



Thesis
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DEPARTMENT OF
COMMUNICATION AND
LANGUAGE ARTS
UNIVERSITY OF
IBADAN

THE PRESS UNDER
MILITARY RULE
IN NIGERIA, 1966 - 1993

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**THE PRESS UNDER MILITARY RULE
IN NIGERIA, 1966 - 1993**

BY

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B. SC. (HONS.) MASS COMMUNICATION (LAGOS)

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**A THESIS IN THE
DEPARTMENT OF COMMUNICATION AND LANGUAGE ARTS**

SUBMITTED TO THE FACULTY OF ARTS

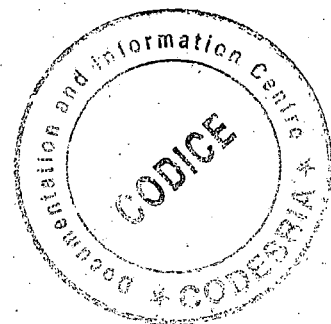
**IN PARTIAL FULFILMENT OF THE REQUIREMENTS
FOR THE DEGREE OF**

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DEDICATION

This work is dedicated to the blessed memory of the late Dr. Earnest Adelumola Ogunade, my Communication Law lecturer at the Department of Mass Communication, University of Lagos.

His great competence, depth of knowledge and fair rewarding of excellence as a teacher made one of the deepest impressions on me.

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ABSTRACT

This study investigates the relationship between Nigerian military governments and the Nigerian press over a period of twenty three years. The historical legal study has four objectives: to examine the laws (decrees and edicts) which defined the limits of press freedom during military rule in Nigeria; to draw together in one document the pertinent Nigerian case law in the area of press freedom during military rule; to identify and analyse the institutional, legal and non - legal measures and mechanisms utilised by Nigerian military regimes in controlling the press; and to identify and analyse the socio - political factors that influenced or affected press freedom during military rule in Nigeria.

To accomplish these objectives, the study analysed the political interaction between five Nigerian military governments and the press out of which the special legislations affecting the press gradually emerged. It reviewed major reported and unreported cases that came up between the press and the military governments, delineated the permissible boundaries of press freedom during military rule and traced the evolution of the press legislations of the military era partly as responses to the prevailing socio - political climate.

The study found out that four of the five military regimes studied enacted many repressive legislations which hampered the freedom of the Nigerian press in varying degrees. All the military governments also employed various administrative weapons to forcibly control the press. The military regimes were also found to have repressed the

press more during crises times than at normal times. The study also established that the degree of freedom that was granted the press during military rule in Nigeria varied from regime to regime.

The study concludes that the Nigerian press was granted low degree of freedom by Nigerian military governments; and that the fearlessness and defiant dignity of the press in the face of repression helped it to sustain even this low degree of freedom. It recommends, in line with customary international law, the current tempo of human civilisation and the primary importance of press freedom to society that any regime must duly, voluntarily respect the freedom of the press or be forced to do so by both the press and the public. It also recommends a higher level of professional and ethical performance for the Nigerian press in order to enjoy the confidence and, consequently, the collective support of the people against repression.

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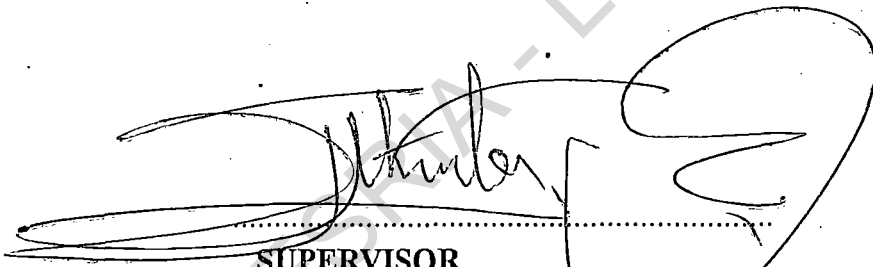
Finally I am profoundly grateful to the Council for the Development of Social Science Research in Africa (CODESRIA) for funding this doctoral research.

The work is a cumulative achievement of all the acknowledged.

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CERTIFICATION

I certify that this work was carried out by Isikilu Bayo Oloyede in the Department of Communication and Language Arts, University of Ibadan, Nigeria.



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CHAPTER ONE

1.0 INTRODUCTION

1.1 BACKGROUND TO THE STUDY

Since military revolutions started in Latin America, Asia, Africa and other parts of the world, many elements of the societal structure have become subjects of study within the context of military rulership. One of the major foci of such studies has been the impact(s) of military rule on the different institutions inherited by military governments. The press is one of the most important socio-political institutions which have attracted the attention of scholars in this regard. The scholars, who have written about the performance, the position, the nature, and particularly the freedom of the press under martial rule in various countries of the world, include Knudson (1973), Naser (1975), Alisky (1976), Onagoruwa (1977), Jakande (1979), Youm (1986) and Youm and Ogbondah (1990-91).

One of the observed effects of military rule on the press has been a serious curtailment or, in some cases, total obliteration of its freedom. Research findings are agreed on the fact that the press, much more than many other sectors of society, generally enjoys lesser degree of freedom under military regimes than under democratic civilian dispensations. Youm and Ogbondah (1990-91:83) have, for example, established that:

irrespective of socio-cultural differences, control of the press is often the top priority of the military revolutionaries in taking over the civilian government.

This is perhaps understandable for the press, as purveyor of information, is a very powerful institution; information being at the heart of any society.

But while research findings and practical reality always generally point to the direction of emasculation of the press under military dictatorships, Nigerian military rulers, in order to create or maintain positive image in the international community, usually hold that the press is free under their rule. For instance, in spite of evidence of serious infringements on the freedom of the press under his government, (as in the Amakiri case - see Onagoruwa, 1977), Nigeria's longest - ruling military leader, General Yakubu Gowon, once invited the Nigerian press to "criticise us," (that is his military government), to "tell us the ugly truth," (Jose, 1975: 14) thus giving the impression that the Nigerian press was duly free under his rule. In the same vein, the same Gowon answered Mr. Cecil King, the then Chairman of the International Publishing Corporation of Britain and the Times Group in Nigeria, who paid him a courtesy call on December 15, 1967 and asked him what role the Nigerian press had been playing since the beginning of the Nigerian Civil War, this way:

I cannot tell them what to do since we do not dictate policy to any press here; *they have been independent as they ought to be.* The press has to tell the truth, to be objective and honest, so that the people can rely on what they (sic.) print. They should tell us off when they feel we are wrong and commend when they feel it is worthwhile; *we can take it.* (Elias, 1969:129. Emphasis, mine)

Also, while dishing out repressive decrees against the press, Nigerian military rulers always contend that they do not negatively tamper with press freedom. Rather, they always hold that

they are sanitising the profession of journalism and enhancing the freedom of the press by 'duly' curbing the 'abuses' to which Nigerian journalists put it. Lt. Col. Oladayo Popoola, as Governor of Oyo State during the Buhari regime which promulgated the *Public Officers (Protection Against False Accusation) Decree (Decree No. 4, 1984)*, for example, told Nigerian newspaper proprietors in Ibadan on June 2nd, 1984 that the Decree was not aimed at gagging the press but at lifting the level of performance in the media to a higher degree of professionalism. (*Sunday Sketch*, June 3rd 1984).

In addition to this kind of positive verbal posturing, principal officers of state during military rule in Nigeria often proudly maintain, like their counterparts in civilian era, that Nigeria has the "freest" press in Africa and "one of the freest" in the world. (See, for instance, Jose, 1987:214). Even some notable Nigerian journalists believe that the Nigerian press was freer under some of the Nigerian military administrations, particularly the first three, than under the democratic civilian governments of the country's First and Second Republics.

Jose (1975:13), a highly respected veteran Nigerian journalist and one of the very few who practised journalism in Nigeria during the colonial, the civilian and the military epochs, told the Royal African Society in London in 1975 that the Nigerian press was freer under the Gowon regime than it had been during the First Republic. As he authoritatively expressed the point:

... comparatively today, throughout the length and breadth of Africa which I have travelled in my 29-odd years in journalism, no press enjoys the kind of freedom being currently enjoyed in Nigeria under a military regime. *Even the elected government of the First Republic was not as tolerant of the press as the present benevolent military government is.* (Emphasis, mine)

Jose is not the only communication practitioner of note with this position. Chief Mike Olu Pearce, as Editorial Adviser of the *New Nigerian* newspapers, also told his listeners at the closing ceremony of the 1984 University of Sokoto Students Union Week, where he delivered the Guest Speaker's address, that:

the Nigerian press is freer under the military than under the civilian regime (*New Nigerian*, May, 11, 1984.)

The first military regime appeared in Nigeria on Jan. 15, 1966. Before this date, the country was ruled by British colonialists. These were followed by Nigerian political leaders under the overall control and supervision of the British colonial government. This latter period, spanning 1951 to 1960, can be called the self-government era. From independence on Oct. 1, 1960 to the first military take over of government, Nigeria was under the political leadership of elected Nigerians who had full responsibility for the running of the country. What were the features of government - press relationship within the context of press freedom during these periods? We shall start with the colonial era.

Like all African - owned newspapers of the colonial period, Nigerian owned newspapers of the era stood in strong, firm and constant opposition to the Nigerian colonial government. (Omu, 1968:279-298). Those who manned the papers assumed that, as British subjects, they were entitled to the right of freedom of the press like the British citizens of the time. Moreover, the papers saw themselves as veritable instruments for checking abuses in government. As aptly put by the *Lagos Standard* of 30th April, 1902 while denouncing the colonial government's attempt to pass the repressive *Newspaper Bill of 1903*:

Without universal suffrage, without representation of any kind - without a municipality or other agency, by which it may be said that the people have any voice or hand in government - the press is the only means, feeble and ineffective as it often is, still it is the only means there is of restraining or checking abuses.

Each of the papers therefore sought to be:

the guardian of the rights and liberties of the people as well as the interpreter of their ideals and aspirations. (*Lagos Weekly Record*, 28 June, 1919):

This stance did not go down well with the British colonial governors who, alarmed by the influence of the newspapers, tried to curb them:

by initiating prosecutions for seditious libels, and proposing or passing restrictive laws, most of which were renovations and adaptations of obsolete eighteen-century laws in England. (Omu, 1968:279).

The colonial governors thereby gradually removed the Nigerian press from the protective umbrella of British common law and subjected it to harsh local press ordinances (Ogunade, 1981:57).

Although the colonial governors' intolerance of press criticism and the active involvement of the press in the socio-political controversies of the time were outstanding factors in the repression of the press during the colonial era, equally important a factor was the governors' belief that Africans were barbaric. As explained by Omu (1968:280):

[i]n keeping with contemporary racial prejudices of their time, the colonial governors believed that the vast majority of the African population were barbaric and excitable, and although reckless statements and misinformation might not be strictly seditious, they could mislead or inflame the people and undermine the basis of colonial power.

The governors therefore enacted repressive press laws and prosecuted and jailed journalists and newspaper proprietors for sedition, false news and other politically motivated and narrowly defined 'offences' and 'crimes'. As the nationalist political parties of the self-government era turned against one another however, British colonial administrators became less disposed to limiting the freedom of the press (Omu, 1968:297)

The self government era was a regional political party and a regional press era. During this period, each of the three dominant Nigerian political parties controlled its regional base with the active support and control of its newspapers. The Azikwe - led National Council of Nigeria and the Camerouns (NCNC) which ruled in the East had the support of the Zik group of newspapers. The Awolowo - led Action Group (AG) which governed in the West had the support of the *Daily Service* and the *Nigerian Tribune*. The Balewa - led Northern People's Congress (NPC) which exercised political authority in the North enjoyed the support of the *Nigerian Citizen* and the *Gaskiya*. The constitutional base of the press was also regionalised, (i.e. each of the three regions had the constitutional power to legislate on the press) while "the party papers," which the Nigerian press became at the time, "indulged in internecine political feuding" among themselves (Ogunade, 1981:168).

The Nigerian political leaders of the time exhibited an equal, if not greater, degree of intolerance of press criticism as the withdrawing British colonial rulers. Armed with the constitutional power to regionally legislate on the press, the politicians who had used the press as vehicles to political power made the then existing press laws harsher and introduced new

draconian laws against the critical newspapers of other regions. Deeply politicised, intensely divided against itself and little interested in its freedom, the Nigerian press whimpered as its freedom seriously whittled (Ogunade, 1981:165-198)

This negative state of affairs persisted and worsened after independence. Between October 1960 and January 1966, the Nigerian press became more politically dependent. It also continued and intensified its tradition of fierce press wars which had become the hallmark of its political journalism. As analysed by Ogunade (1981:204):

As the power struggle... became bitter and violent,... government relationship with the press, characterized by open hostility, reached an unprecedented low. Political conditions made the press vulnerable and ... party governments did not hesitate to take legal and extra legal measures against the press, particularly the opposition press.

This was the state of affairs when the army struck in 1966.

1.2 STATEMENT OF THE PROBLEM

Since her political independence in 1960, Nigeria has been ruled more by military regimes than by elected civilian administrations. The various military governments which ruled the country at different times are expected to have some patterns of relationship with the press, which is a major institutional actor in governance. Of a major concern to this study is the exploration of the nature of the relationship between the Nigerian military governments and the Nigerian press.

The relationship between the government and the press (at any point in time in society) is usually a reflection of the relationship between the government and the citizens (Siebert, 1952.)

The former, no doubt, is a very important evaluative component of political communication which is becoming a growing field of communication studies. However, this area, in relation to Nigerian military governments, has not received enough academic attention. This is a major gap the bridging of which this study attempts to contribute to.

1.3 OBJECTIVES OF THE STUDY

The primary purpose of the study is to investigate the relationship between Nigerian military governments and the Nigerian press over a period of twenty three years, i.e. from January 15, 1966 to October 1, 1979 and from December 31, 1983 to August 26, 1993.

Specific Objectives

The definite objectives of the study are:

- (i) to examine the laws - decrees and edicts - which defined the limits of press freedom during military rule in Nigeria;
- (ii) to draw together in one document the pertinent Nigerian case law in the area of press freedom during military rule and critically inspect the courts decisions on the laws;
- (iii) to identify and analyse the institutional, legal and non-legal measures and mechanisms utilised by Nigerian military regimes in controlling or dealing with the press; and
- (iv) to identify and analyse the socio-political factors that influenced or affected press freedom during military rule in Nigeria.

1.4 RESEARCH QUESTIONS

The study focussed on four research questions as follows:

- (i) What was the socio-political climate of the military era in Nigeria?
- (ii) What laws (decrees and edicts) were made to define the limits of press freedom during military rule in Nigeria?
- (iii) What other means (apart from legislations) did Nigerian military governments employ to control the press? and
- (iv) How were the press laws and the administrative measures of the military era construed by the courts and the military tribunals?

1.5 SIGNIFICANCE OF THE STUDY

Although several scholars and organisations (mostly human rights ones) have investigated some of the laws and actions of Nigerian military rulers that relate to the press (see, for example, Onagoruwa, 1980 and Civil Liberties Organisation (CLO, 1990), there have been few detailed and critical studies on the press under military rule in Nigeria (see Jakande, 1979, Youm and Ogbondah 1990-91 and Nwakwo, Aigbogun, Izeze and Mbachu, 1993). None of the few existing studies also extends to 1993, the terminal date of this study. This study is therefore one of the few pioneering attempts at systematically and comprehensively studying press freedom under military rule in Nigeria relatively up to date. Data generated from the study will add to the body of literature currently existing on the topic. The study may also provide useful insights into the understanding and analysis of the subject matter.

1.6 SCOPE OF STUDY

This study is limited to the relationship between Nigerian military governments and the Nigerian press within the purview of press freedom.

The Nigerian press is delimited to the Nigerian print news media, i.e. the newspaper, the magazine, the pamphlet, the leaflet and the handbill. Because of the opportunity and preponderance of private ownership of newspapers and magazines in Nigeria up till 1993, as contrasted with the almost totally government-owned electronic news media of radio and television, happenings in the print news media field will more truly reflect the actual state of government-press relationship.

The study covers the period January 15, 1966, the date military rule made its debut in Nigeria, to August 26, 1993 when the fifth military regime terminated.

1.7 OPERATIONAL DEFINITION OF TERMS

Military Rule

Military rule refers to the control and exercise of supreme political authority by self-imposed members of the armed forces of a state instead of an elected political class.

Military Regime or Government

Since military regimes or governments operate as single structural units (monolithic political and power structures - Onagoruwa, 1977:69) each military regime is conceived as collectively comprising the central federal military governments and its various state counterparts. The

activities of public office holders - military or civilian - at federal and state levels during each military era shall be analysed collectively.

Relationship

Relationship, for this study, is defined to include all formal and informal techniques and processes by which officials exert influence on the mass media - legislation, licensing, regulation, judicial rulings, the issuing or withholding of information or official threats and pressures. (Rivers, Millers and Gandy, 1979:219)

Stress

For this study, Weaver's suggested definition and measurement of stress are used. Weaver (1977:160) defines and measures stress as follows:

... any period of great demands on or significantly lessened support for, the existing government, as indicated by any relatively rapid change or disruption to the established patterns of social interactions between the governors and the governed.

Stress is measured in terms of ... [incidence and] number of revolutions and ... number of protest demonstrations, number of riots, number of armed attacks, number of deaths from domestic violence and number of government sanctions in response to perceived threats.

Press Freedom Shrinking

Press freedom shrinks or contracts when publishable views not previously legally banned or ordinarily frowned at suddenly becomes offensive to political authorities. Indices of press freedom shrinking can be found in threats and punitive actions by political authorities against individuals and the news media which publish or plan or attempt to publish such views.

CHAPTER TWO

2.0 REVIEW OF RELEVANT LITERATURE

This chapter attempts to review the literature pertinent to the theme "The Press under Military Rule in Nigeria." It, in so doing, examines relevant communication and socio-political concepts and theories and furnishes the study with necessary informatory background.

The chapter is in five distinct but related segments as follows:

- (i) the concept of press freedom;
- (ii) the relationship between media structure and socio-political structure;
- (iii) the military in governance;
- (iv) military governments and the press; and
- (v) the origin and growth of the Nigerian press.

2.1 THE CONCEPT OF PRESS FREEDOM

2.1.1 The Origin

Although the modern press began in Belgium in 1605 (Altschull, 1984:3) and Sweden is generally believed to be the first country in the world to constitutionally enshrine press freedom (Moemeka, 1978), the idea of the freedom of the press first evolved as a component of the libertarian social philosophy which originated in England after the Revolution of 1688. (Siebert, Peterson and Schramm, 1956:42).

Between the early 1920s when the first English “newsbook” and “corantos” appeared in London (Harris, 1978:83) and the 1688 political side-lining of the British monarchy, authoritarianism both as political and press philosophies reigned supreme. Under the authoritarian system of the time:

truth was conceived to be not the product of the great mass of people, but of a few wise men who were in position to guide and direct their fellows. Thus, truth was thought to be centered (sic.) near the center of power. The press therefore functioned from the top down. The rulers of the time used the press to inform the people of what the rulers thought they should know and the policies the rulers thought they should support. (Siebert et. al., 1956:2)

The monarch (or government) had absolute power and control over ownership, content and use of the mass media. Criticism of the political machinery and officials in power through the mass media was forbidden. The press existed chiefly to support and advance the policies of the government in power and to service the state (Siebert et. al., 1956: 9-27) and therefore had no freedom. By 1688, with the overthrow of monarchical authoritarianism in Britain however, libertarianism as a political and press system took over, and with it the concept of press freedom.

The libertarians believe that man is a thinking, independent and rational animal, capable of deciding between the good and the bad and between the good and the better when faced with alternative choices. As expounded by Siebert et. al. (1956:3) under libertarianism:

[m]an is no longer conceived of as a dependent being [as in the authoritarian system] to be led and directed, but rather as a rational being able to discern between truth and falsehood, between a better and worse alternative, when faced with conflicting evidence and alternative choices. Truth is no longer conceived of as the property of power, rather, the right to search for truth is one of the inalienable natural rights of man ... And the press is conceived of as a partner in the search for truth.

The three authors (1956:3) further underline the basis of press freedom at evolution under libertarianism thus:

In libertarian theory, the press is not an instrument of government, but rather a device for presenting evidence and arguments on the basis of which the people can check on government and make up their minds as to policy. Therefore it is imperative that the press be free from government control and influence. In order for truth to emerge, all ideas must get a fair hearing; there must be a "free market place" of ideas and information. Minorities as well as majorities, the weak as well as the strong must have access to the press ...

