which would enable members of the Third World to propagate their own achievements and give their own interpretation of news and events* (October 1, 1977).

As reported in *West Africa* (May 1 and 8, 1978) conferences of the Inter-Government Council for the Co-ordination of Information from Non-aligned Countries have called for the "decolonizing of the news." This group urged not only the greater flow of news from the Third World but also the end to the domination of



Western-based news agencies. A plan has been devised for the establishment of a Third World news agency.

Nigeria anticipated this move by establishing a Nigerian News Agency that will, it is hoped, according to the *Daily Times* (September 15, 1977), "maintain information independence outside the international news moguls such as Reuters, Agence France Press, Tass, United Press International, Associated Press and so on."

Howson-Wright questions the capability of the press, in Nigeria or elsewhere, to represent "public opinion" accurately. While admitting the dangers of government ownership of the media, he questions whether the dangers of misuse and abuse are necessarily eliminated by privately owned media. He recommends the establishment of a Press Council to safeguard the interests of individuals.

*It should be mandatory for the media to publish, unabridged, the conclusions of the Press Council on the complaints of any aggrieved*

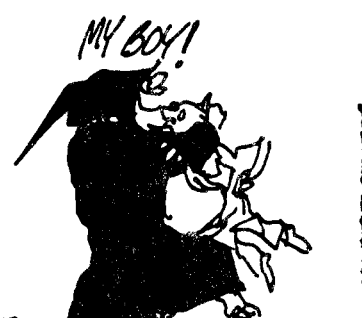
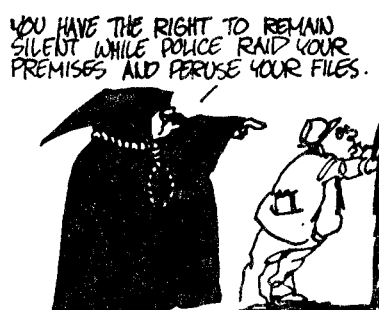
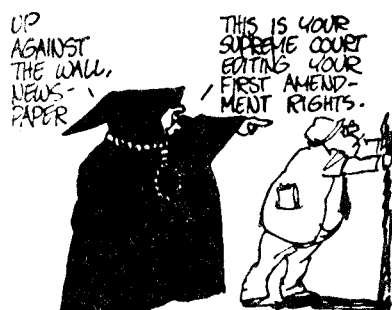
*person. I would repeat as my contribution to this intriguing and crucial debate on the freedom of the press, that I fear a press which, though like the rest of us, has its shortcomings and imperfections, is free, smugly and self-righteously — and whilst operating like a secret society under the password of dog-does-not-eat-dog, to arrogate to itself what it claims as its right to sit in destructive judgement over persons and institutions. It is tyranny. Tyranny is to be feared (Daily Times, September 15, 1977).*

Amid all this debate over the necessity for constitutional guarantees of press freedom, the federal military government has taken policy decisions that have profoundly affected Nigerian radio. At present the country has two short-wave stations, the Nigerian Broadcasting Corporation which is located in Lagos, and the northern-based Radio Kaduna. The new plan for the organization of radio broadcasting would set up a medium-wave station in each state, including Kaduna state, with the Nigerian Broadcasting Corporation being the only short-wave station that can be heard both within and

outside Nigeria. The rationale for the elimination of the short-wave facilities of Radio Kaduna is that Nigeria should speak to the world with "one voice."

Although seemingly an equitable policy in relation to the 19 states, in fact this plan is seen as a conspiracy on the part of the Lagosian interests to kill the influence of this northern station which has built a solid reputation in successful broadcasting for years. Radio Kaduna is known for its achievements in establishing communication with the ordinary citizens in the country: it broadcasts in several Nigerian vernaculars and has pioneered in such fields as teaching new farming techniques over the radio. The government's move to reduce Radio Kaduna to medium-wave has raised a storm of protest. An editorial in the *New Nigerian* entitled "Radio Kaduna Must Live" reminded its readers of the important role the station had played in promoting national unity throughout the civil war. The events of the recent coup attempt were also set forth: in February 1976 Dimka took over the Nigerian Broadcasting Corporation but Radio Kaduna

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continued to broadcast to the nation the importance of defeating this attempt to overthrow the government and rallied the military forces that were ultimately successful in restoring order. The NBC, said the editorial, might be taken over in a similar fashion by an internal coup d'état and since its base is in Lagos, there is the further possibility of its being used by an invading force were it the sole communications center for the nation. This editorial also unfavorably compared the quality of NBC with that of Radio Kaduna.