There are other major ingredients of press freedom at evolution under libertarianism. One is the assumption of the presence of a multiplicity of voices on public issues at all times (Siebert, et. al.:50-52). Another is the absence of state control in the operations of the news media in line with the laissez faire private enterprise doctrine or philosophical foundation of capitalism (Schiller, 1986) And yet another is the emphasis on financial independence of the press (Oso, 1988). McQuail (1987:115-116) summarises the basic characteristics of the press and its freedom under libertarianism as follows:

- Publication should be free from any prior censorship by any third party;
- The act of publication and distribution should be open to a person or group without permit or licence;
- Attack on any government official or political party (as distinct from attacks on private individuals or treason and breaches of security) should not be punishable, even after the event;
- There should be no compulsion to publish anything;
- Publication of 'error' is protected equally with that of truth in matters of opinion and belief;
- No restriction should be placed on the collection, by legal means, of information for publication;
- There should be no restriction on export or import or sending or receiving (messages) across national frontiers;
- Journalists should be able to claim a considerable degree of professional autonomy within their organisation.

From the listed qualities, press freedom at its genesis was based on the notion that individuals should be free to publish in the news or mass media (press) whatever they like without interference from government or from other persons or groups. This freedom was seen as an extension of other freedoms, particularly that of free speech and as a palladium for all civil, political and religious rights. Being also a concomitant of commercial freedom, having evolved under a capitalist setting, it was closely associated with capitalist social organisation. Hence, it also implied property rights, i.e. the right to profitably own and use media production and facilities (Omwanda, 1990-91:29-30). This notion of press freedom shaped the constitutional

and legal paradigm of press freedom in the United States as contained in the First Amendment to her constitution (US 1791 *Bill of Rights*). It equally served as the foundation for press freedom in all capitalist liberal democracies.

2.1.2 Contemporary Notions of Press Freedom in various socio-political Systems

Although press freedom evolved in a capitalist liberal democracy, i.e. England under libertarianism (as part of the parliamentary and congressional or presidential systems based on individual liberty and private enterprise - Ugboajah, 1987:133), the term now generally denotes a fundamental human right to gather, hold, publish or disseminate information and opinions through the news media without let or hinderance. The perception and interpretation of this right however differ from country to country, from socio-political system to socio-political system and from one type of government to another type.

The freedom of the press, Ogunade (1981:17) has observed:

has a protean face, capable of change, and readily assuming different shapes in different countries.

Olav STOKKE (1971:3) has also made it clear that:

while it is easy enough to propound idealistically the principle that freedom of speech and press is close to the central meaning of all liberty, it is not so easy to establish a universal criteria for the application of such a principle.

In spite of this reality, media scholars have attempted to provide general theoretical bases for the understanding of the concept in relation to each nation. The earliest of these attempts was from Siebert, Peterson and Schramm who in 1956 provided the *Four Theories of the Press*.

Based on the general assumption that the press is controlled by social and political structures and viewing the effects of the structures on the press in terms of constraints or freedom, the three authors put forward four broad “theories” or systems for classifying the nations of the world in relation to their attitude to freedom of the press. They believe that the different national press systems could be classified under the authoritarian, libertarian, social responsibility and Soviet- communist concepts of what the press should be and do (Ogunade, 1981:18).

The four systems, in summary, are as follows:

Authoritarian - Under an authoritarian system, the press may be privately owned but through negative constraints such as licenses, patents or censorship, the government exercises total control. The purpose of the press is to support the aims of the government.

Libertarian - Under the system, anyone who can afford it may operate a communication medium and say whatever he likes, except perhaps for personal libels, obscenities and the like. The purpose of the press is to inform, entertain, discover truth and check on government.

Social Responsibility - Under the system, ownership is chiefly private unless government has to take over to insure public service. Everyone who has something to say can use the media. The chief purpose of the press is to raise conflict to the plane of discussion and the press must assume obligation of social responsibility.

Soviet - Communist - Under the system, ownership is public but government controls the media through surveillance and economic or political action. Only loyal and orthodox party members can use the media. The chief purpose of the press is to contribute to the success and continuance of the socialist system.

Following from Siebert et al's four "theories" of the press, media scholars - have tended to view most developing countries, particularly African nations, as operating the authoritarian and the Soviet-Communist press systems. Hachten, (1971:44-47) a scholar of the African media, for example, finds the authoritarian and Soviet-Communist models of the press most appropriate for classifying the press of most African countries. He however made some modifications and refinements to suit the African situation, such as the removal of Marxist ideology from the Soviet-Communist model in order to come up with what he calls a "neo-communist model of the press."

Two additional theories have also emerged after the four theories. These are the democratic - participant media theory and the development media theory.

Current efforts at providing theoretical underpinnings for the understanding of press freedom have shifted to analysing individual countries from the perspective of their socio-political system. In this vein, media scholars have divided the various countries of the world into three:

- (i) the capitalist liberal democracies of North America and Western Europe or 'the developed world',
- (ii) the socialist world, and
- (iii) the developing or Third World'.

While the developed and the socialist worlds are perceived as operating the social responsibility and the Soviet-Communist variants of press freedom respectively, the developing or Third World is said to be operating the development-media or development-journalism variety. The

term development-media/journalism first cropped up around 1967 to define a notion of journalism according to which reporting of events of national and international significance should be constructive, in the sense that it contributes positively to the development of the country concerned (Kunczik, 1988:83). It advocates positive functions for the news media to further national development, promote political and cultural autonomy and allow for participatory communication structures which enable grassroots involvement in media production and management. To the extent that development is the main aim of the 'Third World', journalists are supposed to subordinate their freedoms to the pursuit of developmental goal. (Omwanda, 1990-91:29-30)

Although arguing mainly against media imperialism and unrestricted importation and use of foreign (mostly American) media fare or content by developing countries, Okunna (1990:143) has opined that:

in the less developed countries, infringements on the press are not just obvious but glaring.

The concept of developmental journalism, she notes:

has become accepted all over the developing world, and is being used by governments to 'justify' their control of the press ...

According to her:

Developmental journalism is accepted as a justification for press control even among journalists who are at the receiving end of such controls as government censorship. A recent survey of African newspaper editors showed that opposition to censorship in general was not strong with almost two thirds of the editors agreeing that government should ensure that the media assist in national development. (Also see Roser and Brown, 1986:116)

In response to constant and stringent criticisms of serious violations of the freedom of the press by governments of developing countries, 'Third World' studies, political leaders and some journalists insist that because of the glaring need for rapid socio-economic development and national integration or cohesion in the developing countries, developing countries' news media differ from those of the other two socio-political systems in their basic functions which are to promote social stability and development (Omwanda, 1990-91:24). As succinctly expressed by Altschull (1984:296):

to the struggling, insecure nations of the advancing world [his preference for 'developing' or 'Third World'] abstract principles of press freedom are less important than the viability of their nations.

Kenyan journalist and publisher, Hilary Ng'weno, (1968) puts it more graphically when he says:

The challenge to the press in young countries is the challenge of laying down the foundation upon which future freedoms will thrive ... [A]nyone who has lived or travelled widely in Africa, Asia or Latin America cannot fail to be appalled at the enormous amount of poverty, illiteracy and disease that are to be found everywhere. Under some of the conditions in which Asians, Africans and Latin Americans live, it would be sacrilegious to talk about press freedom, for freedom loses meaning when human survival is the only imperative principle on which a people lives.

In spite of the prevalence of these seemingly lofty 'defences' or explanations for development journalism or theory of press freedom in developing countries however, critics of press freedom suppression in the socio-political system, particularly in African countries, are not impressed. Many of them contend that curbing press freedom is not the panacea for socio-political stability

and national development. With overflowing examples of instances where African political leaderships have restricted the freedom of the African press when the latter attempted to expose them, the critics hold that:

... the African press is controlled by the government for the fear that a free press would readily unearth the staggering proportions of graft, ineptitude, lack of accountability as well as the corruption, mismanagement, bribery, roguery and official stealing of the people's resources inherent within the ruling bourgeoisie class (See Ogbondah, 1994:20-31)

2.1.3 Press Freedom defined

The concept of press freedom, no doubt, belongs to many fields: law-making, philosophy, law, journalism, etc. Moreover, as has been pointed out, the interpretation of the concept differs from one socio-political system to another. Because of these factors, there is still no universally accepted definition. Law-makers, philosophers, journalists, media scholars and laymen have continued to give diverse and discrepant definitions, of press freedom (Ogunade, 1981:17). All these definitions, according to Weaver (1977:156) can be categorized in three basically different ways:

- (1) as the relative absence of governmental restraints on the media;
- (2) as the relative absence of governmental and all other restraints on the media; and
- (3) as not only the absence of restraints on the mass media, but also the presence of those conditions necessary to ensure the dissemination of a diversity of ideas and opinions to a relatively large audience, such as an enforced right of access to newspapers and radio stations.

For the purpose of this study, press freedom is defined as that:

degree of freedom from restraint which is essential to enable proprietors, editors and journalists to advance the public interest by publishing the facts and opinions ... (McGregor, 1978:246).

As several writers (Hocking, 1947; Ogunade 1981) have suggested, the relative absence of governmental controls is a condition for the existence of press freedom.

2.2 THE RELATIONSHIP BETWEEN MEDIA STRUCTURE AND SOCIO-POLITICAL STRUCTURE

The mass media do not exist in isolation of the society in which they operate. They form an integral part of it and are therefore influenced by events occurring there. (Atta, 1992:7). A correlation exists between the role of the press and the value system and organisation of a particular society.

Studies in normative media theories have established that the press is a social institution. They have established that it is inextricably tied to the apron-string of the prevailing political philosophy and that its function and character differ according to the political, economic, social and cultural structures [broadly the social-political system] wherein it operates. (Ugboajah, 1987:132). According to Siebert. et. al. (1956:1-2):

the press always takes on the form and coloration of the social and political structures within which it operates. Especially, it reflects the system of social control, whereby the relations of individuals and institutions are adjusted.

This is equally true of the nature of press freedom which is a major part of any mass media system. A mass media system itself, notes Hachten (1974:23):

is a kind of mirror image of a nation's political and economic structure. Each is sensitive to the other. Newspapers, radio, television and other media do not operate in a vacuum; their content, their reach, *their freedom* (emphasis mine) and their audiences are determined by the context [the socio-political system] of the nation in which they operate. (Also see Merrill, (1978) and UNESCO (1980).

In the words of Omwanda (1990-91:24)

... it is the social system that structures the mass media system which in turn, informs the nature of journalistic practice.

Davidson, Boylan and Frederick (1982) also submitted that:

.... the structure of a news media system [including its freedom] is dictated by politics and economics, and to a certain extent, shaped by geographical, linguistic and cultural forces.

From the foregoing, it is obvious that the press is not and can never be absolutely free in any society. A number of societal factors affect and influence the freedom of the press at any point in time. The most dominant of these factors are the government and the nature of the political institution in each society. Because of the inherent need to balance the exercise of the freedoms of individuals and to protect the polity from internal and external infractions, some forms of restraints are necessary on the press. The government, being the overriding institution in society, also has a legitimate function to define these needed limitations. (Ogunade, 1981: 20). It has been established however that how these limitations are defined:

depends on the nature of the relationship of the government to those subject to the government. (Siebert, 1952)

Apart from the governmental factor which directly defines the legal frame-work of press freedom, the interests of the politically, the economically, the socially and the culturally powerful in society also impinge on the freedom of the press. The press, it has been established, is a part of the ideological apparatuses of society and it necessarily propagates and perpetuates dominant ideology in every society. (Marcuse (1964), Adorno & Horkheimer (1972), Noelle-Neuman (1973), Schiller (1973), and Altschull (1984). By dominant ideology is meant the ideas of the politically, the economically, the socially and the culturally powerful.

The press, despite its illusion of universal representativeness, is not the voice of the whole people but of chosen people and chosen issues, i.e. "selective exposure and status conferral" (Abiola, 1986:128). Moreover, the latent structure of mass media messages distorts or selectively presents reality in ways that perpetuate the interests of the existing power structure. (Moemeka, 1988). Given this situation, Altschull (1984) has contended that an independent press cannot and does not exist anywhere in the world; rather the news media are, inevitably, agents of those forces that wield power in the economic, political, social and cultural environment. He posits (p. xi) that:

[t]he notion that news has a kind of independent character or that stories tell themselves is simply wrong, just as it is incorrect to think that reporters and editors somehow stand apart from the political, economic, social and cultural system that has shaped them ... To imagine that journalists are a breed apart, somehow able to be "objective" about the world around them in ways that others cannot is to believe in a logical absurdity.

The press in all countries of the world serve as very essential and powerful tools for the power elite to maintain its ideology and impose it on society. In all press systems, the news media are instruments for preserving the social-order, the status quo. They are agents of those who wield and exercise political, economic, social and cultural power. Newspapers, magazines and broadcasting outlets thus are not independent actors, although they have the potential to exercise independent power and actions within them. (Altschull, 1984:298).

2.2.1 The Relationship between Press Freedom and Amount of Stress on Government

Explaining press controls in various countries and as part of the efforts to build a theory of press freedom, Siebert has hypothesized a relationship between press freedom and amount of stress on government. In his *Proposition II*, Siebert (1952:10) submitted that:

the area of freedom contracts and the enforcement of restraint increases as the stresses on the stability of the government and of the structure of society increase.

Several scholars have tested and confirmed this proposition. Shaw and Brauer (1969:251-253), for example, found that threats and overt actions increased against an outspoken North Carolina editor during the Civil War when the Confederate's fortunes dimmed. Also in his study of legal and extra-legal controls on expression during World War I in Wisconsin, Stevens (1969:225-259) found evidence supporting Siebert's *Proposition II*. He found that legal and mob actions against alleged disloyalty were at their worst in the Spring of 1918 when American

fortunes were at a low point. Applying the Siebert's proposition to the study of government-press relationship in Nigeria between 1900-1966, Ogunade (1981:270) equally found out that:

government control of the press is usually exercised
in inverse ratio to the security the government enjoys.

2.3 THE MILITARY IN GOVERNANCE

There have been a lot of debate on the suitability or otherwise of the military for governance. Three conflicting viewpoints are discernible from the debate. One school of thought perceives the military, by definition and tradition, as an apolitical, institutionally conservative force virtually untrained in the tactics, strategies and complexities of civilian rule and political management. Scholars who hold this view include Lienwen, Hungtington, Nun, Bienen, Welch, Price and Zolberg (Odetola (1982), Isamukö (1988)). This viewpoint is in line with the Western conception of the professional soldier being a subordinate to and subject to civilian control.

The second school of thought sees popular revolution as the only means of effecting development and reform and perceives the military as an obstacle to this process in developing nations. Those associated with this view include Muray, Nim and Patras (Odetola (1982), Isamuko (1988)).

The third viewpoint acknowledges the military or military politicians as the best, the most thorough-going and perhaps the only reliable managers of social change particularly in 'praetorian societies'. (A praetorian society is a society characterised by the absence of a basic consensus

and in which the social forces “confront each other nakedly” - Huntington, 1968:196). In such societies, the military is said to be engaged in ‘praetorian politics’ and to offer an olive branch as the best group that can provide the needed progressive government, political order and stability. (“The ‘praetorian politics’ of the military is found in all situations where the military class of a given society exercises independent power by virtue of an actual or threatened use of force” - Perlmutter, 1977:89). Those associated with this viewpoint include Halpern, Pye, Shils, Johnson and Lefever. These Western political theorists perceive Third World countries, particularly those of Tropical Africa, between the 1960s and the early 1970s as such praetorian societies and assumed the military to have praetorian influence in them. Lefever (1970:20-21), for example, paints his perceived picture of the African military of the period thus:

African armies tend to be the most detribalised, westernized, integrated and cohesive institutions in their respective states. The army is usually the most disciplined agency in the state. It often enjoys a greater sense of national identity than other institutions. In technical skills, including the capacity to coerce and communicate, the army is the most modernised agency in the country.

In relation to politics, Halpern (1962:74) also submits on Third World armies as follows:

In civilian politics, corruption, nepotism and bribery loomed much larger. Within the army, a sense of national mission transcending parochial, regional or economic interests or kingship ties seemed to be much more clearly defined than anywhere else in society.

These portraits of Third World and African ‘political’ armies as progressive and veritable modernising agents over and above civilian politicians have however been invalidated by critical

scholars who hold that all the ills that pervade Third World's civil politics also characterise military rule. Randall and Theobald (1985:76-77), for instance, note that the theory of the unified military is a myth. They perceive as "fundamentally weak" any approach which regards the military:

as in some way insulated [from] or above the banalities of routine social and political life.

According to them:

a good deal of evidence indicates that broader societal conflicts and divisions are in one way or another reflected or refracted within the military.

While admitting that:

the degree to which this is the case will vary from country to country,

and citing the examples of Nigeria and Uganda, they submit that:

[T]ropical Africa furnishes the readiest examples of deep rooted societal divisions manifesting themselves within the military establishments...

In contrast to the army - as - modernising - agent theory, Randall and Theobald also contend that as in civilian politics, sectarianism, personalism, parochialism, factionalism, corruption and other vices equally predominate within Third World's ruling military elite. After analysing in graphic quantitative details the excesses of military rule in numerous Third World countries in Tropical Africa, Latin America and Asia, they conclude (p. 85) that:

...the military is by no means immune to sectarianism, factionalism, personalism and self-enrichment, effectively the range of excesses which the soldiers have habitually laid at the door of the civilian politicians when they have removed them from office...

The preponderance of these vices within the military, they say (p.77) seem to call to question one of the fundamental assumptions of those who have proposed the military as an agent of modernity; that the military is a unified, rationally co-ordinated organisation.

2.3.1. The Nature of Military Rule

Irrespective of the contending views on the desirability or otherwise of the military in governance, certain characteristics are inherent in military rule. One of the most important of these elements is autocracy or absolutism.

A military regime is, first and foremost, an autocratic regime. As expounded by Nwabueze (1992:3):

A successful military coup [which usually brings a military regime to power] overthrows both the government and the Constitution under which the government is established, replacing them with new ones. The military government established following a military coup is an absolute one, with unlimited powers. Its authority is supreme. Where a formal constitution is established, it is subject to the absolute and supreme power of the military government. The military government is the source from which such a constitution derives its authority, and at whose sufferance it must operate. This is the reverse of the position in a constitutional democracy where the government is the creation of, and derives its powers from the constitution.

Another important attribute of military rule is lack of legitimacy. A military government shoots itself to power.

The basis of the military government's absolute power is, of course, force ... It rules by the 'barrel of the gun,' not by the people's consent ... In so far as the authority which a military government exercises is not an emanation from the people's constituent power, a military government lacks legitimacy. (Nwabueze, 1992:5)

A military government, like a colonial one, transforms a country from a political to an administered society and therefore perennially suffers legitimacy phobia and security overconsciousness.

Military rule is also characterised by lack of accountability. A military government is not accountable to any higher source of authority other than itself. The military in government always places itself over and above the law in the drive to maintain its power and position. (Odetola, 1982, Isamuko, 1988:22-23)

A fourth element of military rule is unitary system of government. Irrespective of the system of government inherited by a military regime, the mode of practical governance immediately transforms to a monolithic unitary one on the seizure of power by a military junta. This is due in the main to the command structure of the military and the practice of regarding political positions as military assignments or postings.

Military rule also contains within it an essential structural incompatibility with civilian norm which makes it difficult for soldiers to govern the civil society effectively over a long time. This incompatibility is also to be found in the military's conservative organisational structure (Odetola, 1992:11.)

The command structure of the military, with emphasis on obedience to orders, sharply conflicts with the pluralist nature of society which recognises varying interests in a polity ... [and] necessarily institutionalises the opposition which is an anathema to the political process in the cognition of the military. (Isamuko, 1988:21-22)

The cumulative effect of all these enumerated characteristics of military rule on the civil society which it administers is absolute, arbitrary, authoritarian, repressive and unpredictable governance.

“The philosophy of a military government per se,” Tobi (1985:257) has observed: “is antithetical to democracy, a fortiori the protection of the rule of law.” Finer (1962) also submitted that it is the general pattern of the military to degenerate into absolutism in their *modus operandi*.

Accustomed to the blind obedience of their inferiors, the dry voices of command, and the narrow horizon of their profession, the military leadership lacks the courage to rectify mistakes, to ask for and listen to advice, to have patience, to realize that one owes one’s power to the will of the people. (Santos, 1956:256).

2.4 MILITARY GOVERNMENTS AND THE PRESS

Control of the press is often one of the top priorities of military revolutionaries immediately after taking over a civilian government. Bowen (1989), an American journalist, has noted, perhaps with a touch of exaggeration, that the first thing for the leaders of a military coup d’etat in Third World countries to do is to take over the news media and shut them down. Speaking in the same vein and in respect of Africa, Paul A. V. Ansah (1991) also submitted that:

military regimes, ... almost always impose censorship as a matter of routine, especially at the beginning of their administration.

That military governments on assuming power and throughout the duration of their rule always limit the freedom of the press is beyond question. A number of reasons have been advanced for this disposition and practice by military rulers. One of such reasons is the autocratic nature of the military. As explained by “an enlightened military governor” in Nigeria (see Jakande, 1979:113):

[b]y training, soldiers are not used to having their orders questioned, much less disobeyed. When an officer asks a soldier to jump up so as to find out from which direction an enemy shot is coming, the latter has to obey, knowing that he might get killed in the process. There is no room for questioning the wisdom or morality of the order. Therefore, when soldiers in government found their actions being queried on the pages of newspapers or on radio or television, their instinctive reaction was to order the critic to be brought to them.