*Many have forgotten when they last listened to the NBC. This is because of its poor reception, demonstrable lack of proper political orientation, chronic inability to discern the cultural and traditional sensibilities of our people and general inefficiency. Even non-Nigerians pronounce Nigerian names better than some of the announcers of the NBC. These problems have defied succeeding governments and managements. Commissions of inquiry have also failed to provide viable solutions. The answer to the problem is not to kill other radio stations that have succeeded where the NBC has failed. To do so will be to deny Nigerians their right to have good and dependable radio stations. Nigerians, wherever they live, should be free to select any radio programme they want, just as they are free to read any newspaper they wish.*

A writer in the *Nigerian Herald*, (December 8, 1977) suggested that if the federal government insisted on only "one voice" for Nigeria, then that one voice should originate from Kaduna, not Lagos. The controversy has, along with the question of the Sharia courts being incorporated into the appeal system and recognized by the new constitution, heightened antagonisms between the north and the south.

*It is plain and simple political strategy to neutralize the only National Radio Station that could challenge the vast media machineries of the NBC, NTV,*

*Times Group and massive arrays of satellite newspapers and magazines such as the Newbreed.*

*By throwing the Northern states into self-destructive internal conflicts on mutual recriminations and counter recriminations through intensifying religious and tribal sentiments, an inroad would have been established to giving the political balance to the interests of a certain section in the country. Thus those innocent members of the Constituent Assembly that have waded blindly into the Radio Kaduna and Sharia controversy . . . must be warned that they would be the first victims of the Lagos cliques behind the press politics. No aspiring politician or presidential candidate will receive equal treatment and coverage by the Nigerian press unless he belongs to the political groupings and shares their common aspirations and chauvinistic self-interests. For neither the NBC and its relay stations, nor the NTV networks or the self-styled National papers or independent so-called neutral papers are free from the narrow interests of the giants of the Nigerian press based in Lagos. . . . Therefore, until the NBC, NTV networks, Federal Newspapers are truly national in scope in staffing both administrative and newsroom deployment, including programmes sections and journalists covering proceedings in the Constituent Assembly, the neutralisation of Radio Kaduna would be a massive tragedy and political suicide of the Northern States. Repercussions would be swift and relentless.*

*I have presented these facts in utterly abridged form due to lack of space, for the above facts are part of my forthcoming book titled, "Everywhere a battle field," the story of our struggles within the NUJ and the massive array of intrigues, blackmail, treachery and power-politics within the dark, deeper labyrinth of a union that outwardly looks harmless and disorganized but which contains within its roots, a veritable and potent force that could cripple*

*Nigeria and throw our nation into a state of conflicts (Nigerian Herald, December 8, 1977).*

Thus, in the midst of the more theoretical debate over press freedom, the implementation of this policy by the federal military government vis-à-vis Radio Kaduna was perceived as a concrete example of the manner in which political interests of one section of the country, the south, could be furthered by an apparently equitable program for the development of state radio stations. An incident that occurred on December 6, 1977, however, overshadowed the whole discussion.

The *Daily Times* carried a front page article entitled "A Call for Sanity," in which the conduct of members of the Constituent Assembly was called into question. The editorial called on the members to raise the level of their debate and rededicate themselves to the original task for which they had been elected. A few minutes before the Assembly adjourned that Tuesday, Dr. Kingsley Mbadiwe rose to move a motion urging the House to demand an apology from the editor of the *Daily Times* for these comments on its front page. With a copy of the newspaper before him, Dr. Mbadiwe said he was drawing the attention of the members to "a situation which does no credit to this house." He said the Assembly was not frightened by newspaper criticism but when such criticism went to the extent of calling the debate in the House "frivolous," it became "unfortunate" and it was of public concern that such impressions should be eradicated at once. He went on to say that the press, as the fourth estate of the realm, had the power to destroy if it was not properly used and pointed out that the front page comment was an example of such misuse.

Chief Rotimi Williams took up the protest by saying that the nation was lucky that through the electoral system it had produced men with "impressible maturity" in the Assembly and that "anybody who says that the standard of debate of



action the Assembly had taken the nation back to "those bad old days of every pepper-soup District Council banning news."

... once a precedence is established that the Assembly could ban "distasteful" news media from its sittings, what stops the nation from waking up tomorrow morning to learn that the Nigerian Observer or the Nigerian Herald etc. or all of them have been banned from the coverage of the proceedings of the Constituent Assembly for two days, for ten days, or forever? We in this newspaper will NEVER support a resuscitation of banning newspapers to hang like a sword of Damocles on the head of newspaper editors in the Third Republic (December 16, 1977).