This autocratic nature of the military seems to incline officers and men of the armed forces to a totalitarian view of government.

Beyond the authoritarian character of the military however, the strict regimentation and sometimes repression of the press during military rule can also, possibly, be explained by military governments' fear of the press. Evidence exists to suggest that in spite of their outward bravado, military rulers inwardly fear the press. The great Emperor Napoleon Bonaparte, one of the greatest soldiers and military rulers of all times, was quoted to have said that he would rather face a battalion of soldiers than be opposed by one newspaper. (See Jakande (1975) and Onagoruwa (1977)). This same legendary military ruler is also in print to have said that:

four hostile newspapers are more to be feared than a thousand bayonet. (See Napoleon I: Maxims. cf. Agbese, 1987:9)

If we accept the postulate that military rulers fear a free press, the next logical question is "why?" One possible reason could again be found in the autocratic and close nature of the military which is antithetic to the democratic and open culture of a free press and society. Another possible reason, in respect of African military governments, can be found in Ogbondah's thesis (1994:20) that:

the press is controlled by the government for the fear that a free press would readily unearth the staggering proportions of graft, ineptitude, lack of accountability as well as the corruption, mismanagement, bribery, roguery and official stealing of the people's resources inherent within the ruling bourgeoisie class.

This becomes relevant particularly as it has been established that these vices abound with military rulers as they do with civilian politicians.

2.5 THE ORIGIN AND GROWTH OF THE NIGERIAN PRESS

A brief history of the Nigerian press is important to a study of the relationship between Nigerian military governments and the press. This is because some of the characteristics and trends of press freedom during military era may have their bases in the genesis and course of growth of the press.

The Nigerian press is older than the Nigerian nation by fifty-five odd years. While Nigeria became a nation - state in 1914, the Nigerian press was born in Dec. 1859 (Coker, *Landmarks ...* 1968:1). This historical reality was recorded by an English missionary of the Church Missionary Society (CMS), Reverend Henry Townsend, who established the first newspaper in Nigeria, *Iwe Irohin Fun Awon Ara Egba Ati Yoruba*, at Abeokuta.

Edited by Townsend himself, the *Iwe Irohin* was first published in Yoruba Language and appeared fortnightly. It sold for "a hundred and twenty cowries, the equivalent of one penny." (Omu, 1978:7) It became a bi-lingual from March 8, 1860 when an English-Language supplement was added to it. (Ogunade, 1981:43).

The import of Townsend's unique achievement in pioneering the Nigerian press is not lost on Nigerian media scholars. Uche (1989:93) for example, sees its remarkability in the fact that:

it was an individual rather than an organisation or government who first conceived of the idea of the essence of a mass system of communication that would reach heterogenous members of the audience [society].

Townsend's motive in establishing the *Iwe Irohin* was dual. Beyond getting the people "to read ... to beget the habit of seeking information by reading" which he proclaimed (Coker, *Landmarks ...*, 1968:7) the accomplishment was also largely propelled by Christian evangelism (Coker, *IPI Report*, 1968:16, Ogunade, 1981:43) Thus the *Iwe Irohin* at inception, regularly published:

such matters as the movement of church officials ... news of ordinations, baptisms, confirmation, deaths and births. (Coker, *Landmarks*, 1968:2)

The *Iwe Irohin* not only put the Nigerian press to bed, it also set the cat - and - rat tone of government - press relationship in Nigeria. Before its sudden demise in March 1867 (which was caused by the popular uprising which led to the expulsion of Europeans from Abeokuta and the destruction of the mission printing press - Omu, 1978:7) it had expanded the scope of its news coverage beyond church affairs and was "permanently featuring news about government officials and commerce." (Ogunade, 1981:43) But as it started to:

faithfully report and comment on the political development of the times, including punitive expeditions and inter-tribal wars, its relationship with the British [colonial] governor became sour. (Coker, *Landmarks*, 1968:4., Ogunade, 1981:44).

After *Iwe Irohin*, the *Anglo-African*, a weekly founded by Robert Campell, an Afro-West Indian started publishing in 1863. It died two and half years later. The *Anglo-African* was succeeded by another unique but short-lived fortnightly, the *Lagos Times and Gold Coast Colony Advertiser* published by a group of Nigerians. (Nov. 1880 marked the beginning of the indigenous newspaper movement in Nigeria with the establishment of this paper)

The Times was ingenuously organised. It had overseas depots in London, Freetown, Cape Coast, Accra and Little Popo (Coker, *Landmarks*, 1968:9). Although, it “opened the way for a militant and nationalistic press in Nigeria (Uche, 1989:93), it survived for only three years (1880 - 1883) and reappeared briefly in 1890.

The penultimate decade to the twentieth century witnessed a flurry of short-lived newspapers including religious and vernacular ones. These papers include the *Lagos Observer*, a fortnightly founded on Feb. 15, 1882 and sold for six pence, *Eagle and Lagos Critic*, a monthly which began publication on 31st March, 1883, *The Mirror* which published from 17th Dec., 1887 - 17th Nov., 1888, *Iwe Irohin Eko* founded in 1888 and the *Lagos Weekly Times* (Ogunade, 1981:42-53, Uche, 1989:93-101 and Duyile, 1987) In spite of the brief existence of these papers, they:

kindled the flame of anti-colonialism by providing a means of criticism of the authorities and spreading dissatisfaction with official plans and policies (Ogunade, 1981:44-45).

They also:

began the tradition of Nigerian newspapers assuming 'the role of the opposition and ... rival of the government' (Omu, 1978:11; Ogunade, 1981:45)

The Lagos Weekly Record was established in 1891 and, quite uncharacteristic of the earlier papers, survived for forty long years (until 1930) (Coker, *Landmarks* 1968:117). This was in spite of its continually critical, pungent and devastating editorial content directed against the British colonial administration.

Five other ephemeral newspapers were founded between the 1890s and the early 1900s. These were : *the Spectator* (1893), *Lagos Echo*, (1894), *Lagos Reporter* (1898) *Wasp* (1900) (Omu, 1968:289) and the mission-inspired *Calabar Observer* (1902)

Between 1908 and 1937, the Nigerian media scene seriously blossomed with the addition of numerous titles. Omu (1978:26) puts the total number of newspapers established between 1880 and 1937 at fifty-one. A preponderantly large proportion of these were established between 1908 and 1937.

In 1908, both the *Lagos Standard* and the *Nigerian Chronicle* came on board. They were followed by the *Nigerian Times* and the *Nigerian Pioneer* in 1910 and 1914 respectively. *The African Messenger* joined the league in 1914. Another Yoruba language newspaper, *Eko Akete*, followed in 1922. The *Weekly Spectator* was established in 1923. Other newspapers of this period include *Eletu Ofe* (1923), *Eko Igbein* (1925), the *Lagos Daily News* (1925), the *Daily Times* (1926), *Egba National Harper* (1926), *Akede Eko* (1927),

The Dawn, *Abeokuta Weekly News*, *The Nigerian Daily Telegraph* (1927), *The Nigerian Evening News* (1929), the *Nigerian Daily Mail* (1930), the *Nigerian Daily Herald* (1931), the *Weekly Service* (1933), *the Comet* (1937) and Azikiwe's *West African Pilot* (1937) (See Omu, 1978: 252-255; Ogunade, 1981:46-47; Duyile, 1987:1-129)

The newspapers published in Nigeria between 1908 and 1937 showed some remarkable trends. One of these was the visionary use by some of the papers of the epithet "Nigerian" in their name-plates well before the formation of Nigeria. (The *Nigerian Chronicle* (1908) the *Nigerian Times* (1910) and *The Nigerian Pioneer* (1914) were the first three newspapers to prophetically use the epithet. See Ogunade, 1981:45).

Another was the existence and popularity of Yoruba Language newspapers. Between 1920 - 1936, there were ten such newspapers. This was at a time when no newspaper was published in any other Nigerian language. (Ogunade 1981:46). A third was the continued concentration of most of the newspapers in Lagos due to socio - political and economic factors. (Ogunade, 1993: 26, and Omu, 1978: 26). Fourthly, all the newspapers except a few of the *Pioneer's* category were anti-colonialism and therefore anti-government in stance. (The *Nigerian Pioneer* founded in 1908 by Kitoyi Ajasa, a prominent Lagos lawyer, was a totally pro-colonial-government paper.)

There were also two important milestones in the growth of the Nigerian press during the aforementioned period. The first was the arrival and impact of Herbert Macaulay on the Nigerian media scene. In 1927, Herbert Macaulay;

generally regarded as the father of Nigerian nationalism and a frequent thorn-in-the-flesh of the colonial administration; (Ogunade, 1981:46)

purchased (with Dr. John A. Caulcrick - (Omu, 1968: 294) Nigeria's first daily newspaper, the *Lagos Daily News*, established by Victor Bababubomi, a bookseller, in 1925. As a co-proprietor and editor of the newspaper for a considerable length of time, Macaulay turned it into a vibrant political mouth-piece that stimulated Nigerian journalism of the time with "pungent editorials which vehemently criticised British rule in Nigeria" (Ogun NUJ, 1993:9). The *Lagos Daily News* died in 1936 due to a combination of economic, political and literary factors.

The second media phenomenon of the time was Dr. Nnamdi Azikwe and his *West African Pilot* and other newspapers. Azikwe returned to Nigeria in 1937 after studying in the United States and editing the *African Morning Post* in Ghana (from Dec. 1934 to March 1937) respectively. On November 22, 1937, he started publishing the *West African Pilot* and, soon after, followed it with a nation-wide newspaper chain. His newspaper conglomerate included the *Eastern Nigerian Guardian* founded in 1940 and located at Port Harcourt, the *Nigerian Spokesman* established at Onitsha in 1943, the *Sentinel* published in Enugu, the *Southern Nigeria Defender* based in Warri and later moved to Ibadan, The *Comet*, bought over from the original founder, Duse Mohammed Ali in 1945 and converted to a daily newspaper and later transferred to Kano city in 1949, and the *Northern Advocate* also founded in 1949 and located at Jos (Coker, *Landmarks* 1968 :21, Duyile, 1987:143 and Uche, 1989:95).

Azikwe's objective in launching these papers was partly social and mainly political. He

was out to contribute to the nationalists' struggle for Nigeria's independence and to the mental emancipation and economic and political independence of Africa. The *West African Pilot*, as well as his other papers, was therefore:

... a fire - eating and aggressive nationalist paper of the highest order ...(See Uche, 1989:96)

which forcefully argued the case for Nigeria's independence (Ogunade, 1981:48) and treated the Nigerian reading public:

to pungent, incisive, sometimes malevolent, but always informed commentaries on Nigerian and world affairs (Sklar, 1963: 51)

Dr. Nnamdi Azikwe is often regarded as the doyen or father of modern Nigerian journalism. He was the first Nigerian to establish a chain of newspapers in the country. His *West African Pilot* also introduced a lot of modern innovations to Nigerian journalism. These included mass coverage and empathy, good pictorial coverage of events and the use of cartoon strips (Duyile, 1987:135-153) The paper therefore had mass appeal and enjoyed mass patronage. Dr. Azikwe also established the first set of newspapers in the northern part of the country (Coker, *Landmarks* 1968:21)

Peter Golding (1979: 301) has succinctly noted that:

Nigerian journalism was born of anti-colonial protest, baptized in the flood of nationalist propaganda and matured in party politics.

Between 1923 and 1930, educated Nigerians used the press to vent their political views, express dissatisfaction with the policies and programs of the colonial administration and awaken the political consciousness of the people (Ogunade, 1981:47). With the arrival of the *Pilot* and Zik's other newspapers from 1937 to the late 1940s, this trend was intensified. The colonial government was naturally uncomfortable with this situation. It therefore entered the Nigerian newspaper publishing business with an overseas newspaper interest, the Daily Mirror Group of London:

to challenge the dominance of the *Pilot* and dilute the nationalist propaganda of Nigerian-owned newspapers. (Ogunade, 1981:49).

The group acquired the majority shares of the *Daily Times*, rejuvenated the newspaper and turned it into a fierce commercial rival of the *Pilot*.

The colonial government's interest in newspaper publishing which started with the *Daily Times* continued to grow between the late 1930s and the 1940s. In 1939, the government launched a weekly Hausa-Language newspaper, *Gaskiya Ta Fi Kwabo* (Truth is worth more than a penny) "to support and explain government action." (Grant, 1975: 103). It also founded the English Language daily *Nigerian Citizen* with a Briton as its editor in 1948 "to publish the facts at once." (Grant, 1975; Ogunade, 1981:50)

In the 1950s, party politics and vigorous electioneering campaigns, preparatory to Nigeria's independence, changed the Nigerian newspaper scene. Political parties and major political actors established new newspapers to serve specific political interests as the nationalist movement

fragmented into political parties competing for power. Many of the existing newspapers also became organs of political parties. In the main, there were three major political parties.

The *Pilot* and its sister papers became the organs of ...the National Council of Nigeria and the Cameròuns (NCNC), ...the *Daily Service* the official organ of the Action Group ... In addition, the AG received the backing of the *Nigerian Tribune* established by Chief Obafemi Awolowo in 1949 (Ogunade, 1981:50)

As observed by Ogunade, this development negatively affected the Nigerian press as the hitherto outspoken Nigerian nationalist press was transformed to a vitriolic political party press.

Newspapers not only became vituperative organs of rival political parties but soldiers in the struggle for political power. The politicisation of the press on party lines contained the seed of the tribulation which the press was to experience in the years immediately after independence. (Ogunade, 1981:39)

Ogunade (1981:51) also identified three features of this era of political party press. These are: one, a decline in the aggressive watchdog role of the press; two, the tying of the fate of the political newspapers to the fortune of their individual parties; and three, an obsession, on the part of the newspapers, for defending party policies which limited the growth of their readership. He submitted that “at independence, Nigerian papers were a pugnacious political lot”.

Immediately after independence, and for the same reason of “making their views known to the public”, both the Federal and Regional Governments continued the practice of government ownership of newspapers started by the British colonial administration. In 1960, the Eastern

Regional Government converted its weekly *Nigerian Outlook* to a daily newspaper. (The *Nigerian Outlook* was originally founded as the *Eastern Outlook*. Its name was changed to *Nigerian Outlook* in 1955. - See Uche, 1987:99 and Coker, 1968: 66). The Federal Government also launched the *Morning Post* and the *Sunday Post* in 1961. The West Regional Government established the *Daily Sketch* in 1964 while the North Regional Government replaced its *Nigerian Citizen* with the *New Nigerian* in 1966. By the time of the first military coup d'etat in January 1966, only the Mid-West Regional Government, of all the governments in Nigeria, had no newspaper of its own. (Ogunade, 1981:51-52).

CHAPTER THREE

3.0 METHODOLOGY

This study examines Nigerian military governments' relationship with the press over a period of twenty three years, i.e. from January 15, 1966 to October 1, 1979 and from December 31, 1983 to August 26, 1993.

3.1 METHOD OF STUDY

The study, being both historical and legal in nature required the application of the conventional methods of historical and legal research. It therefore employed the historical-legal research method. While historical research is concerned with the critical exploration of the evolution and development of social forms or phenomena over time and of comparing developmental processes within or across cultures, using recorded (or recordable, if oral) historical documents and analyses, legal research involves the study of enforceable regulations and their interpretation and utilisation by enforcing institutions, and relies largely on primary and secondary sources of law. Primary sources of law are documents with actual legal effects - reports, statutes, regulations, treaties, etc. or their related bibliographic apparatus - digests, indexes, citators, etc. while secondary sources of law refer to the vast literature of unofficial, non-authoritative materials consisting of encyclopedias, treatises, periodicals and related publications treating legal topics or issues.

The great advantage of historical - legal research - a historical and critical study of the legal angles of problems as they relate to the existing social structure - is that the understanding of legal problems or issues is significantly enhanced by their historical background.

3.2 Procedure of Study

To accomplish its stated objectives and answer its research questions, the study analysed the political interaction between the various Nigerian military governments and the press out of which the special press laws gradually emerged. It reviewed reported and unreported cases brought against the press by the government and vice versa, delineated the permissible boundaries of press freedom in Nigeria during military rule and traced the evolution of the press laws as responses to the prevailing socio-political climate.

The study shows that its six research questions are inter-related. In answering question number one, the evolution of the various press laws enacted by the five military regimes covered by the study and the cases in which the courts construed them were examined. While the answer to question number one reflects the state of legal affairs concerning the study's theme, the answers to questions two to five are historical in nature. In answering these questions, the study primarily examined the genesis and evolution of the press laws and courts' decisions which define the boundaries of the freedom of the press within the study's time frame.

3.3 SOURCES OF DATA

Both primary and secondary historical and legal sources were used for the study. The primary sources consulted include military decrees and judicial decisions relating to the press,

legislations which were litigated upon in various cases, official documents and issues of newspapers and statements of principle on freedom of the press by military rulers and principal officers of state during military rule. These sources were used to trace the origin and judicial construction of the press laws in Nigeria during military rule and the public's reaction to them.

The secondary sources which were consulted include books and journal articles on Nigeria and on its press, particularly during military rule and published interviews with journalists and principal officers of state involved in some of the court cases or incidents concerning the press. Such sources were consulted for the purpose of directional guidance and interpretation.

Both primary and secondary sources were used finally to describe and interpret the government - press relationship during military rule in Nigeria.

3.4 ORGANISATION OF THE STUDY

The organisation of this study is chronological. Chapter 2 examines communication and socio-political concepts and theories that are relevant to the study's theme and provides requisite background information on the Nigerian press.

Chapter 3 expounds the method, procedure and structure of the study. It also explains the study's sources of data.

The body of the study is contained in chapter four. The chapter is divided into five segments with the first four segments devoted to providing answers to the study's four research questions.

The first segment (4.1) explores the socio-political climate under which the five military regimes operated.

The second segment (4.2) examines the laws (decrees and edicts) which the regimes made to define the limits of press freedom.

The third segment (4.3) inquires into the non-legislative measures which the military governments employed to control the press while the fourth segment (4.4) looks into how the press laws and the administrative measures of the military era were construed by the courts and military tribunals. The final segment (4.5) discusses the Nigerian press under military rule from the perspective of the study's research questions and findings.

Chapter five, the final chapter, is a summary of the relationship between the military governments and the press over a period of twenty-three years.

CHAPTER FOUR

4.0 DATA PRESENTATION AND ANALYSIS

In this chapter, we present and analyse historical, legal and, where relevant, quantitative data in an attempt to answer the research questions of the study. Altogether five research questions focus the study. We shall treat the research questions one after the other.

Research Question 1

4.1 What was the socio-political climate of the military era in Nigeria?

The circumstances of emergence and operation of the five military regimes (Aguiyi-Ironsi to Babangida) covered in the study vary from regime to regime. Let us start our historical survey from the Ironsi regime.

By January 15, 1966 when Majors Chukwuma Kaduna Nzeogwu, Emmanuel Ifeajuna and Adewale Ademoyega executed the first Nigerian military coup - d'etat, which overthrew the civilian government of the First Republic and paved the way for Ironsi's take-over of government, Nigeria was virtually on the brink of collapse. The achievement of political independence from Britain on October 1, 1960 had brought to the Nigerian people great hopes of economic prosperity, political advancement, national unity and better condition of general well-being. But instead of having these hopes fulfilled, the country, under the first post-independence civilian government, headed at the centre by Alhaji Abubakar Tafawa

Balewa, was left to drift. There was serious unemployment in the cities while massive corruption reigned among top political functionaries. Instead of the envisaged national unity, ethnic mistrust, which had prevailed in pre-independence politics, and tension increased tremendously between October 1960 and January 1966. (Ojo, 1985:1-29; Achike, 1980: 93-96). 1965, the year which ended a few days to the coup, was particularly gloomy for Nigerians. Ademoyega (1981:21) recounted the period this way:

Generally, people had been disillusioned and disaffected with the rulership of the Balewa/Akintola/Sardauna clique of the Nigerian National Alliance (NNA). Economic, social, educational and political problems were not solved. Corruption was rife and nepotism was the order of the day. The safety valves of the nation were reposed in such institutions as the courts, the Census Commission, the Electoral Commission, the Police and finally the Armed Forces. But the sanctity of these institutions was being politically assailed, assaulted and dragged in the mud, so that they were fast losing their credibility...

One of the most cited reasons for the January 15, 1966 military take over of power was the serious political crisis of the period and the attendant insecurity of lives and property it engendered. After the blatant rigging of the October 1965 Western Region elections by the Nigerian National Democratic Party (NNDP) and the subsequent fraudulent installation of that party as the Government of Western Region, political violence, which had been on for some time, escalated into organised arson and political murders. (Awo, 1985 :290 - 295; Ojo, 1985: 1-29). The political crisis was not limited to the West. While riots raged especially in the West and in Lagos, there were also serious troubles in the Benue Province of the North.

Gradually, life became more and more unsafe. Motorists were waylaid, killed and their vehicles set on fire. Political opponents were killed and their houses burnt... (Ademoyega, 1981:65-66)

By the time of the military intervention of January 1966, more than 2000 people were estimated to have been killed in the Western Region alone. (Post and Vickers, 1973:229-233)

Unlike the Ironsi regime whose emergence can be linked to a national emergency, the Yakubu Gowon regime was ushered in by a counter coup organised and carried out mainly by soldiers of Northern origin within the Nigerian Army on July 29, 1966 (Sklar A.R. L., 1977). The coup swept away General Ironsi, the then Head of State and Commander in-Chief of the Nigerian Armed Forces, and Lieutenant-Colonel Adekunle Fajuyi, the Military Governor of the West, who was hosting him at Ibadan at the time. It also swept away many officers and men from the East and Ibo - speaking parts of the Mid-West.

The Ironsi regime was never whole heartedly accepted by the Northerners while it lasted. From the circumstances of its emergence and some of its policies such as the lopsided promotions in the army (Ademoyega, 1981:112) its exclusive reliance on the advice of the army and civil servants without recourse to civilian politicians (Ojo, 1975:164-165), and its *Unification Decree* which further centralised the government of the Federation, the Northerners perceived the regime as routing for Igbo domination of Nigeria and organised to overthrow it. They not only succeeded in doing this, they also tended to avenge the death of Northerners killed on January 15, 1966 by attacking and killing many Southerners, particular Igbos living in the North, thus setting in motion the chain of events that culminated in the Nigerian Civil War.

(Ademoyega, 1981: 106-138). The Civil War lasted four years while the Gowon regime ruled Nigeria for nine years. It was immediately succeeded by the Mohammed - Obasanjo administration.

The Mohammed - Obasanjo administration came into being through a bloodless revolt staged on July 29, 1975 while General Yakubu Gowon, Nigeria's military ruler in the preceding nine years, was attending an Organisation of African Unity (OAU) summit meeting in Kampala Uganda.

Although the Gowon government had its positive achievements, such as the post Civil - War reconstruction of the war theatre and the rehabilitation of the war victims, by the time the regime was terminated in 1975, it had become "a degenerate military administration." (Agbaje, 1992:237). This was visible in many facets of the administration as well as in the poor socio-political state of the nation.

To start with, there was widespread corruption in the rank and file of the Gowon administration and General Gowon was either unwilling or incapable of acting positively to stop it. Open allegations of corruption against many of his top aides were not only left uninvestigated, he personally cleared, without appropriate investigation, the Benue -Plateau State Governor, Joseph Gomwalk, of such serious allegations in a public statement on September, 7, 1974. (Ojo, 1975:169; Agbaje, 1992: 236)

Moreover, the Gowon government was "continually one step behind events" and slow to public demands on several issues. These issues included public demands for a cabinet reshuffle and a change of governors. (Agbaje, 1992:236).

In addition to these, there were numerous labour unrests and inflation occasioned by large salary awards to public workers. There were also ceaseless students' demonstrations over deteriorated conditions on campuses and over national politics. The Gowon government also bungled the 1973 census which it organised and recanted on its 1974 promise of handing over power to elected civilians in 1976. (See *Daily Times*, Oct. 2, 1974, p. 17).

Justifying its overthrow of the Gowon regime with these lapses, the Mohammed - Obasanjo administration undertook a massive purge of perceivably corrupt, inefficient and senile officers from the public service and confiscated their corruptly acquired property. It also relinquished power to an elected civilian government on October 1, 1979. As part of the democratising process, a new constitution with some novel provisions on the freedom of the press was drafted and ratified. The first head of the regime, General Murtala Ramat Mohammed, did not live to witness the execution of many of these programmes as he was assassinated in an abortive coup d'etat on February 13, 1976, after only six and a half months in office.

The next military government after the Mohammed - Obasanjo regime was the Buhari junta. Christening itself "a corrective regime" and an "offshoot of the Mohammed -Obasanjo administration," it usurped political power on December 31, 1983.

The termination of the Second Republic by the junta was greeted with acclamation and jubilation by the Nigerian public. A number of factors were responsible for this reaction. Shagari's immediately preceding four-and-a-quarter-year rule witnessed unprecedented mismanagement of the Nigerian economy. Not only did foreign debt and unemployment

accumulate during the period, official corruption, marked by inflated contracts, also increased tremendously. Owing to the government's ineptitude, corruption and mismanagement, the entire Nigerian economy was, by December 1983, on the brink of collapse. The living standard of a great majority of Nigerians had also become deplorable. There was increasing repression of the freedom of speech and of other civil liberties. Social ills and violent crimes were in the ascendancy. The Nigerian people yearned for a change in leadership through the 1983 general elections but their hopes were dashed as the elections were massively rigged, mostly in favour of the ruling party, the National Party of Nigeria (Abibu, 1985:70 and Agbaje, 1992:263). The people therefore received the Buhari coup as a saving grace. In fact, there were suggestions that the December 1983 coup, executed by senior military officers, was:

a preemptive one, meant to stop another potentially bloody one being planned by junior officers ... (Agbaje, 1992:263)

The Buhari government, on seizing power, immediately embarked on extensive trials, through military tribunals, of the obviously corrupt ex-politicians and some career officers, recovering from them huge sums of money looted from the public treasury and sentencing them to heavy terms of imprisonment. The administration banned political activities and political debates indefinitely. It introduced a public ethical re-orientation programme called War Against Indiscipline (WAI) and enacted many draconian laws including the retroactive death-for-drug-pushing legislation under which three Nigerians were put to death.

The regime, which rode to power on the crest of popularity, soon became unpopular for its iron-fist rule. Because of this, it came in opposition with the Academic Staff Union of Universities

(ASUU), the National Association of Nigerian Students (NANS), the Nigerian Medical Association (NMA) and many other professional and mass organisations proscribing most of them and detaining their leaders. The junta lasted for only twenty months in power before it was overthrown in a palace coup by its Chief of Army Staff, General Ibrahim Badamosi Babangida on August 27, 1985. Babangida immediately established a new military government which ruled Nigeria until August 26, 1993.

The Babangida junta on ascending the 'throne' of political office threw open Buhari government's detention chambers and gave Nigerians the impression that it would specially respect their fundamental rights. It also impressed on Nigerians that it would uplift their socio-economic standard and transit the country into a just, equitable and durable democracy. But as the years went by, the regime became "one of the most lawless and worst perpetrators of injustice in Africa" (Adeoye, 1994: 28). It became characterised by insincerity and deceit, flouting of court orders, fiscal recklessness and embezzlement, massive suppression and persecution of unionists, academics, students and pro - democracy activists and ceaseless closures of universities and the news media. The government, which survived two coup - detats - the 1986 allegedly uncovered Vatsa - led coup plot and the 1990 executed but failed Major Gideon Orkar-led coup - introduced a harsh Structural Adjustment Programme (SAP) which led to massive suffering, nation - wide industrial strikes and large scale revolts. The regime, which had a penchant for saying one thing and doing another, seriously attempted to perpetuate itself in power by perennially derailing its own transition - to - civil - rule - programme.

It continuously 'qualified' and disqualified candidates for elective political offices. Its first self-appointed deadline for returning political power to elected civilians was October 1, 1990. This was shifted to October 1, 1992, then to January 2, 1993 and then to August 26, 1993 when it was forced out of power by the irrepressible will of Nigerians and with universal condemnation.

By annulling, on June 23, 1993, Nigeria's globally acclaimed freest, fairest and most peaceful presidential election held on June 12 of the same year, which was evidently won by the now deceased Southern-born Chief M.K.O. Abiola, the Babangida junta threw the country into one of the most intense and most intractable political crises in its history. Anxious to contain the rape on democracy, the regime, which had earlier multiplied security outfits with the establishment of an additional National Guard, resorted to ferocious repression of the news media. As the government (during whose tenure, one of Nigeria's finest journalists and a critic of the administration, Dele Giwa, *Newswatch's* founding Editor-in-Chief, was unprecedentedly letter-bombed out of existence, in circumstances linking the government with the killing) tottered out of power, it foisted on the nation, a hand-picked, illegal and lame-duck contraption it called an Interim National Government (ING). A former Nigerian military head of state, retired General Olusegun Obasanjo, in an interview with the *TELL* magazine in 1992 described the Babangida government as: "deficit in honesty, deficit in honour, [and] deficit in truth."

From the foregoing, it can be seen that the circumstances of emergence and operations of the five regimes vary. In spite of this variation, each of the regimes regulated the press with some laws (decrees and edicts). These laws are addressed under the second research question

Research Question 2

4.2 What laws (decrees and edicts) were made to define the limits of press freedom during military rule in Nigeria?

It has been noted that control of the press is often one of the top priorities of military revolutionaries after taking over a civilian government (Youm and Ogbondah, 1990-91:83). This observation aptly captures the essence of the relationships between military governments and the press in the area of press freedom in Nigeria.

Ekwelie (1978:206) and Ogunade (1981:57) found out in their studies of the origin of press control in Ghana and government - press relationship in Nigeria (1900-1966) respectively that:

each regulatory press ordinance was promulgated in direct response to the socio-political climate.

Although the two studies were conducted in the context of colonial and civilian governments, Nigeria's experience during military rule was not much different. In spite of the fact that the removal, during military era, of the Nigerian press from the protective umbrella of democratic constitutional law and its subjection to harsh military press decrees and edicts was largely dictated by the authoritarian nature of military governments, many of the military press laws were in direct response to the socio-political climate.

The five Nigerian military regimes from 1966 to 1993 enacted many laws which directly regulated press operations and many laws of general applicability which had indirect bearing on the press. It is important that we look into both the direct and indirect laws to be able to

fully appreciate the impact of the legal control which the regimes exercised on the press. It is equally important that we present the different background and context of the various laws for better understanding. For ease of analysis, we shall present the laws and their context regime by regime starting with the Ironsi government.

The Aguiyi Ironsi regime inherited a national press that had, during the First Republic, been heavily victimised by opposing regional political party governments, opposing politicians and opposing political thugs. This victimisation was occasioned largely by the pattern of press ownership and by the dependence of the press on the political machinery during the period. Like the self-government era (1951 - 60), the First Republic (1960 - 66) was also a regional-party government and a regional-press era. But for the *Daily Times* and its sister weekly, the *Sunday Times*, which were owned by the Mirror Group of London, all the major Nigerian newspapers of the time were owned and or controlled by party loyalists and had strong political affiliation. Moreover, all the regional governments, except that of the Mid - Western Region which was created in 1963, had newspapers of their own. The North Regional Government owned and controlled the *Nigerian Citizen* and the Hausa Language newspaper, *Gaskiya Ta Fi Kwabo*, the West Regional Government owned the *Daily Sketch* while the East Regional Government owned the *Nigerian Outlook*.

Because of this nature of ownership and political affiliation, the Nigerian press of the First Republic:

substantially depended for its existence, as an industry and as far as individual members of the profession were concerned, upon the forces controlling the regional governments, which in turn, employed the medium for its own purposes. (Bretton, 1962:99).

As for the purposes to which the regional political party governments put the Nigerian press, Ogunade (1981:209-210) noted that:

Through their papers, either government or party owned, the three major political parties not only indulged in self-praise but conducted political warfare against rival political parties and their leaders.

Thus, rather than the forthright Fourth Estate which they were supposed to be, Nigerian newspapers of the First Republic were:

thinly disguised party mouthpieces whose persistent mudslinging contributed to the slide towards national disintegration and ethnic intolerance. (Ogunade, 1981:209).

The use of the press in this manner, Ogunade (1981:210) contended:

contributed to political tension in the country ... and opened the way for attacks on the freedom of the press.

The attacks came in both legal and extra-legal forms. Let us examine the legal form first.

Although both the Federal and the three Regional governments inherited sufficient statutory provisions for the control of the press at independence, the four governments strengthened and updated the press laws, the instruments of legal coercion at their disposal, in order to be able to deal with the increasingly critical press and particularly with the outspoken opposition papers and critics. For example, the Federal Government in 1961 enacted, with slight

modifications, the *Criminal Code*'s provisions on defamation as the *Defamation Act*. The following year, it enacted a tough *Official Secrets Act* and in 1964, a more restrictive *Newspapers Amendment Act*. In 1962, the East Regional Government enacted a *Defamation Law* which contained essentially the *Criminal Code*'s provisions on defamation. The same year, the North Regional Government enacted a *Newspaper Law*, which like the 1955 *Eastern Nigeria Newspaper Law*, required newspapers printed outside the region to establish, register and maintain offices in the region.

While the strengthened legal provisions, particularly the *Official Secrets Act*, were used as instruments to harass and intimidate opposition papers, some of the *Emergency Regulations* which came into force as a result of the AG intra party crisis also enabled the Federal Government to cripple the opposition papers and place two leading Action Group opposition journalists, Olabisi Onabanjo and Lateef Jakande, under restriction. In addition to all these, at the height of the AG crisis, the Onitsha Urban County Council and some other local government councils in the Western Region passed by-laws banning opposition newspapers from circulating in their areas of jurisdiction on the accusation either of failure to report the violence or of alleged misleading reporting of it.

Apart from the legal attacks on the freedom of the press, the First Republic press also suffered serious extra - legal attacks, particularly in the heat of the Western Region (AG) crisis.

It has been noted that because of its nature of ownership and affiliation, the First Republic press was naturally involved in the vortex of partisan politics. As the struggle for power among

opposing politicians and political parties assumed a bitter and violent dimension, widespread violence was visited on the press. Coker (1968:111), a veteran journalist and pioneer historian of the Nigerian press, aptly captured the violence against the press this way:

The physical experience of the press at the hands of the politicians has been harrowing ... Newspaper vans have been set on fire or otherwise destroyed by those who disagree with their policy. Sales offices have been invaded by political thugs who in many cases have made bonfires of thousands of captured newspapers. News vendors have been killed or seriously wounded for hawking particular papers. Newspaper executives, including top editors, have had to seek twenty-four hour police protection from the wrath of party stalwarts ... In every case, the outbreaks of looting, arson and murder against the press have been organised and financed by politicians.

It was in this state of anomie that the Ironsi regime emerged.

The Ironsi government came in with a promise not to censor the press. (See *New Nigerian*, Jan. 20, 1966) In addition to the statutory provisions on the press which it inherited, the regime promulgated two decrees that had direct bearing on both the operations and freedom of the press. These are: *Circulation of Newspapers Decree (NO. 2) 1966* and *Defamatory and Offensive Publications Decree (No. 44) 1966*.

Given the uncondusive atmosphere under which the Ironsi regime met the Nigerian press, one of its first steps was to seek to create a more conducive environment for the press. The second decree to be enacted by the administration was, therefore, the *Circulation of Newspapers Decree, 1966*. The Dècree came into force on January 17 1966, the third day

in the life of the regime, and lifted the bans earlier placed on the circulation of some newspapers in the Eastern and Western Regions during the erstwhile civilian era. Prescribing a maximum penalty of five hundred pounds or a maximum of three years imprisonment or both fine and imprisonment for offenders, it made it an offence for anyone to restrict the distribution or general sale of any newspaper in any part of the Federation.

The *Defamatory and Offensive Publications Decree, 1966* was Ironsi government's second press decree. This Decree, like the sedition law, criminalized defamation by elevating it from tort to crime. Enacted June 15, 1966 and retroactively made effective from June 1, the Decree made it an offence for any person to form, publish or display or offer to the public, the pictorial representation of any person, living or dead, in a manner likely to provoke any section of the community. It also made it a crime to publish or circulate publications either in the form of newspapers or leaflets, periodicals, pamphlets or posters, if such publications are likely to provoke or bring into disaffection any section of the community or to sing song, play any instrument or recording or sounds, or sell, lend or let on hire any record of sounds, the words of which are likely to provoke any section of the community.

Any suspected felon in this regard may be arrested without warrant by any policeman in uniform. Penalty for the breach of this Decree was three months' imprisonment or a fine of fifty pounds or both fine and imprisonment and forfeiture of the offending material to the court.

The only defence available under this Decree was that the person charged with the offence could prove that he was unaware of the possibility of the publication being defamatory and that

he withdrew the offensive material from circulation once he became aware of its defamatory nature.

The reaction of the "Northern Group of Provinces" (formerly the Northern Region) to the coup d'etat of Jan. 15, 1966 which, incidentally, brought the Ironsi regime to power, led to the promulgation of this Decree. The coup was staged by a group of young army officers mostly of Igbo origin from the Mid-West and the Eastern Regions. Moreover, majority of the victims of the coup, from among both politicians and soldiers, were Northerners. Many Northerners and many of the prominent Northern media therefore regarded the coup as an Igbo coup and started reacting negatively to it. Adefaye (1988 : 53) analysed their reaction this way:

The coup had been labelled an Igbo coup in the North and the casualties (except in the South) had been lionised and suddenly resurrected as heroes and matrys... This was to be a prelude to latter day pogrom of Igbos. Meanwhile, these slain Northern leaders had their portraits sold publicly, while there were reported cases of meetings and incitements. *Radio Kaduna, New Nigerian* and *Drum* were no less involved in the incitement to hatred.

Apart from the two decrees (already discussed) which have direct bearing on the press, two other decrees enacted by the Ironsi regime also indirectly impacted on the press. These are: (i) *Constitution (Suspension and Modification) Decree (No 1) of 1966* and (ii) *State Security (Detention of Persons) Decree (No 3) of 1966*.

The *Constitution (Suspension and Modification) Decree, 1966* suspended certain sections of the *1963 Republican Constitution* and empowered the Federal Military Government

(FMG) to make laws for the governance of the federation. Section 6 of the Decree prohibited the courts from entertaining any legal action(s) questioning the validity of any law(s) made by the military junta thereafter.

The *State Security Decree* empowers the FMG to detain, without trial, persons, including journalists, in the interest of national security. The constituents of a breach of national security were not defined in the law.

The Ironsi regime detained Mr. Stephen Iweanya, editor of *West African Pilot* and Mr. Akinola Lashekan, Acting Head of the Department of Fine Arts of the University of Nigeria Nsukka, who was a well-known cartoonist for the *West African Pilot*, for one month under the Decree. The *Pilot* had published in its Friday June 3rd, 1966 edition a cartoon, put together by Lashekan, which the regime considered offensive. The cartoon, captioned "The dawn of a new day" depicted the military government as a big cock crowing "one country, one nationalism" - an apparent reference to the government's *Unification Decree* of May 24, 1966 which made Nigeria a unitary state instead of a federation of four autonomous regions. The government also frowned at the use of the cock symbol in the cartoon. After detaining the editor and the cartoonist, the government issued an official statement to the effect that it was a breach of the *State Security Decree* to:

display or advertise signs, symbols, slogans or flags of any of the dissolved political parties or tribal unions. (See *New Nigerian*, June 6 and 7 1966; *Daily Sketch* June 4, 1966; *Sunday Post* June 5, 1966).

The cock was the national symbol of the dissolved National Council of Nigerian Citizens (NCNC) which was the ruling party in the former Eastern and Mid-Western Regions.

For one month between June and July 1966, the Ironsi regime also detained under the *State Security Decree*, Alhaji Ahmadu Fatika, the Sakin Zazzau, and Minister of Information in the Northern Region during the civilian era, and nine others including Alhaji Ismaila Ahmed, the Dalatun Zazzau and the editor of *Gaskiya Ta Fi Kwabo*, the Hausa Language Northern Region Government owned newspaper, over articles appearing in the paper on issues of the day (Agbaje, 1992:70; *West Africa* (London) July 9, 1966, p. 784)

The Gowon regime also assumed office with a promise not to "strangle the press." (*Daily Times*, Aug. 5, 1966) On taking over the reins of government, the regime allowed all the press laws of the Ironsi era to continue in operation. In addition to these laws, three other direct press legislations were introduced in the life of the administration. These are: *Morning Post and Sunday Post (Prohibition) Edict 1967*, *Newspaper (Prohibition) of Circulation Decree (Decree No 17) of 1967* and *Sunday Star and Imole Owuro (Prohibition) Edict No 17 1968*.

On Monday May 8, 1967, the Military Governor of Western Region, Col. Robert Adeyinka Adebayo, enacted an edict - the *Morning Post and Sunday Post (Prohibition) Edict* outlawing the sale, distribution and possession in Western Nigeria of the *Morning Post* and the *Sunday Post*, two Federal Military Government owned newspapers. In taking this action, the military governor stated that:

these newspapers had in recent times published editorials and other comments which were not only insulting to the government of the [Western] Region, but were also grossly partisan and misleading. (*Daily Times, May 9, 1967*).

He said in this way, the papers made nonsense of his position as a member of the Supreme Military Council which in fact owned them. The edict provided that any person who failed to comply with the provisions of the prohibition law:

shall be ... liable on conviction, in the case of an individual, to imprisonment for not less than two years or to a fine of not less than \$100 or to both such imprisonment and fine, and in any other case to a fine of not less than \$500.

The ban was however lifted after two months. (Uche, 1989:125).