The *Nigerian Tide* also took up this theme, warning newsmen that what happened to the *Daily Times* was a "pointer to what will be the fate of our press and pressmen as soon as our rhetorical politicians take over power in the country."

*The order of the day will be either you sing the praises to the leaders for good or for bad or you find yourself in jail the next day. If amidst the current debate going on for Press Freedom the CA reacted to the extent of banning the Times from coming near its doorsteps, one could just imagine what could have happened if the CA had power to mete out further punishment.*

... How can there be true democracy if those who aspire to rule this country have not learnt to accommodate their opponents and bear criticisms, even if they are unwarranted. Until our leaders acquire this necessary virtue, our press freedom and democracy will be mere farce (December 29, 1977).

In the first months of 1978 the Constituent Assembly itself took up the question of whether to include specific constitutional guarantees for press freedom by amending the draft constitution. About 30 amendments were tabled. One of

these, proposed by Alhaji Babatunde Jose, chairman of the Nigerian Television Authority, reads:

... it shall not be competent for the National Assembly, the executive or any other arm, organ or agency of government anywhere in Nigeria to make a law, order and regulation which abridges or in any way undermines the freedom of the press to perform its duties.

On Wednesday, April 26, the National Hall, the meeting place for the Constituent Assembly, was the center of demonstrations by journalists and students.

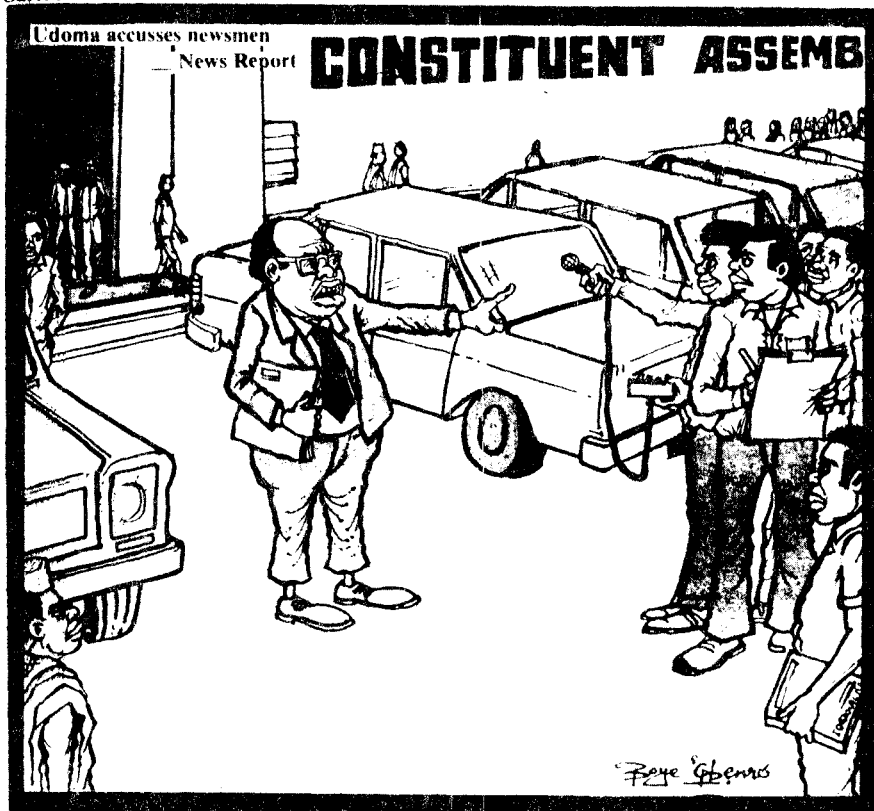
The demonstrators chatted and discussed with members of the Assembly to explain fully and for the last time, the whole idea of Press freedom in order to remove any doubts, bias or ignorance that might hinder a favourable decision on the issue. (Daily Times, April 28, 1978).

Statements were distributed to the members, which contained final appeals to the Assembly. One of these asked the members not to view the question of press freedom as one of a special privilege for individual journalists, or to deny it because some journalists were not mature. Another reminded members of the significance of a free press in upholding the social conscience of the nation and insuring that other freedoms were adequately guaranteed. Yet another statement urged the Assembly to be realistic, using the nation's political history as a guide.

Despite all these efforts, however, the Constituent Assembly overwhelmingly voted against including any such amendment, concluding that section 32 of the draft provided an adequate safeguard. Thus Nigeria will return to civilian rule under a constitution providing no greater safeguards for the freedom of the press than it has had at any time in its history.

An editorial in *West Africa* (May 22, 1978) congratulates the Nigerian

#### Cartoon Punch



'Confusion'! 'Chaos'! All right. But remember we are yet to decide on Press freedom!"