The second direct press legislation of the Gowon era was the *Newspaper (Prohibition of Circulation) Decree (No 17) 1967*. This Decree, made by the Federal Military Government, banned the circulation in Nigeria of newspapers that may be regarded as detrimental to the interest of the country. The most essential section of the law (section 1(1)) provided that:

Where the 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 the Federation or of any State thereof, he may by order published in the Gazette prohibit the circulation in the Federation or in any State thereof as the case may require of any newspaper ...

Failure to comply with subsection 1 above attracted, in the case of an individual, a fine of between fifty and one hundred pounds or imprisonment of between six and twelve months for a first offender. Any subsequent infraction attracted double the prescribed sanction for the first

offence. In the case of any other person, (like a company which is a legal entity), the decree attracted a fine of between five hundred and one thousand pounds for a first offence, and a maximum for a second or any subsequent offence.

The *Newspaper (Prohibition of Circulation) Decree* seems to have been targeted against the circulation of *Biafra Sun* and against negative international media and opinion that could promote Biafra's secessionist bid. (Balogun, 1973:9; Uche, 1989:125). By 30th May 1967 when the decree commenced, the coup and counter coup of 1966 and the pogrom against Easterners had culminated in Lt. Col. Odumegwu Ojukwu declaring an independent State of Biafra. The Biafran Government had also acquired the former *Nigerian Outlook* based in Enugu and changed its name to *Biafra Sun* to further the secessionist efforts. The *Newspaper (Prohibition of Circulation) Decree* therefore seemed to be the Federal Military Government's way of dealing with the situation. Thus, throughout the duration of the Gowon regime, the decree was not invoked against any other newspaper apart from *Biafra Sun*.

The *Sunday Star and Imole Owuro (Prohibition) Edict (No 17 1968)* was the third direct press law of the Gowon regime. The Western State Military Governor, Brigadier Adeyinka Adebayo, on September 9, 1968 proscribed, with the edict, two Ibadan based newspapers, the *Sunday Star* and *Imole Owuro* and declared their printers and publishers, the People's Star Press, an unlawful society. (See *The Printers and Publishers of the Sunday Star and the Imole Owuro (Declaration As Unlawful Society) Edict (No 19)*

1968. In the banning order, the government accused the papers of "dangerous writing." The proscription order was lifted in November following what the military government called assurances that "undesirable activities of individuals with selfish and political ambitions would no longer be allowed to threaten the peace" (Agbaje, 1992:73). The publishers of the two papers however challenged the two edicts in court with the court declaring them illegal. (See details of the case in the case law segment).

Further to the three direct press legislations (one decree and two edicts) promulgated during the Gowon era, three other decrees which indirectly regulated the press were also enacted. These are: *Decree No 24 of 1967: Armed Forces and Police (Special Powers) Decree*, *Decree No 53 of 1969: Trade Dispute Decree* and *Decree No. 20 of 1970: the Federal Military Government (Supremacy and Enforcement of Powers) Decree*.

The *Armed Forces and Police (Special Powers) Decree 1967* was the first to be promulgated. Pursuant to the State of Emergency declared by Lt. Col. Gowon on May 27, 1967 in which he banned, among others, political statements in the press and empowered the military and the police to deal summarily with offenders, the Gowon regime enacted, on 21st June, 1967, the *Armed Forces and Police (Special Powers) Decree* which empowered the junta to detain anyone, including journalists, in the interest of state security.

Section 3(1) of the Decree states that:

If the Inspector - General of Police, or as the case may be, the Chief of Staff of the Armed Forces, is satisfied that any person is or recently has been concerned in acts prejudicial to public order, or [is] in the preparation or instigation of such acts, and by reason thereof it is necessary to exercise control over him, he may by order in writing direct that that person be detained in a civil prison or a police station; and it shall be the duty of the superintendent or other person in charge of any civil prison, or the police officer in charge of any police station, as the case may be, if an order made in respect of any person under this section is delivered to him, to keep that person in custody until the order is revoked.

The Decree not only permitted arrest without warrant by a police officer of or above the rank of an inspector, or a sergeant in the armed forces, of any person suspected to have committed an offence, search on a suspect's property could also be conducted by any of these officials. Although it was probably targeted at arms control and at "acts prejudicial to public order," the decree was used to incarcerate over 35 journalists, writers and public speakers for various durations ranging from several hours to several years without trial on account of their 'offending' publications. These included Lateef Jakande, the then Editor-in-Chief of *Nigerian Tribune*, who was released from the incarceration in respect of his conviction in the controversial treasonable felony trials. The others were: Mike Omoleye, *Sketch* News Editor; Ayo Ayedun, *Daily Sketch* Editor; Olayide Adeleye, *Sunday Sketch* Editor; Babatunde Jose, Managing Director of *Daily Times*; Laban Namme, Deputy Managing Editor of *Daily Times*; Segun Osoba, Editor of *Lagos Weekend*; Kanayo Esinuola, West African Representative of *Africa Report*; Tunde Odole, a journalist on the staff of *Daily Sketch*; Stephen Okorie, Chief

Correspondent of *New Nigerian* in East Central State; George Onigbogi, the Lagos City Editor of *Daily Sketch*; Chinaka Fyncountry of the *New Nigerian*; Aderinokun of the *Express* newspaper; Ebenezer Babatope, the Editor in Chief of the *Lagoon Echo*, a University of Lagos campus socialist broadsheet and Dr. Tai Solarin, the renowned educationist and social critic.

Also included were Christ Okolie, publisher of *Newbreed* magazine; Henry Onyedike, Editor of the East Central State newspaper, the *Sunday Renaissance*; Agwu Okpanku, a *Renaissance* journalist; Ikhan Yakubu, *Tribune* Editor; Tunji Oseni, *Sketch* Deputy Editor; Victor Izekor, *Daily Times* reporter in Maiduguri; Jibade Thomas, *Express* Editor; Emmanuel Olofin, *Daily Sketch* Acting Editor; Chief Theo Ola, *Daily Times* News Editor; one Ajibade, the Acting Editor of *Irohin Yoruba*; Nosiru Buraimoh, a *Daily Times* photographer; Olusoga Nuga, a *New Nigerian* photographer; Niyi Oniororo, an author; Air Iyare of Benni; Aper Aku; Dr. Olugbolaga Akintunde, a Central Bank economist, critic of government's economic policies and member of an organisation called the Anti-Poverty Movement known for publishing the 'truth' in the organisation's journal titled *The People's Cause* (Babatope, *Daily Sketch* September 24, 1975); Charles Akinde, Tony Ngurube and Eddy Madunagu - all members of the Anti-Poverty Movement.

The summary detention of the journalists, critical writers and speakers under Decree No. 28 of 1970 usually followed a similar pattern. Jakande was, for instance, detained in March, 1969 for about two months for publishing an editorial in the *Tribune* of March 19, 1969, which called for an end to military rule in the middle of the Civil War. (Youm and Ogbondah,

1990 - 91: 92; Agbaje, 1992:231). Ayedun was held for several hours by military authorities in Lagos following the publication, in his newspaper, of the report of the Agbekoya riots involving peasant farmers protesting the payment of taxes (Agbaje, 1992:252). Babatunde Jose, as well as other *Daily Times* top journalists, was detained for three hours on November 12, 1969 on account of *Daily Times* crusade against corruption in the Gowon government (Jose, 1987:210-216) Ebenezer Babatope and Tai Solarin were detained for criticising the decision of the Gowon government to stay in power beyond 1976 contrary to general expectation and the firm promises General Gowon himself had given. Air Iyare and Aper Aku were detained for publicly alleging official corruption against the Ogbemudia administration in the Mid-Western State and against Governor Gomwalk of Benue-Plateau State respectively. All the other cases also followed the same pattern.

The second general decree that indirectly regulated the press during the Gowon regime was *Decree No 53 of 1969: Trade Dispute Decree*. This Decree chiefly purports to ban industrial strikes by workers, which became very rampant in the last months of 1969. Enacted on December 13, 1969, it criminalised the publication, by the press, of news of threats of industrial strikes and what it called the "dramatisation" of trade disputes. As stated in section 1(1)(e) of the Decree, it shall be an offence:

for any person to publish in a newspaper, on television or radio or by any other means of mass communication, any matter which, by reason of dramatisation or other defects in the manner of its presentation, is likely to cause public alarm or industrial unrest.

The penalty for transgressing this Decree is five years imprisonment.

The Gowon government also enacted *Decree No. 20 of 1970: the Federal Military Government (Supremacy and Enforcement of Powers) Decree* on May 9, 1970. The Decree emphasised, for the avoidance of doubt, that the military government's decrees and, in appropriate cases, edicts were supreme over modified or unsuspending provisions of the *1963 Republican Constitution*. It stated in part that:

1. Whereas the military revolution which took place on Jan. 15, 1966, and which was followed by another one on July 29, 1966, effectively abrogated the whole pre-existing legal order in Nigeria except what has been preserved under the *Constitution (Suspension and Modification) Decree 1966 (No. 1)* ...
2. It is hereby declared... that:
 - (a) for the efficacy of the government of the Federation and
 - (b) with a view to assuring the effective maintenance of the territorial integrity of Nigeria and the peace, order and good government of the Federation, any decision, whether made before or after the commencement of this Decree by any court of law in the exercise or purported exercise of any powers under the Constitution or any enactment or law of the Federation or of any state which has purported to declare the invalidity of any Decree or of any Edict (in so far as the provisions of the Edict are not inconsistent with the provisions of a Decree) or the incompetence of any of the governments in the Federation to make the same is or shall be null and void and of no effect whatsoever as from the date of the making thereof.
3. In this Decree:
 - (a) "decision" includes judgement, decree or order of any court of law...

After releasing the Decree to the public, the Gowon government issued a statement to the effect that the judiciary which was allowed to operate after the military take-over of government:

owes its present existence to the military regime which has always had the power to abolish, if it had so wished, the whole of the Constitution by decree (*Africa Research Bulletin*, Vol. 7 No 5 (1970) p. 1768. Cf Agbaje, A.A.B., 1992:76).

Prior to the promulgation of the Decree, some Nigerians affected by some of the laws and the administrative measures of the Gowon government had questioned the ouster clause contained in Section 6 of the government's *Decree No. 1 of 1966* in court, with the court invalidating the ouster clause. In 1968 for instance, the Supreme Court ruled in *Adamolekun v. The Council of the University of Ibadan* that:

For this proposition... of S. 6 of *Decree No. 1 of 1966* which states that "no question as to the validity of this or any other Decree or of any Edict shall be entertained by any court of law in Nigeria, "We feel unable to accept this submission... This, in our view, will not be giving effect to S. 3 (4) of *Decree No. 1 of 1966* and it becomes a dead letter.

Also in *Lakanmi and Anor. v The Attorney-General of the West and Ors.*, the Supreme Court in April 1970 declared a state edict and a federal decree as ultra vires, null and void.

The court also proclaimed that since the military government that came into power in Jan. 1966 was not a revolutionary government but a constitutional and interim government pledged to uphold the Constitution as much as possible, the Republican Constitution remained the Supreme law of the Federation and all other laws had to be subject to that Constitution except as demanded by extenuating circumstances of military rule. (Agbaje A.A.B.; 1992:75)

The Mohammed-Obasanjo administration on coming to power threw open the prison gates and released all journalists and critics detained under the immediately preceding Gowon regime. The administration also professed a belief in press freedom. Addressing a meeting of Nigerian news-media editors in Lagos on September 11, 1975, the regime's official spokesperson, Brigadier Ibrahim B.M. Haruna, Federal Commissioner for Information, said:

I assure you that this government believes in press freedom and will endeavour to facilitate your tasks, and actions which it takes should only be seen to be in the interest of the general public or national security and would not detract from the freedom of expression. (*New Nigerian*. Sept. 22, 1975).

The Mohammed-Obasanjo regime allowed all the statutory provisions controlling the press prior to its emergence to continue in operation. These included the subsisting press laws of the First Republic, those enacted by the Aguiyi-Ironsi regime and those promulgated by the Gowon government.

Further to these press legislations, the administration promulgated four major direct press laws of consequence to the Nigerian print news media. These are: *Public Officers (Protection Against False Accusation) Decree (No 11) 1976*, *Newspaper (Prohibition of Circulation) (Validation) Decree (No 12) 1978*, *Nigerian Press Council Decree (No 31) 1978* and *Daily Times of Nigeria (Transfer of Certain Shares) Decree (No 101) 1979*. Let us examine the context of these laws.

The *Public Officers (Protection Against False Accusation) Decree 1976*, popularly referred to as the 'Ohonbamu Decree,' was enacted by the Mohammed-Obasanjo administration on March 11, 1976 with retroactive effect from July 29, 1975, the day the

regime usurped political power. The Decree criminalised publications which falsely accused public officers of improprieties. Section 1 (1) of the Decree stated that:

Any person who publishes or reproduces in any form, whether written or otherwise, any statement, rumour or report alleging or intended to be understood as alleging that a public officer has, in any manner, been engaged in corrupt practices or has, in any manner, corruptly enriched himself or any other person, being a statement, rumour or report which is false in any material particular, shall be guilty of an offence under this Decree and liable on conviction to be sentenced to imprisonment for a term not exceeding two years, without the option of a fine.

Section 1 (2) of the Decree further provided that:

In any prosecution for an offence under this decree, the burden of proving that the statement, rumour or report which is the subject - matter of the charge is true in every material particular shall, notwithstanding anything to the contrary in any enactment or rule of law, lie on the person charged.

A public officer is defined in the Decree as:

Any member of the Supreme Military Council, the National Council of State or the Federal Executive Council, the Military Governor of a State, any Commissioner in the Government of the Federation or of a State, any member of the Nigerian Army, the Nigerian Navy, the Nigerian Air Force or the Nigeria Police;

Any person who holds office in -

- (i) the public service of the Federation or a State within the meaning of the constitution of the Federation or of a State,
- (ii) the service of a body whether corporate or unincorporate established under a Federal or State law; or
- (iii) a company in which any of the governments in the Federation has controlling interest.

The immediate motivation for this Decree appeared to be the publication of an article by a University of Lagos senior Law lecturer and editor/publisher of the *African Spark* magazine, Dr. Obarogie Ohonbamu, in the October 1975 edition of his magazine. The article, an editorial captioned "How Total Is Our Revolution?" criticised Brigadier (later General) Mohammed's crusade against corruption and insinuated that even the then Head of State had corruptly enriched himself as a war commander during the Nigerian Civil War.

Following this publication, Ohonbamu was charged with sedition at a Lagos Chief Magistrate Court on November 7, 1975. But while the sedition case was on, the *Public Officers (Protection Against False Accusation) Decree* was promulgated. The Magistrate Court sedition trial of Ohonbamu was subsequently stopped and he was prosecuted at a Lagos High Court under the new Decree. (The details of the Ohonbamu trials are given in the case law segment below).

The second direct press legislation of the Mohammed-Obasanjo regime was the *Newspaper (Prohibition of Circulation) (Validation) Decree, 1978*. Dated June 14, 1978 and made effective from the same date, the Decree validated an earlier law, the *Prohibition of Circulation ("Newbreed") Order, 1978*, under which the Obasanjo government had banned, for a period of two years, the circulation in Nigeria or any part thereof of the newspaper known as *Newbreed* and published by the Newbreed Organisation Limited. The earlier order was also dated June 14, 1978 and made effective from that date.

Essentially the *Newspaper (Prohibition of Circulation) (Validation) Decree* provided that:

1. Notwithstanding the provisions of any other enactment or law, the prohibition of circulation in Nigeria by the appropriate authority of the mid-January 1977 and Mid - March 1977 issues of ... "Newbreed" ... shall be deemed to have been validly done, and accordingly, all the copies of the said publications caused to be impounded by the appropriate authority are hereby forfeited to the Federal Military Government and shall be disposed of in such manner as the appropriate authority may direct.

Section 2 of the Decree invalidated all redress -seeking legal actions taken or intended to be taken by anyone who felt or might feel aggrieved by the proscription of the magazine. It indemnified all public officers who have dealt or might deal with the magazine in the execution of the proscription order. Section 3 of the Decree ousted the jurisdiction of the court and, for the purpose of the Decree, suspended Chapter III (sections 31 and 32), the fundamental human rights provisions, of the *1963 Nigerian Constitution*.

Explaining the *Newbreed* ban, the then Chief of Staff, Supreme Headquarters, Brigadier Shehu Musa Yar' Adua, gave two reasons: one, the confiscated editions of the prohibited magazine carried an article entitled "The Drift Continues" and two, the magazine did a critical appraisal of the Nigerian Security Organisation (NSO). The military government, he said, felt seriously "tasty" about these articles. The article on the NSO, according to him, had to do with the security of the nation hence:

it won't be in the interest of this government to allow such information to get into (sic.) the public. (*Nigerian Tribune*, July 7, 1978)

The *Nigerian Press Council Decree, 1978* was the third direct press legislation of the Mohammed-Obasanjo era. Professing a deep interest in promoting high professional standards in the Nigerian press, the Mohammed-Obasanjo administration, on November 13, 1978, enacted the *Nigerian Press Council Decree* which established the Nigerian Press Council.

The Council was charged with the following duties:

- (a) fostering the achievement and maintenance of the highest professional and commercial standard by the Nigerian Press;
- (b) reviewing developments likely to restrict the supply through the Press of information of public interest and importance and advising on measures necessary to prevent or remedy such developments;
- (c) preparing and enforcing a code of conduct for the guidance of the Press and journalists in the performance of their duties; and
- (d) inquiring into complaints about the conduct of the Press and exercising in respect of the complaints powers conferred under this Decree.

The Council was also empowered to register journalists and punish erring ones and to approve courses of training and qualifications for journalists.

As spelt out in the Decree, only three of the fourteen members scheduled to compose the Council were to be journalists while the remaining eleven, mainly government appointees, would come from other professions.

The composition of the Council was strongly criticised by the Nigerian Press Organisation (NPO), an umbrella association of journalists, editors and media proprietors. The NPO thereupon issued an eight-point code of conduct for its members and resolved not to participate in the establishment of the Council. This stalled the effective take-off of the Press Council.

The fourth and the last direct press law of the Mohammed-Obasanjo regime was the *Daily Times of Nigeria (Transfer of Certain Shares) Decree, 1979*. About the last week of August 1975 and barely a month after assuming power, the Mohammed-Obasanjo administration acquired, by fiat, 60 percent of the equity shares of the *Daily Times*, then one of the most powerful newspapers in the country, coverage and circulation wise, from the private shareholders. It also took over the complete ownership of the *New Nigerian*, the dominant newspaper in the Northern States from its Northern States Governments' owners. In order to regularise the *Daily Times* majority share acquisition (done through the Federal Government owned National Insurance Corporation of Nigeria (NICON) which before the government acquisition had owned 14.9 percent of *Daily Times* shares) and to forestall any successful legal challenge of the take over in the pending civilian era, the government on September 28, 1979, four years after the acquisition and three days to relinquishing power to elected civilians, enacted the *Daily Times of Nigeria Ltd., (Transfer of Certain Shares) Decree, 1979*. The Decree stated that:

Notwithstanding the provisions of the *Companies Decree, 1968* or any other enactment, all the shares of whatever description and however held by certain persons in the Daily Times Ltd. acquired on or about 1st September 1975 and in respect of which payment has been made by the National Insurance Corporation of Nigeria shall be deemed to have been validly acquired by the Corporation and shall as from the afore-mentioned date vest in the Corporation without further assurance than this Decree.

It prescribed a year jail punishment without an option of fine for anyone who refused to abide by the take-over and, in section 4 (2), suspended the fundamental human and property rights of the citizen and ousted the jurisdiction of the court.

Although none of the general laws (decrees and edicts) enacted during the Mohammed-Obasanjo administration negatively impinged on the press, the regime, after General Mohammed's assassination, invoked the *Armed Forces and Police (Special Powers) Decree 1967*, which it inherited, to detain many journalists without trial on account of their 'offending' publications. These include Magnus Akpan, a reporter with the Calabar based *Nigerian Chronicle* who was arrested and detained on 5th March 1976; Chief Chris Okolie, publisher of *Newbreed* detained in February 1977; Bisi Oloyede, Acting Lagos Editor of *Daily Sketch* detained on March 14, 1977; Sunday Johnson Alaniyo, a photo - journalist with *The Star* detained on May 1, 1977; Femi Adeyemi, a playwright with the N.T.A. Ibadan detained on Dec. 7, 1977 for one week and Luke Iyima, a reporter with the *Nigerian Standard* published in Jos who was given full 'Amakiri treatment,' that is shaved and beaten in addition to being detained.