Constituent Assembly on its decision not to give the press any constitutional guarantees over and above those held by all citizens. It points out, however, that a more difficult problem for journalists will be taking advantage of their rights to seek reasonable access to information. The wording of section 32 of the draft constitution concerning disclosure of information may, in fact, provide more excuses for withholding information than for granting it.

*... nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society: (a) For the purpose of preventing the disclosure of information received in confidence, maintaining the authority of the courts, of regulating telephony, wireless broadcasting, television, or the exhibition of cinematograph films; or (b) Imposing restrictions upon persons holding office under the state, members of the armed forces of the federation or members of a police force.*

Throughout the debate over press freedom many Nigerian journalists pointed out that such exposures as Watergate in the United States could never have happened in Nigeria (nor could they have escaped legal action in Britain). Nor under the constitution is it likely the press will be able to administer such a corrective to the civilian government should such action be required.

The ink was hardly dry on the Constituent Assembly's decision *not* to provide the press with any special protections when the government gazetted an order banning *Newbreed* magazine for a period of two years from June 14, 1978 and temporarily detaining its editor. The current issue of the magazine — which is published in Britain — was seized at Murtala Mohammed Airport: it had Chief Obafemi Awolowo's picture on its cover and an editorial entitled "Who is ganging up against Chief Awolowo?" *Newbreed* was the first publication to run afoul of "Decree No. 17 of 1967," which provides that where the Head of State is satisfied

that unrestricted circulation or sale in Nigeria of a newspaper is detrimental to the interests of the federation or any state thereof, he may prohibit the circulation or sale of the named newspapers in any part of the federation. Not only did the impounding result in an enormous loss of money but the ban, according to Mr. Okolie of the Newbreed organization, also constituted a disincentive to indigenous and normally high-risk business in Nigeria. The Nigerian Union of Journalists described the ban on *Newbreed* magazine as a "fresh threat to press freedom in Nigeria" but at the same time its statement condemned the irresponsible journalism practiced by "some sections of the press, and the unpatriotic role of some individuals in the profession." The president of the Newspaper Proprietors Association of Nigeria called on the federal military government to reconsider its ban of *Newbreed* and to revoke the prohibition order. He argued that if anything contrary to the law had been published, it was appropriate to prosecute the editor and the publishers but that to prohibit the circulation of the magazine was an "altogether negative action."

The failure of successive African governments to recognize the duty of the press to criticize, oppose, and reveal their mistakes has often been taken as just one more item of evidence that "democracy" has little hope of taking root in African soil for a very long time. At the same time it may be noted that the Nigerian Constituent Assembly's decision anticipated a recent ruling by the Supreme Court in the country most dedicated to, and having the most clearly articulated protections for, a free press. The United States Supreme Court has recently ruled that police seeking evidence do have the right to enter unannounced, armed with a search warrant, any newsroom (as they would any other place) even when the occupant is not suspected of any crime. In another related case, Chief Justice Warren Burger declared that *journalists have no greater right to free speech than*

*other people do.* These rulings have alarmed newsmen who note that the search warrants will allow investigators to read things other than the evidence they are seeking and that awareness of this possibility could effectively muzzle many sources of information who might fear their names falling into police hands. Investigations into such problems as police corruption could easily be stymied by this threat and certainly such police powers would have stopped the investigations that led to the Watergate exposé.

It would appear that the notion of a free and independent press that seeks to fulfill its responsibilities of upholding the objectives of the Nigerian Constitution and maintaining the accountability of the government to the people borders on mere rhetoric. Moreover, this problem is not only relevant for African countries, but is of major concern to every nation in the world where the interests of the dominant groups and institutions are vulnerable to the effects of untamed media. About a year ago the BBC held a meeting of its lay advisers to complain about the increase in governmental interference with its broadcasting policy over Uganda and the European Court's hearing of the case regarding the use of torture by police in Northern Ireland.

The debate in Nigeria over the issue of press freedom has been remarkably sophisticated by raising such issues as government's financial control, bias in the news, ethics or a code of morals for the press, the problems of national security, the responsibility of the press to represent public interest, and the more difficult question of just who is competent to define "public interest." That the debate failed to convince the Constituent Assembly of the need for explicit guarantees against governmental interference in the exercise of the role it plays as critic is not surprising since one cannot expect compatible relationships to exist between the media and government in any society until, as Feiffer's cartoon so

aptly illustrates, the personnel of press, radio, and television have come to identify themselves with the

dominant ideology as held by those who control political power. Only then may a government afford to

guarantee a "free and independent" press.

(August 1978)