Others include Peter Apesin, Editor of *Nigerian Tribune* who was detained for nine days at Police Headquarters, Lagos in January 1978 in respect of a publication on promotions in the Nigerian Army. (See *Nigerian Tribune*, Jan. 3-11, 1978); Bunmi Iyeru, then Acting Editor of *Daily Sketch* detained with Peter Apesin regarding the army promotion story; Aliyu Biu of the *New Nigerian* held on June, 1, 1978; Tony Amadi, the Deputy Editor of *Newbreed* detained at the Murtala Mohammed Airport in June 1978 and caused to miss his flight; John Darnton, *New York Times* West African Correspondent detained and later expelled from the country (Youm and Ogbondah, 1990 - 91:92); Chief Tony Enahoro (see Falana, 1990:7) and Thompson Oyatu, *Sketch* reporter detained on Feb. 23, 1979 for his story titled: "Constable denies ever being married"

Unlike the three preceding military governments which came professing a belief in press freedom, the Buhari regime made no pretences about respecting the freedom of the press. In one of his earliest interviews as Head of State, General Muhammadu Buhari declared in no uncertain terms that he would "tamper" with the traditional freedom of the Nigerian press notwithstanding the press freedom guarantees in the *1979 Nigerian Constitution*. (*National Concord*, Feb. 16, 1984). This tampering with press freedom was expressed in a number of restrictive legislations bearing directly and indirectly on the press. The regime enacted one major direct press legislation, namely *Public Officers (Protection Against False Accusation) Decree (No 4) 1984* and three general laws with indirect bearing on the press. Let us look at the context of the only direct press legislation first.

Publicly released on April 16, 1984 and carrying an enactment date of 29th March, 1984, the *Public Officers Protection Against False Accusation Decree (No. 4) 1984* essentially provided that:

- (1) 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 a public officer to ridicule or disrepute, shall be guilty of an offence under this Decree.
- (2) 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.
- (3) 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.

The Decree conferred on the Head of State the power to ban the circulation in the Federation, or in any part thereof, of any newspaper found guilty under it. The Head of State was also empowered by the Decree to revoke the licence of any person or body convicted of any wireless telegraphy abuse. Under the Decree, offenders were to be tried by a special tribunal

composed of a serving or retired high court judge and three members of the armed forces. Penalties for conviction (specified under section 8) were stiff and these include confiscation of the assets of any offending news medium or part of its equipment, imprisonment, for not more than two years each, of persons involved and a fine of not less than N10,000.00 in the case of a body corporate. The onus of proof was on the defendant. The tribunal's judgement was final and could not be appealed against or questioned in any court of law.

The *raison - d'être* of *Decree No. 4 of 1984* could be found in General Buhari's long-standing displeasure with what he regarded as the "excesses" of the Nigerian press which, according to him, could endanger the stability of the country. The antecedent to this perception of the press by General Buhari occurred during the Second Republic. In 1980, a section of the Nigerian press, including the government owned Nigerian Television Authority (NTA) published a piece of information to the effect that a mountainous sum of N2.8 billion Nigerian oil money had allegedly disappeared from the coffers of the Nigerian National Petroleum Corporation (NNPC) during the time General Buhari was the Federal Commissioner for Petroleum and Chairman of the NNPC. Although an official enquiry instituted by the Shagari government into the allegedly missing money declared that no money was missing, Buhari never forgave the press for raising the issue. Also, after General Buhari assumed the headship of the country, the *Punch* and *Sunday Tribune* culled from the London weekly, the *Talking Drum*, a statement made by one of the fugitive ex-politicians, Alhaji Isiaku Ibrahim, and republished it. In the statement, Alhaji Ibrahim raised some allegations against General Buhari

in respect of his activities at the NNPC and also concerning the "colossal" worth of his house at Kaduna.

General Buhari, in an interview with *West Africa* magazine late February 1984, bared his mind on such reports and hinted on a possible sanction when he said:

...I have told the press in one of my interviews that we do not stop anybody from publishing the truth - you cannot suppress the truth anyway - but what we are not going to accept is a deliberate attempt by some members of the press to publish stories that are absolutely untrue. Where they know that it is untrue, they can check; it would not take them more than five minutes to ring a ministry, a department, a parastatal - anybody concerned with information - to cross check the information and publish it. Instead they would rather publish what they want, to damage public officers or individuals and the Nigerian press know and if they cannot discipline them (sic.) then the government has to come in. We are not stopping them from printing anything, but you stand to prove it... (See also *The Guardian*, Feb. 29, 1984)

Earlier at a press briefing on February 9, 1984, General Buhari's second-in-command, Brigadier Tunde Idiagbon (as he then was), Chief of Staff Supreme Headquarters, had also forewarned on the decree. In concluding his briefing that day, Idiagbon said:

I wish to end by reminding you that it cannot be in the interest of the general public whom you so often claim the right to inform, for you to publish sensational stories by fugitives who are out to embarrass the government from where they regard as safe hiding places. Any person who publishes or reproduces in any form, any statement, rumour or report being a statement which is proved to be false has himself to blame for the consequence. This administration believes that the press should be allowed to publish facts but it will not accept obvious untruths intended to cause disaffection...

When the military came back to power in 1983, there were legislative and executive precedents to fall back upon in its relationship with the press as well as with the entire citizenry. *Decree No. 4 of 1984* was therefore a reincarnation of the *Public Officers (Protection Against False Accusation) Decree (No. 11), 1976* promulgated by the Murtala - Obasanjo administration. The only difference between the two decrees was that *Decree 4 of 1984* provided harsher penalties for offenders than *Decree No. 11 of 1976*. The former Decree also talked of ridiculing the government or public officers. The Decree was applied in the case of two senior journalists of The Guardian Newspapers Ltd., Messrs Tunde Thompson and Ndukar Iraboh, who were convicted for false report during the Buhari regime. (See details of the case in the case - law segment.)

In addition to *Decree 4 of 1984*, three other laws of general application with indirect bearing on the press which the Buhari government enacted are: *Constitution (Suspension and Modification) Decree (No. 1) 1984*, *State Security (Detention of Persons) Decree (No. 2) 1984* and *Federal Military Government (Supremacy and Enforcement of Powers) Decree (No. 13) 1984*. The circumstances of the laws are presented below.

The *Constitution (Suspension and Modification) Decree, 1984* qualified some sections of the *1979 Nigerian Constitution* and suspended certain others. It vested the Federal Military Government with the power:

to make laws for the peace, order and good government of Nigeria or any part thereof with respect to any matter whatsoever.

With this Decree, the Buhari regime, as customary of Nigerian military regimes since 1966, again turned Nigeria into a unitary state. Section 5 of the Decree further stated that:

No question as to the validity of this or any other Decree or of any Edict shall be entertained by any court of law in Nigeria.

With the Decree in place, the Buhari government made itself 'free' to enact any kind of law whatsoever.

The second general decree, the *State Security (Detention of Persons) Decree, 1984*, was enacted on February 9, 1984 with retroactive effect from December 31, 1983, the day the government usurped political power. An omnibus detention -without- trial law, it empowered the Chief of Staff, Supreme Headquarters to detain any person if he is satisfied that such a person:

is or has recently been concerned in acts prejudicial to state security or has contributed to the economic adversity of the nation, or [is] in the preparation or instigation of such acts.

This detention is for a period of three months in the first instance and may be renewed. The Decree suspended Chapter IV, the fundamental human rights provisions, of the *1979 Nigerian Constitution* and precluded the courts from inquiring into "anything done or proposed to be done" in pursuance of the Decree.

Like *Decree No. 4 of 1984* which has a precursor, the *State Security Decree 1984* was also a recreation of earlier military enactments of the same form, namely the *State Security (Detention of Persons) Decree (No. 3) of 1966* promulgated by the Aguiyi - Ironsi regime

and Section 3 (1) and (2) of the war-time *Armed Forces and Police (Special Powers) Decree (No. 24) of 1967* enacted by the Gowon government.

Although *Decree No. 2* was not specifically directed at the press, Buhari's state security officials and the police extensively employed it to arrest and detain numerous journalists for publishing stories and information considered offensive to the military government. Nearly every newspaper house in the country had at least one journalist detained under it. (Okhiria, 1986: 75). The journalists detained under the Decree during the Buhari regime were:

Charles Edo of the *Sunday Sun* who was incarcerated several times; Rufai Ibrahim of *The Guardian*; Haroun Adamu, *Punch*'s Editorial Consultant; Lawrence Olanipe of the *Nigerian Tribune*; A.B. Ahmed and Leke Salau.

Others included Tai Solarin, an educator and *Tribune* columnist who was detained on March 12, 1984 for asking the regime to return the country to civil rule within six months; Folu Olamiti, Acting Editor of *Nigerian Tribune* held on August 20, 1985 for publishing, in the *Tribune* of August 18, 1985, an article written by one Deji Afuye which demanded that the Buhari junta either duly tried former President Shehu Shagari or released all other political detainees. (Akinrinlola and Babalola.(1995:72-77); Bukar Zamar, Editor of the *New Nigerian* detained in 1985 for publishing an interview - report on why Shagari should not be tried. (Ibid. p. 76); Niyi Oniororo, publisher of a newspaper in Oyo State; Idowu Odeyemi, editor of the *Premier* newspaper based in Akure; Lade Bonuola, Associate Editor of *The Guardian*; Femi Kusa of *The Guardian*; Nduka Iraboh, Assistant News Editor of *The Guardian* and Tunde Thompson, Diplomatic Correspondent of *The Guardian*.

The *Federal Military Government (Supremacy and Enforcement of Powers) Decree 1984* was the third general law of the Buhari era which also impacted on the press. Like *Decree No. 20 of 1970* enacted by the Gowon regime, this Decree, which commenced on May 17, 1984 also established, for the avoidance of doubt, that decrees and, in appropriate cases, edicts were supreme over modified or unsuspending provisions of the *1979 Nigerian Constitution*. It stopped all actions in court questioning certain procedures taken in enforcing provisions of *Decree No. 2* under which politicians and other citizens, including journalists, were detained. (Momoh, 1985:18).

In contradistinction with the Buhari regime, the Babangida regime entered with the promise of a free press for Nigerians in words and deeds. Immediately he assumed the mantle of leadership, the head of the regime, military President Ibrahim Babangida, as he chose to be addressed, repealed the infamous *Decree No. 4* of 1984 and unconditionally released all journalists being detained under it. Speaking for his government on August 27, 1985, Major General Babangida declared in his maiden speech:

As we do not intend to lead a country where individuals are under the fear of expressing themselves, the *Public Officers (Protection Against False Accusation) Decree No. 4 of 1984* is hereby repealed with immediate effect. All journalists who have been in detention under this decree are hereby unconditionally released. (*New Nigerian*, August 29, 1985)

The Babangida government also verbally restored to the press its freedom of information dissemination within the society. According to General Babangida:

The responsibility of the media to disseminate information shall be exercised without undue hindrance. In that process, those responsible are expected to be forthright and to have the nation's interest as the primary consideration. (Ibid.)

As part of the new 'liberal' atmosphere for the press, the regime, through its Attorney - General and Minister of Justice, Prince Bola Ajibola, issued Ndugar Iraboh and Tunde Thompson, the two journalists convicted under *Decree 4* during the Buhari regime, certificates of pardon (Uche, 1989:129). These liberal policies of the regime towards the press did not however last as the regime, on settling down, started repressing the press and journalists through suppressive legislations curtailing, directly and indirectly, the freedom of the press and through a variety of other administrative measures. The legislative control weapons of the regime are examined below.

Apart from the three administrative legislations it enacted solely on the broadcast media, namely the *Federal Radio Corporation of Nigeria Decree, 1990*, the *Nigerian Television Authority Decree, 1990* and the *National Broadcasting Commission Decree. (No 38) 1992*, the Babangida regime promulgated ten direct legislations on the press. Some of the ten enactments updated the administration's previous promulgations on the same subjects. The ten direct press legislations in the order of enactment are: *Newswatch (Proscription and Prohibition from Circulation) Decree (No 6) 1987*, *Nigerian Media Council Decree (No 59) 1988*, *Concord Group of Newspaper Publications (Proscription and Prohibition from Circulation) Decree (No 14) 1992*, *Concord Group of Newspaper Publications*

(Proscription and Prohibition from Circulation) (Repeal) Decree, (No 17) 1992, Nigerian Press Council Decree (No 85) 1992, The Reporter (Proscription and Prohibition from Circulation) Decree, (No 23) 1993, Offensive Publications (Proscription) Decree (No 35) 1993, The News (Proscription and Prohibition from Circulation) Decree, (No. 36) 1993, Newspapers Decree (No. 43) 1993 and Newspapers etc. (Proscription and Prohibition from Circulation) Decree, (No. 48) 1993. The context of each of the ten press legislations is hereunder presented.

On April 10, 1987, the Babangida regime promulgated the *Newswatch (Proscription and Prohibition from Circulation) Decree (No. 6) 1987* which bore an effective date of April 6, 1987 and retroactively proscribed the publishing and circulation of the *Newswatch* magazine for six months from the effective date. Sections 1 and 2 of the Decree dictated that:

1. Notwithstanding anything contained in the *Constitution of the Federal Republic of Nigeria, 1979* or in any other enactment or law, the Weekly News - magazine known as "Newswatch"... is hereby proscribed from being published and prohibited from circulation in Nigeria or in any part thereof.
2. The premises where the Weekly News magazine ...is published shall be sealed up by the Inspector General of Police or any officer of the Nigeria Police Force authorised in that behalf during the duration of this Decree.

The Decree, which came barely six months after the murder of *Newswatch's* founding Editor - in - Chief, indemnified all persons who had acted, were acting or would act in furtherance of its import from legal liabilities. It abated all suits or other proceedings that had been or might be

instituted in challenge of the proscription order and barred the courts from entertaining any questions on its validity. It gave the head of the military junta power to extend the proscription beyond six months.

The promulgation of the Decree was sequel to *Newswatch*'s publication and analysis of the major recommendations of the Political Bureau set up by the Babangida government on January 13th, 1986 to articulate popular opinions on Nigeria's political future. The Bureau's recommendations, copiously published in Volume 5, No 15 issue of *Newswatch* titled "Third Republic - New Political Agenda", had just been submitted to the government and was yet to be officially released to the public. Before the *Newswatch* publication, several newspapers had published snippets of the recommendations. The Babangida government however contended that by publishing the report "ahead of government's consideration and decision" the *Newswatch* magazine "has published classified and confidential matters." (See the preamble to the *Newswatch (Prohibition) Decree, 1987*). It accused the magazine of obtaining the information illegally. The magazine's publication, according to Yussuf Mamman, Press Secretary to the government's Chief of General Staff:

would prejudice a balanced consideration of the recommendations in the report and could cause confusion among the diverse groups in our society. (*Newswatch*, Sept. 14, 1987, p.17).

The government alleged that before the magazine went to town with the report:

responsible government functionaries approached the management of *Newswatch* and advised them (sic) against premature publication of the Political Bureau report. (Ibid.)

It added that:

when these approaches proved abortive, government contacted relevant media professional bodies to use their good offices to dissuade the *Newswatch* management from publishing the report at this time. (Ibid.)

The *Newswatch* management however strongly denied ever receiving any such entreaties from either government functionaries or media professional bodies. The Nigerian Union of Journalists (NUJ) also denied ever being approached by the government on the issue. (*Nigerian Observer*, April 10, 1987)

Immediately after proscribing *Newswatch*, the Babangida government asked its police - detectives to search the magazine's premises and the residences of its three principal editors - Messrs. Ray Ekpu, Dan Agbese and Yakubu Mohammed. It impounded 4750 copies of the controversial edition of the magazine worth N14.250 (*Daily Sketch* April 17, 1987, p. 3), detained the editors for one day and froze the magazine's account for about two weeks. It also threatened to sue the magazine's editors for breaching the Official Secrets Act but never did. Although the proscription was scheduled to last for six months, the government lifted it on August 27, 1987, the second anniversary of its take-over of governance and forty days to the expiration of the gazetted six months. Before this time however, the proscription had been variously challenged in court by the NUJ and by a Lagos lawyer, Dr. Olu Onagoruwa, with the

Lagos High Court ruling in Dr. Onagoruwa's case that it had no power to entertain his suit. Dr. Onagoruwa also unsuccessfully appealed against this decision. (See details of the cases in the case-law segment below).

The *Nigerian Media Council Decree (No 59) 1988* was Babangida government's second press legislation. This Decree was promulgated by the Babangida regime on December 30, 1988. It repealed the *Nigerian Press Council Decree (No 31) of 1978* and established anew the Nigerian Media Council. Like its 1978 precursor which it attempted to revise, the 1988 Decree gave the newly proposed Media Council, among other duties, the function of inquiring into complaints about the conduct of the media and of any journalist. The envisaged Council was empowered:

to enter into any premises or land, carry out searches, compel journalists to surrender documents, reveal sources of information, deregister journalists or even have them jailed.
(Odunewu, 1994: 4)

The Council also had the power to approve courses of training and qualifications for journalists. Unlike the 1978 Decree, *Decree No 59 of 1988* provided for an 18 - member Council with up to eight members, including the Chairman and Secretary, being journalists. All members of the Council were however to be appointed by the government with some consideration for some nominees of relevant media associations and bodies. Because of the nature of the composition of the envisaged Council, with the attendant implications on its autonomy, and because of the awesome powers of the Council, journalists and media proprietors again rejected it. Journalists particularly objected to the authority given the Council to register practising

journalists contending that this power rightly belonged to the journalists' professional body, the NUJ. These objections again stalled the take-off of the Media Council for the second time, this time for another four years.

The third direct press law of the Babangida era was the *Concord Group of Newspaper Publications (Proscription and Prohibition from Circulation) Decree (No 14) 1992*. Carrying an enactment date of April 9, 1992, the above - named Decree, which was neither released to the public nor implemented before its repeal, sought to indefinitely ban the *African Concord* news magazine, the *Weekend Concord*, the *Sunday Concord*, the *National Concord* and all other newspapers and magazines published by the Concord Group of Newspapers, thirteen publications in all. Section 2 of the Decree provided for the sealing up of the premises of the newspaper group while the ban lasted. Both the proscription of the newspapers and the occupation of the *Concord* premises were scheduled to remain in force:

until such a date as the appropriate authority [i.e. military President Ibrahim Babangida] may, by an Order published in the Gazette, specify.

The Decree indemnified all persons concerned with the implementation of its import against legal liabilities and voided all legal proceedings respecting it.

The promulgation of the Decree was sequel to the publication in the *African Concord* issue of April 13, 1992, which appeared on news-stands on April 6, of a cover story titled "Has IBB given up?" The story was anchored on two published interviews earlier granted the largely government owned *Sunday Times* and the *National Concord* by General Ibrahim

Babangida in which the military President was reported to have wondered why the Nigerian economy had not collapsed! He told the *Sunday Times* that he had repeatedly asked his economic advisers what had kept the economy going, since "it was not any of our theories or anything we have read." The news magazine also published an indepth analysis on the Babangida administration's economic policies concluding that the policies have inflicted untold suffering and hardship on Nigerians. It examined the issues of corruption, poor leadership and the collapsing educational system. (*Constitutional Rights Project, (CRP) 1992:10*)

At 11.40 p.m. on April 9, 1992, the Babangida government sent "several lorry loads of heavily armed policemen" in "armoured trucks" to forcibly shut down the offices of the Concord Group of Companies and eject its workers on night duty. (*Nigerian Tribune, April 11, 1992*). The government's Information Minister, Sam Oyovbaire, said six days later that the closure was to "preserve national security" adding that the Concord Group had reflected a consistent pattern of stories that threatened national security (Nwakwo et. al., 1993:44; *West Africa* July 6-12, 1992, p.1123). Both the Decree and the policemen were however withdrawn two weeks later after the Concord publisher, the late Chief M.K.O. Abiola, publicly apologised to the military President on the publications. *The African Concord* editor, Bayo Onanuga, who was directed by the publisher to equally apologise conscientiously refused and resigned instead. He submitted in his resignation letter that the stories published by his magazine had not been faulted for "inaccuracies and willful lies" nor had anybody said that "the reality we portrayed so vividly about our country does not exist." (CRP, 1992: 10). Following his resignation, four

of his colleagues. Dapo Olorunyomi, who wrote the story in contention, Babafemi Ojodu, Seye Kehinde and Kunle Ajibade, also resigned in protest. Sam Oyovbaire who announced the reopening of the *Concord* premises on April 23, 1992 attributed the government's change of heart to its "democratic stance on issues and the pleadings of notable Nigerians."

Following the reopening of the Concord premises, the Babangida regime promulgated the *Concord Group of Newspaper Publications (Proscription and Prohibition from circulation) (Repeal Decree (No 17) 1992* on May 11, 1992. This Decree repealed the *Concord Group of Newspaper Publications (Proscription and Prohibition from Circulation) Decree 1992* discussed above.

The next direct press legislation of the Babangida regime was the *Nigerian Press Council Decree (No 85) 1992*. This was the second Press Council Decree enacted by the Babangida administration. Dated December 10, 1992, it repealed the *Nigerian Media Council Decree (No 59) 1988* and re-established the Nigerian Press Council. It was put together with input from the Nigerian Press Organization and it either removed or amended the objectionable areas of the earlier enactment. These areas include:

the composition of the Council, powers... of the Council [generally], Code of Conduct of journalists, powers of the Council to conduct enquiries into complaints from journalists as well as the public, and also the issue of registration...(Odunewu, 1994:4)

As in the case of *Decree No 59 of 1988*, the *1992 Press Council Decree* also provided for an 18-member Council but with at least twelve of the members specified to be journalists.

The relevant unions of journalists, editors and proprietors were also expected to have strong input in the appointment of fifteen of the eighteen members. The new Press Council Decree removed the arbitrary powers granted the Council by the 1988 Decree. For example, contrary to the provisions of the earlier enactment, the new Decree stipulated that the Nigerian Union of Journalists would register its members and solely prescribe a Code of Conduct for them. It also stated that enquiries into complaints lodged against journalists would be conducted with due regard to the provisions of the journalists' Code of Conduct. The Council's unrestricted powers of search and those of suspension and deregistration of journalists are also absent in the new Decree.

The three unions of Nigerian journalists, editors and news - media proprietors having agreed with the provisions of the 1992 Decree, the Nigerian Press Council was inaugurated on December 29, 1992. *Decree No 85 of 1992*, under which the Council was established, was however not released to the public until about a month thereafter, that is, about two months after the enactment of the Decree. (See *The Guardian*, Editorial, Jan. 20, 1993. p. 8)

After the Nigerian Press Council Decree (No. 85) 1992, the Babangida government came up with *The Reporter (Proscription and Prohibition from Circulation) Decree (No 23) 1993*. Carrying a promulgation date of March 1, 1993, this Decree banned, for a renewable period of six months, the publishing and circulation in Nigeria of the Kaduna-based *The Reporter* newspaper and provided for the sealing up of its premises. Sections 1 and 2 of the Decree imperiously provided inter alia:

1. Notwithstanding anything contained in the *Constitution of the Federal Republic of Nigeria 1979* as amended or any other enactment or law, the daily newspaper known as "The Reporter"... is hereby proscribed from being published and prohibited from circulation in Nigeria or any part thereof.
2. The premises where the daily newspaper ... is published and printed shall be sealed up by the Inspector General of Police or any officer of the Nigeria Police Force authorised in that behalf during the duration of this Decree.

The Decree, as customary with Babangida regime's news-media proscribing-legislations, freed all government functionaries who had acted, were acting or would act in execution of the newspaper's ban from legal liabilities and nullified any real or prospective legal challenge of the proscription.

The *Reporter's* ban followed its publication on March 1, 1993 of a critical editorial titled "Nigeria's prevailing Mess-Babangida to blame?" in which it held military President Babangida responsible for what it summed up as "the prevailing messy situation in our dear country". (Civil Liberties Organization (CLO) 1993: 4). Alhaji Aliu Mohammed, the then scribe to the Babangida government, gave an insight into the government's grouse with the newspaper on March 8, 1993, a week after the proscription, when he told media chiefs during a press briefing that:

No nation looks on in helplessness while a section of its citizenry decides, through the advantage of its profession, to indulge in routine harassment of the larger community by publishing unfounded, baseless and damaging stories about their private and public lives. (*Daily Sketch*, March 9, 1993, p. 3)

Sam Oyovbaire, the regime's Information Minister at the time, also justified the government's action this way:

There is no unlimited freedom anywhere. Freedom and democracy are not systems or activities that don't carry responsibilities. We have a lot of humour here, I mean the amount of things you say in newspapers, you can't say them anywhere in the continent and go home to rest. We haven't had a system of disappearing journalists yet. (Cf. Adeneye, 1997:48)

The *Offensive Publications (Proscription) Decree (No 35) 1993* was Babangida government's next direct press law. Carrying an enactment date of May 1, 1993 and made effective from January 1 of the same year, this retrospective Decree, which was released to the public in July 1993, (*Daily Sketch*, July 10, 1993), empowered the head of the Babangida junta to proscribe, confiscate or seize any publication which, in his judgement, was offensive in terms of scuttling its oft - amended and variously - extended Transition - to - Civil - Rule (Political) Programme. The Decree primarily provided as follows:

1. Notwithstanding the provisions of the *Constitution of the Federal Republic of Nigeria 1979*, as amended, the President, Commander in Chief of the Armed Forces, if satisfied that any publication which contains any article or material is likely to-
 - (a) disrupt the process of democracy and peaceful transition to civil rule, having regard to its contents; or
 - (b) hinder or prevent the progress and process of the grass-roots democracy as established by the transition to civil rule programme; or

- (c) disturb the peace and public order of Nigeria may, by Order published in the Gazette, proscribe or authorise the seizure and confiscation of such publication or any issue thereof.
2. (i) No civil proceedings shall lie or be instituted in any court, ... in respect of any publication proscribed, seized or confiscated pursuant to this Decree or in respect of any act, matter or thing done or purposed to be done by the Federal Military Government in regard to the proscription, seizure or confiscation of the publication which is the subject matter of this Decree ... and if any such proceedings are instituted at any time before or after the commencement of this Decree, the proceedings shall abate, be discharged and made void and of no effect, and any right, interest or privilege accruing, obtained, been obtained or granted thereby is hereby extinguished.

Section 2 subsection (3) of the Decree suspended the fundamental rights provisions of the *1979 Nigerian Constitution*, the *African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act* and any other human rights enactment relevant to it.

The day after promulgating this Decree, General Ibrahim Babangida issued the *TELL Proscription Order* which banned the circulation, in Nigeria, of the *TELL* news magazine No 19, May 10, 1993 edition carrying a front page title "Transition: 21 Traps Against Handover." The Order instructed the State Security Service (SSS) to impound copies of the magazine as may be found in any premises.

The Babangida government followed the *Offensive Publications Decree with The News (Proscription and Prohibition from Circulation) Decree (No 36) 1993*. This Decree, which carries May 22, 1993 as its enactment and effective dates, was released to the public

by the Babangida regime on July 1, 1993. (*Nigerian Tribune*, July 2, 1993, p. 18) It banned the publishing and circulation in Nigeria of the weekly news magazine known as *The News* for a renewable period of four months. It also ordered the sealing up of the printing and publishing premises of the magazine by the Inspector - General of Police, indemnified all actions taken in pursuance of the magazine's proscription from legal liabilities and voided all real or prospective proceedings in respect of the ban. (See *Federal Republic of Nigeria Official Gazette*, Vol. 80 No 15, 1993, pp A 313-314)

Although the Babangida government did not give any reason for proscribing *The News* which hit the market on February 18, 1993 (*The Guardian* Jan. 4, 1993 p. 19), *Decree No 36 of 1993* probably aimed at stopping the magazine's constant critical publications on the regime. The banning of the magazine and the occupation of its premises by government security agents however led its proprietors to establish another news magazine known as *Tempo*. (*The Guardian*, July 5, 1993, p. 3) The new magazine was, because of ceaseless government harassment, largely produced underground and it regularly criticised the Babangida regime.

The penultimate direct press legislation of the Babangida regime was the *Newspapers Decree (No 43) 1993*. Although carrying July 22, 1993 as its promulgation date, the above named Decree was released to the public by the Babangida regime alongside the *Newspapers etc: (Proscription and Prohibition from Circulation) Decree (No 48) 1993* on Monday August 16, 1993. The *Newspapers Decree, 1993* established afresh conditions for the publishing and continuous operation of newspapers and news magazines in Nigeria. It provided

that all newspapers published and circulated in Nigeria be registered annually, and set up a registration board for that purpose. The Decree incorporated the provisions of the *Newspapers (Amendment) Act, 1964*, which it repealed, and those of the *Newspapers Act of 1917*. It stipulated in section 4 that the proprietor(s) of any newspaper wishing to register should submit a written application to the Registration Board, together with the following:

- (a) a [sworn] affidavit ... containing -
 - (i) the correct title or name of the newspaper;
 - (ii) a true description of the house or building in which the newspaper is intended to be published or printed;
 - (iii) the name of the company which owns or intends to publish the newspaper;
 - (iv) the real and true names and places of abode of the Directors of the company; and
 - (v) the structure of shareholding in the company;
- (b) evidence concerning the good character, competence and integrity of the directors and of other persons responsible for or in charge of the publication of the newspaper;
- (c) a pre-registration deposit of N250,000;
- (d) a non-refundable fee of N100,000, which the Board may, from time to time by regulations, review; [and]
- (e) such other information as the Board may, from time to time, specify.

Section 5 (1) of the Decree stated that:

The Board shall register a newspaper if it is satisfied that the requirements of section 4 of this Decree have been met and the registration is justified having regard to the public interest.

Section 5 (2b) of the Decree also specified that a newspaper's registration:

may be renewed if the Board is satisfied with the performance of the newspaper during the preceding year.

The yearly renewal of registration, the subsection further provided, should be “completed within 6 weeks after the expiration of an existing registration.” If not, “the newspaper shall cease to be published.”

Other conditions required by the Decree for publishing a newspaper in Nigeria are:

- (i) the appointment by each newspaper owner or publisher of an editor:
to have general superintendence and responsibility for all matters intended and suitable for publication in the newspaper and the compulsory notification of the Board of such appointment;
- (ii) the prominent printing, by each newspaper publisher or printer, of the true and real name and place of residence of the editor of his newspaper in every copy of the newspaper printed;
- (iii) the printing by each newspaper, in its first or last page, of the true and real name of its owner, publisher and printer, the true and real description of its place of printing and the total circulation printed of each issue;
- (iv) the personal or postal delivery to the Board, by every newspaper owner, publisher or printer and editor, of a copy each of every issue of his published newspaper “on everyday a newspaper is published”; and
- (v) the establishment of offices in the Federal Capital Territory, Abuja, by newspapers circulating in the Federal Capital Territory, and in the capitals of states by newspapers printed or published in such state capitals and the apprising of the Board and the Commissioners of Information of affected states of the fact.

The Decree readdressed the publication of false news and multiplied the N400 or one year jail term penalty earlier attached to it more than ten fold. As in the case of the penalty for false publication, the Decree also stipulated very stiff fines and jail terms as punishments for breaches of its provisions.

The immediate likely cause of the promulgation of this Decree was Babangida government's irritation over the floodgate of opposition, in the news media, to its annulment of Nigeria's freest and fairest presidential election held on June 12, 1993. Millions of Nigerians perceived the annulment as a ploy by the government to perpetuate its rule and said so. Majority of Southerners particularly regarded the annulment as a denial of Southerners' right to rule Nigeria and gave vent to their feelings. In spite of the gruesome clampdown by the government on opposing views and the pervasive harassment of journalists and dissenters during the period, the press ceaselessly reflected these popular views. The Babangida government was dissatisfied with this state of affairs and responded among other measures, by promulgating the *Newspapers Decree* and other severe enactments:

not just to ensure that some of the gadfly media were silenced through proscription, but also that very stringent rules were set for future involvement in the exercise of the right to freedom of expression through the publication of a newspaper. (Nigerian Press Council, 1994:8)

Between 1993 and 1994, a human rights activist, Mr. Richard Akinnola of the Lagos State Council of the Nigerian Union of Journalists and *The Guardian* Newspapers Limited variously challenged the legality of the *Newspapers Decree, 1993* in court. The court in *The Guardian's*

suit, in 1994, declared the Decree “null and void and of no effect whatsoever.” (See details of the cases below in the case - law segment).

The Nigerian Union of Journalists, in August 1993, also formally complained to the African Commission on Human and Peoples' Rights about the promulgation of the Decree. (*Nigerian Tribune*, August 25, 1993. p. 4) The African Commission, in March 1999, resolved that the Decree violated the freedom of expression contained in Article 9 of the *African Charter on Human and Peoples' Rights* (*The Punch*, March 16, 1999, p. 32).

The Newspapers, etc. (Proscription and Prohibition from Circulation) Decree

(No 48) 1993 was the last direct press legislation enacted by the Babangida regime before it was forced out of power on August 26, 1993. Although it was released to the public with the *Newspapers Decree 1993* on August 16, 1993, it bore an enactment date of July 22, 1993 and was made effective from July 21, 1993. It proscribed indefinitely, and in one fell swoop, four newspaper groups, namely: the *Concord* Group owned by Chief M.K.O Abiola, the acclaimed winner of the annulled June 12, 1993 presidential election, the *Punch* Group based in Lagos, the Ibadan - based *Sketch* Group owned by the governments of Oyo, Ogun, Ondo, Osun and Ekiti States, and the *Observer* Group owned by the Edo State Government. In addition to banning the publishing and circulation of the newspaper groups' publications in any part of Nigeria, the Decree also ordered the sealing up of the premises of the newspaper houses. It indemnified, as usual, all officials of the government involved in carrying out the proscription and seal - up order and voided all real or potential legal challenges of the Decree.

The four newspaper groups affected by the Decree were apparently banned over their publications in respect of the sanctity of the annulled June 12, 1993 presidential election. For instance, in spite of Babangida government's June 23, 1993 annulment of the election, the *Daily Sketch* of Thursday July 1, 1993 daringly published on its page 15, an advertisement, said to have been sponsored by the Association for Democracy in Nigeria (ADIN), which congratulated Bashorun M.K. O Abiola on his election victory and addressed him as "President - Elect of the Federal Republic of Nigeria." The advertisement also contained Chief Abiola's election campaign photograph.

Announcing the closure of the four news media via a statement signed by its Secretary for Information and Culture, Mr. Uche Chukwuemerije, in Lagos on July 23, 1993, the Babangida government said it had:

been compelled to take this action in the light of continued excesses on the part of these media houses and in spite of repeated warnings that went unheeded. (*Nigerian Tribune*, July 24, 1993, pp. 1-3)

It then raised some allegations against the proscribed news-media:

The government is convinced that these media houses have completely mortgaged all professional ethics to the power of money. Government has evidence that a businessman-politician, who has been misusing his own paper for personal self-aggrandisement, has been funding another Lagos based newspaper, supplying it with newsprint and underwriting its salary bills.

An Ibadan based newspaper has its editorials written by the Chairman of the board (sic.) and a State Governor. Press freedom is being sold, bought, misdirected against the high interest of the state (ibid.)

Of course, the veiled reference to “a businessman-politician” in the government’s statement was to Chief M.K. O Abiola. The reference to another Lagos based newspaper was to *Punch*, while the Ibadan based newspaper referred to was *Sketch*.

Also at separate meetings with representatives of the Nigerian Guild of Editors and the Nigerian Union of Journalists in Abuja on July 26, 1993, the Information Secretary said the “sad” closure of the media houses was necessary because their publications were subversive and a quick surgical response, in place of the “dilatatory course of court option” was the only measure to stem further damages. (*Nigerian Tribune*, July 27, 1993, pp. 1-2)

Before issuing its July 23, 1993 statement on the banned news - media, the Babangida government, had, on July 22, 1993, simultaneously sent armed soldiers and policemen to close down six media houses, including *Abuja Newsday* and the Ogun State Government owned radio station, OGBC. By August 16, 1993 when the proscribing Decree was released, *Abuja Newsday* and the OGBC had been let off the hammer.

The Nigerian Union of Journalists, in August 1993, lodged a formal complaint before the Nigerian Press Council against Babangida government’s proscription of the media houses and harassment of journalists. (*Nigerian Tribune*, Aug. 19, 1993 pp. 1-2). The union also formally complained to the African Commission on Human and Peoples’ Rights about *Decree 48* (*Nigerian Tribune*, August 25, 1993, p. 4) Two of the affected newspaper houses, *The Punch* and the *Concord* groups, sued the Interim National Government (ING) which succeeded the Babangida regime over their proscriptions. (See details of the suits in the case-law segment

below). As part of its initial goodwill-seeking gesture, the Abacha government which overthrew the ING deproscribed the newspapers on assumption of office on November 18, 1993 through the *Newspapers, etc. (Proscription and Prohibition from Circulation) (Repeal) Decree, (No. 115) 1993*.

In addition to its ten direct legislations on the press, the Babangida government also utilised two general laws to control the press. These are the *State Security (Detention of Persons) Decree (No. 2), 1984* which it inherited from the Buhari regime and the *Treason and Treasonable Offences Decree, No. 29, 1993* which it enacted. How did the government apply these legislations in its relationship with the press? Let us consider the *State Security Decree* first.

Although the Babangida regime was popularly entreated to countermand this Decree at the outset of its rule when it threw Buhari's *Public Officers (Protection Against False Accusation) Decree (No 4) 1984* into the dustbin, it stoutly refused this petition contending apologetically that such a detention - without - trial law existed "in one form or another" in other countries of the world. (CLO, 1990: 62-63). Rather than repeal the Decree, the government amended it thrice within its life - span. First, on May 23, 1986, and through *Decree No. 12*, it increased state functionaries vested with the power of summarily detaining citizens under the Decree from one to two, i.e. from the Chief of Staff, Supreme Headquarters to both the Chief of General Staff (CGS) and the Inspector - General of Police, and raised the minimum renewable detention period from three to six months. Again on July 30, 1988, the government through *Decree No. 30*, increased the number of the executors of the Decree

from two to three, the addition being the Minister of Internal Affairs. Also on January 25, 1990, through *Decree No. 3*, it further amended the Decree because of widespread and ceaseless opposition to it. This last amendment made the CGS, the only person who could detain under the Decree, reduced the minimum renewable detention period to six weeks and set up an advisory review panel for detainees.

The Babangida government detained numerous journalists and press men as well as many other non journalist citizens under the *State Security Decree*. This was done at both normal and crises times but more especially at crises periods. The May 1989 anti - Structural - Adjustment - Programme (anti - SAP) riots, during which citizens massively demonstrated their rejection of the government's harsh economic policies that were being forced down their throats, provided the government a *carte blanche* to summarily detain critics of its policies, particularly journalists. The April 22, 1990, Major Gideon Orkar - led abortive coup d'etat against the government also led to numerous detentions of press men under *Decree 2*. After the government's June 23, 1993 annulment of the June 12 1993 presidential election, the detention of journalists also rose phenomenally. The Babangida government detained over forty journalists without trial under *Decree 2* on account of their 'offending' publications, during its eight year rule. The context of the application of the Decree on the journalists is presented below.

Mohammed Haruna, the Managing Director of the Federal Government owned *New Nigerian* Group of Newspapers was detained for about one week in June 1987 for authorising the publication in the *New Nigerian* of an advertisement by the Council of Ulaama urging

Muslims to take steps to protect themselves as the government and its security agents, including the armed forces, had failed to protect them as citizens of Nigeria (*Newswatch*, September 14, 1987, p. 13).

Innocent Oparadike, Editor of the *New Nigerian* was detained early August 1987 because the Northern edition of his newspaper published on July 31, 1987 a story which reported that Maryam Babangida, wife of the military president, had travelled to Mecca on holy pilgrimage with an entourage of 100 people. (Ibid.)

Yusufu Ozi Usman, the *New Nigerian* correspondent in Kano who wrote the Maryam Babangida holy pilgrimage story was arrested and detained on his return from Mecca, to which he had travelled before the story was published. (Ibid.)

Abdulamid Babatunde, Acting Chairman of *New Nigerian* Editorial Board was detained early August 1987 for writing two editorials published by the *New Nigerian*. The first editorial which came out on July 31, 1987 appealed to the Federal Government to lift the ban it imposed on *Newswatch* on April 6 of the year for publishing the Political Bureau report ahead of government's white paper on it. The second editorial titled "Try Them" and published in the Northern edition of the *New Nigerian* of August 3, 1987 was on the then ongoing trial of Second Republic politicians and public office holders. The editorial essentially noted "with grave concern":

the glaring lop-sidedness of the trials which have so far shown a curious pre-occupation with former State Governors (17 have been jailed), commissioners and chief executives of parastatals.

It observed that:

there is a noticeable sluggishness, not to say hesitation, in the trial of individuals who held similar positions at federal level such as Ministers, Advisers, Presidential Liaison Officers, chief executives of federal parastatals, etc.

It urged the Federal Government not to spare any corrupt public office holder whether at the state or federal level or within the armed forces. (Ibid., pp. 13 and 15.)

Nduka Obaigbena, Editor-in Chief of *This Week* magazine was held on June 14, 1988 over a story on the power tussle among close aides of General Babangida, published in his magazine (Nwakwo et. al., 1993:38).

Tony Ukpong, a journalist with the *Weekly Metropolitan* newspaper was detained on December 20, 1988 for about eight months for writing a story on corruption in the issuance of new police uniforms and speculating on the retirement of the Inspector - General of Police, Muhammadu Gambo. (C.L.O., 1990:15 and 27)

Femi Aborisade, Editor of a trade union-inclined journal, *Labour Militant* was arrested on February 6, 1989 and held for seven months. He was accused of publishing subversive material in connection with his campaign for the release of eleven trade unionists in the country's power supply corporation who were believed to have masterminded a strike which caused a nation - wide power black-out in 1988 (Nwakwo et. al., 1993:39)

Chris Okolie, publisher and Editor-in-Chief of *Newbreed* and *President* magazines was held thrice by the Babangida regime. He was detained with two of his subordinate journalists, Toyin Egunjobi and Sola Oyeneyin, on February 7, 1989 for two days for publishing stories critical of promotions in the military. (*The Guardian*, Feb. 10, 1989, p. 3 and Feb. 11, 1989, p.16). He was again held for forty-six days from June 8 to July 24, 1990 for publishing a letter reportedly written to General Ibrahim Babangida by the run-away principal civilian suspect of the April 22, 1990 coup, Chief Great Ogboru, a letter which the government's Chief of General Staff, Vice Admiral Augustus Aikhomu, called "an embargoed document." (*Newswatch*, June 4, 1990, p. 52). Okolie was again held with four of his senior staff-journalists for weeks from April 6, 1993 because he sought (in writing) an interview with Brigadier-General Halilu Akilu, the then Director of Military Intelligence, over the latter's connection with the murder of Dele Giwa, a fellow journalist killed by a parcel bomb blast on October 19, 1986. Okolie said he was seeking the interview based on fresh information that had come to his hand. (*Nigerian Tribune*, April 14, 1993).

Paxton Idowu, Editor of the *Republic*, and four other journalists of the newspaper were arrested on June 16, 1989 and detained for about five days for reporting on a legal action filed by Alhaji Mohammed Bashir, a *Decree 2* detainee who alleged that he was being held on account of personal commercial disagreement between him and the Chief of General Staff, Vice Admiral Augustus Aikhomu, who subsequently signed his detention order, (CLO., 1990:15). In the process of trying to arrest Paxton Idowu, the government's security agents

arrested his wife, Mrs. Florence Idowu, who was eight months' pregnant, in lieu of her husband, whom they did not meet at home. They threw the heavily pregnant woman into:

a stinking, narrow and dark police cell, which she shared for the night with a male suspect held for felony, until the next morning when her husband appeared. (Nwakwo et. al., 1993:39)

Ikpe Etukudo and Tunde Ogungbile, two journalists with the monthly *New Horizon*, and their publisher, Dapo Fatogun, were detained on July 4, 1989 in respect of their magazine's March, 1989 edition with the cover story titled "This Government has AIDS." The story chronicled the criticisms of the radical Lagos human rights lawyer, Chief Gani Fawehinmi, of Babangida government's politico-economic irection, including Fawehinmi's verdict that the government was incapable of sanifying the country (Nwakwo et. al., 1993:39-40).

Dele Alake, Editor of the *Sunday Concord* newspaper, was held on July 31, 1989 for two days over a story on the displacement of over 300,000 residents of the famous Lagos shanty town, Maroko. The displacement was ordered by the then Lagos State Military Governor, Colonel Raji Rasaki, who was preparing the slum for acquisition by wealthy residents of neighbouring Victoria-Island (Nwakwo et. al, 1993:40)

Etim Etim, Financial Correspondent for *The Guardian* newspaper, was held incommunicado for three months from August 16, 1989 because his name:

had been mentioned in the course of State Security Service (SSS) investigation into how classified information had been leaking to the press. (CLO, 1990:25)

While in detention, he was accused, under interrogation, of being “an agent for foreign interests” (CL O, 1990:25)

Tunde Agbabiaka, *African Concord* magazine London Editor, was detained on October 1, 1989 for three days in Lagos after which he was told, without apologies or compensation, that he was mistaken for someone else. (Nwakwo et. al., 1993:40)

John Edward, a senior journalist with *Lagos News* newspaper, was detained on December 6, 1989 in connection with an article he wrote in the December 4, 1989 edition of his paper titled: “Shehu Ahmadu: Your Men Are Giving The Police Bad Name” (*Lagos News*, Dec. 7, 1989)

Sam Amuka - Pemu, publisher of the *Vanguard* newspaper, was held on April 24, 1990 for some days over his paper’s publications concerning the April 22, 1990 abortive coup d’etat against the Babangida government. (Nwakwo et. al., 1993:40-41)

Chris Okojie, Deputy Editor of the *Vanguard*, was detained from April 24 to May 11, 1990 over his paper’s reports in respect of the April 22, 1990 abortive coup. (Ibid.)

Chris Mammah, Deputy Editor of *The Punch*, was held on April 27, 1990 for 61 days because of his paper’s editorial comment of that day which was on the April 1990 coup d’etat. (*Newswatch*, June 4, 1990, p. 52)

Lawal Ogienagbon, a *Punch* reporter, was detained for one day in April 1990 in respect of his paper’s publications on the Orkar coup (Nwakwo, et. al., 1993:40)

Lateef Jakande, publisher of *Lagos Daily News*, *Evening News* and *Sunday News*, and former President, International Press Institute (IPI), was held on May 1, 1990 on account of an editorial comment titled "The Coup That Failed" published in the April 29, 1990 edition of the *Sunday News*. The editorial was considered "negative and critical" by the government. (*Newswatch*, June 4, 1990 p.52). Jakande was let off the hook after only one day because he was to chair a committee at a conference of the IPI in France. (*Ibid.*, pp. 49-50)

Banji Ogundele, Editor of *Sunday News*, was detained for several weeks from May 1, 1990 because of his paper's publications on the 1990 coup. Nsikak Essien, Editor of the *National Concord* daily, was held briefly in 1990 over his paper's publications on the Orkar coup d'etat.

Onoise Osunbor, a senior staff writer with the *African Concord*, was detained around June 1990. (*This Week*, June 25, 1990, p. 17)

Willy Bozimo, Deputy General Manager of the government - owned News Agency of Nigeria, was held for several weeks because of his personal links with a suspected coup plotter. (Nwakwo, et. al., 1993:41)

Ade Alawode and Kolade Alabi, Editor and News Editor respectively of the *Lagos Evening News*, were detained from March 9 to March 13, 1991 because their paper published a front page story titled: "IBB, Maryam named in Jennifer's deal." The story, regarded as an "embarrassing publication" against General Babangida and his wife, reported the contents of a letter said to have been written by the then Chairman of the National Drug Law Enforcement

Agency (NDLEA), Mr. Fidelis Oyakhilome, to Vice President Augustus Aikhomu on the need to detain Miss Jennifer Madike, a business-woman involved in a drug case, under *Decree 2 of 1984* (Ibid., p.42). Madike had earlier implicated Oyakhilome in an alleged bribery scandal on the case.

Mallam Bukar Zama, the publisher of *Abuja Newsday*, and Martin Oloja, Editor of the paper were detained for two days, from March 3, 1993 over a publication on the composition of the Justice Mamman Nasir's panel on the status of Abuja. (*Daily Sketch*, March 6, 1993)

Innocent Okoye, Editor of the *Daily Satellite*, was detained from April 1 to 20, 1993 over a report that the Babangida government was effecting a price increase on petroleum products. (*Nigerian Tribune*, April 19, 1993 and Onanuga, 1993:16)

McNezer Faseun, Editor of the soft - sell magazine, *Prime People*, was held on April 1, 1993 in connection with a story in an edition of the magazine. (Onanuga, 1993:16)

Four senior editors of *TELL* magazine - Nosa Igiebor, Editor - in - Chief, Onome Osifo-Whiskey, Managing Director, Kolawole Ilori, Executive Editor, and Ayodele Akinkuotu, Senior Associate Editor, were arrested at *TELL*'s premises by State Security Services (SSS) men in July 1993 and detained for twelve days. No reason was given for the detention. (Soboyejo, 1997:21). The four editors and a *TELL* reporter were again arrested without warrant by police and SSS agents at *TELL*'s premises on August 15, 1993 and detained. (*The Guardian*, Aug. 16, 1993, p. 2; *Nigerian Tribune*, Aug. 19, 1993).

Yinka Tella, Abuja Bureau Chief of *The News* magazine, was arrested in July 1993 and detained for weeks at the Federal Intelligence and Investigation Bureau (FIIB) Alagbon, Lagos, in an effort to force the editors of the magazine, who had gone underground on account of government harassment and had been declared wanted by the police, to give themselves up. (*Nigerian Tribune*, July 31, 1993, p.4)

Dele Momodu, Contributing Editor of *FAME* magazine, was held for nine days from August 2 to 10, 1993 at Alagbon, Lagos because of his personal connection with the acclaimed winner of the annuled June 12, 1993 presidential election, the late Chief M.K.O Abiola.

The *Treason and Treasonable Offences Decree (No. 29) 1993* was Babangida government's second general law which impacted on the press. The Babangida government enacted this Decree on May 5, 1993 as part of its legislative build up for its security and that of the nation on the eve of the June 12, 1993 presidential election that was planned to usher in a democratic civilian government. As Chief Duro Onabule, the then Chief Press Secretary to General Babangida, told the British Broadcasting Corporation (BBC) on May 7, 1993, by promulgating the decree:

[t]he government simply wanted to make sure that nobody either by error of commission or omission disrupted the last lap of the Transition Programme. This is the presidential election on June 12. (*The Guardian*, May 8, 1993, pp. 1 and 2)

The enactment, Vice Admiral Augustus Aikhomu, also explained, was aimed at checking advocates of ethnic autonomy who allegedly conspired with groups within and outside the

country and professed ideas that minimised the sovereignty of Nigeria. (Ibid.). The Decree re-created the offence of treason, already a crime in the country's statutes, and greatly enlarged its scope. While it prescribed the death penalty for treason, it directed that concealment of treason, under which ambit it put "accessory after the fact of treason" be punished with life imprisonment. Section 3 of the Decree which addressed publication as treason stated that:

- 3 (1) A person who utters any word, displays anything or publishes any material which is capable of -
 - (a) breaking up Nigeria or part thereof; or
 - (b) causing violence or causing a community or a section thereof to engage in violence against a section of that community or another community is guilty of treason and liable on conviction to be sentenced to death.
- (2) A person who unlawfully displays anything or publishes any material which gives or creates the impression that a particular country, state or local government area has been or is being created or established out of Nigeria is guilty of treason and liable on conviction to be sentenced to death.
- (3) For the purposes of subsections (1) and (2) of this section, a person shall be deemed to utter, publish or display as the case may be, if
 - (a) he makes or publishes a statement declaring that-
 - (i) a part of Nigeria has ceased to be a part thereof, or
 - (ii) a part of a State has ceased to be a part thereof, or
 - (iii) a part of a Local Government Area has ceased to be a part thereof, or
 - (b) he flies or exhibits in any open or public place in that part of Nigeria, State or Local Government Area, as the case may be, a flag, whether or not the flag is the National Flag and represents that such flag is a flag of the Country, State or Local Government area.

Offences under the Decree were specified to be tried by a special military tribunal. Coming barely three months to the August 27, 1993 civil rule date promised by the Babangida regime, the Decree fuelled speculations that the government hardly intended to leave. Although the regime did not invoke the Decree before “stepping aside,” four Nigerian journalists were, later in 1995, during the Abacha regime, convicted under it because of their revealing publications on what has turned out to be a phantom coup. The journalists are: Ben Charles Obi, Editor of *Weekend Classique*; George Mbah of *TELL* magazine; Kunle Ajibade, Editor of *The News* magazine; and Chris Anyanwu (Mrs.), publisher of *The Sunday Magazine* (TSM).

The data presented above reveal that the five military regimes studied employed numerous decrees and edicts to control the press. The administrative control weapons of the regimes *vis a vis* the press are the objects of the next segment.

Research Question 3

4.3 What other means (apart from legislations) did Nigerian military governments employ to control the press?

Supplemental to the press laws and general legislations which the five military regimes enacted to define the limits of press freedom during their tenure, the governments also collectively employed twenty seven different non-legislative control measures in their attempt to control the press. Perhaps because of its short duration, the Ironsi regime used only one of the administrative measures while the nine-year-long Gowon government used thirteen. Both the Mohammed - Obasanjo and Babangida administrations utilised twelve of the weapons while the Buhari regime used six.

In addition to the twenty seven administrative measures officially employed by the five regimes, the Babangida government, midway into its eight year tenure, recorded the brutal and unprecedented murder of a top Nigerian journalist, and critic of the government, Mr. Dele Giwa. Giwa, the founding Editor-in-Chief of *Newswatch* magazine, was assassinated in circumstances linking the government with the killing. The journalist's murder is presented after the twenty seven administrative control weapons. First to be presented are the administrative control weapons and their context.

One of the non-legislative control weapons employed by the military governments against the press is expulsion of foreign journalists. Three of the five regimes - the Ironsi, Mohammed - Obasanjo and Babangida juntas - employed this measure against the press.

Three foreign journalists were summarily deported by the Ironsi government on account of their 'offending' publications. The deported journalists are: Dennis Neeld of the Associated Press (an American News Agency), who was expelled around Jan. 24, 1966 for allegedly fabricating news (*New Nigerian* Jan 25, 1966); David Loshak of the *London Daily Telegraph*, who was deported on Monday June 13, 1966 "for his stories about recent events in Nigeria" (*New Nigerian*, June 17, 1966); and Walter Schwarz, Resident Correspondent of both the *London Guardian* and the *London Observer*.

The Mohammed - Obasanjo government also expelled Colin Fox, the Reuters Correspondent in Nigeria, from the country on the allegation that his reports were creating room for breakdown of order in the wake of the 1976 abortive coup. (Agbaje, 1992:277)

The Babangida government also quietly deported the Lagos-based reporter of the *Financial Times of London*, Williams Keeling, on June 27, 1991 for reporting that:

government accountability is undermined by inadequate accounting of proceeds of the state-dominated oil sector; the principle of transparency is threatened by market contacts, corruption comes before productivity and the law is often distributed by government diktat. (Cf. Adeneye 1997:43)

Another administrative control weapon used by the military governments is suspension of 'recalcitrant' journalists and managers of government-owned news media.

The Gowon and the Babangida regimes applied this weapon against the press. At the outbreak of the Nigerian Civil War in May 1967, the *Sketch* was divided on which side to support between the Nigerian Federal Government and the newly declared Republic of Biafra. The more editorially powerful group in the paper supported Biafra with the implications of this on the editorial content of the paper. Unable to accept this situation, the proprietor of the paper, the Western State Military Government, forced the editor, Mr. Akinsuroju, to go on a month leave (*Daily Sketch* 31 March, 1989; Agbaje, 1992:220).

More than mere forced leave, Mr. Awobokun, the Managing Director of the *Sketch* Group was in June 1970, suspended 'indefinitely following the publication in the *Daily Sketch* of articles from two leading members of the Western State Cabinet disagreeing with one another over the decision of the Federal Government in promulgating a decree to set aside an earlier judgement of the Supreme Court in the case of *Lakanmi and Anor. v. A.G. West*. Although the suspension was intended to be "indefinite", he was reinstated the following month. (Agbaje, 1992:252).

During the Babangida regime, the then Edo State Military Governor, Col. John Inienger, on January 22, 1988 suspended Chuks Onwuemene, the then Editor of the Edo State - owned *Nigerian Observer* over an editorial he (the Governor) considered unpleasant. (Adeneye, 1997:38). Also in the aftermath of the 1990 failed coup, the Akwa-Ibom State Military Governor; Godwin Abe, suspended a producer with the newly-established Akwa-Ibom State Television Station:

for playing an already scheduled film, "The Assassination of President Kennedy" on the coup day. (Egbu, 1990:17).

Thirdly, in 1991, Governor Raji Rasaki of Lagos State suspended the judicial correspondent for Radio Lagos, Kelly Elisha, indefinitely for presenting a news analysis on the national radio news programme. The news analysis described the pardon the Federal Military Government granted eleven trade unionists who had earlier been jailed for life as inadequate since the unionists were not reinstated to their former jobs. (Nwakwo et. al., 1993:43)

Police intimidation and harassment of reporters and media managers were also employed by the Gowon, Mohammed-Obasanjo, Buhari and Babangida governments against the press. There are at least two instances of the employment of this instrument during the Gowon era. On January 31, 1974, Mr. David Atalase, the correspondent of the *Nigerian Herald* in Dekina, harmlessly reported that prisoners had escaped from the local prison. The police invited him for questioning twice on the story, which was true, on the hypothesis that he could only have procured his information through a criminal source (see Onagoruwa, 1977:43)

The second example concerned Mallam Tukur Othman, the Managing Editor of *New Nigerian*. He was also arrested in respect of a publication, by his newspaper, to the effect that two brigadiers of the Nigerian Army, who were somewhat connected with Miss Iyabo Olorunkoya, a female Nigerian hemp peddler arrested in London, had been suspended. Mallam Othman was invited, all the way from Kaduna, to the Supreme Headquarters in Lagos where he was asked to disclose the source of his information about the two brigadiers. The two army officers who came to invite Mallam Tukur forced their way into the offices of the newspaper corporation and discourteously ransacked the whole place (ibid. p. 43).

The following three examples will also illustrate the employment of harassment against journalists during the Mohammed-Obasanjo regime. One, on Friday October 7, 1977, a senior reporter with the *Nigerian Herald*, Mr. Samuel Akanimode, was arrested by the police over a story on a market crisis - the Oro Market crisis - published in his newspaper. Although he was released on bail, he was asked to report back at police headquarters for some time. A major intriguing element in the case was that:

the decision to arrest the journalist was taken by the state executive council at an emergency meeting [held on that day.] (*Nigerian Observer*, Oct. 13, 1977)

Two, the *Punch* editor, Mr. Sola Odunfa, and a staff cartoonist of the paper, Mr. Femi Jolaoso, were, on Tuesday, November 15, 1977, invited, questioned and locked up overnight at Police Force Headquarters, Alagbon, Lagos over a cartoon on soldiers' attack on civilians at Ede the previous day. The two journalists were released on bail the next day and instructed

to report back at Police Headquarters subsequently. (*Punch*, Nov 16 & 17 1977). Usually in such cases of harassments, the journalists are rarely prosecuted for any offence at the end. They are asked to stop reporting to the police only when the authorities are pleased.

Three, prior to imposing a two-year ban on *Newbreed*, the medium and its journalists had, for long, been variously harassed by security agents of the Mohammed - Obasanjo Federal Military Government. As narrated by the publisher / Editor - in - Chief of the magazine, Chief Chris Okolie, several searches, arrests and detentions of *Newbreed* editorial staff were carried out by the Nigeria Security Organisation during this period. Okolie said that because of this situation, the Newbreed Organisation "was forced to cancel some issues for which we could not meet production deadlines" because "we were denied the right to carry out our legitimate business". (*Nigerian Observer*, June 28, 1978)

Like the Gowon and Mohammed Obasanjo governments which ruled before it, and perhaps more flagrantly than them, the Buhari government also used the instrument of harassment to attempt to force the press to refrain from publishing negative or critical information about it. This harassment came in various forms - from incessant invitation and interrogation of journalists by the police and the Nigeria Security Organisation (NSO) on 'offensive' publications to corporal punishment for daring to seek information on matters of public importance. Let us consider the following samples: One, on the weekend preceding May 20, 1985, the editor of the Federal Government owned *Sunday New Nigerian*, Mallam A.B. Ahmed, was taken

away for 'questioning' by three members of the NSO. This was sequel to a letter titled "N3m. State Tour" published in the Majgani column of his newspaper. The letter challenged official profligacy in a depressed economy. The editor was, without any notice, driven away to Kwara State in a metallic grey colour Peugeot Saloon Car which had no registration number. (*West Africa, May 20, 1985*). He was subsequently detained for several months.

Two, the editor of the *National Concord*, Duro Onabule, was forced to suspend his regular critical column because of ceaseless police harrassment on the contents of the column.

Three, on April 6, 1984, the *Punch* photographer, Mr. Thomas Umoru, was beaten by two soldiers and prevented from taking photographs at Ladipo (on Agege Motor Road) near Lagos. The soldiers and some policemen had gone to a popular hotel in the neighbourhood to round up some prostitutes. (*The Guardian on Sunday, April 15, 1984*).

Four, the *New Nigerian* state editor for Bauchi, Mallam Waziri Garba, was, in July 1985, drilled in a military fashion on the orders of the Chairman of Bauchi State Special Investigating Panel (SIP) when the journalist went to confirm a story about the detention of Mrs. Rhoda Sulai, the state's former Commissioner for Trade and Industry. The editor asked the chairman, a major in the Nigerian Army, if he would care to comment on allegations that the detainee, who was dismissed the previous month over alleged financial misconduct and asked to refund N6m., was being held on the orders of the panel. The irate military officer, on hearing the question, ordered his corporal to take the editor out, "shake him up" and bring him back.

The reporter was taken out and ordered to carry a cement block high above his head. That done, he was asked to lie down on the ground and roll to and fro within the same distance. The next stage of the reporter's "shake-up" consisted in lying flat on his back facing the scorching midday sun with a block lifted high above his chest. (*West Africa* July 8, 1985)

After all the "shake-ups," he was asked to make a written statement, cautioned and then released.

The Babangida government also employed the instrument of harassment extensively in an attempt to force Nigerian journalists, and inferentially the Nigerian press, into its wanted line. There were numerous instances of the utilisation of assorted facets of this weapon in the course of its eight year rule. Let's take the following ten examples.

One, in April 1987, after pronouncing *Newswatch*'s six months' proscription and sealing up the magazine's premises as provided for in its retroactive decree, the government additionally froze the accounts of the news magazine from April 9 to 21. (*Newswatch*, Sept. 14, 1987, p.17)

Two, three members of staff of the *African Concord* magazine including the editor, Lewis Obi, were, early in 1989, compelled to be reporting daily at the offices of the Federal Intelligence and Investigation Bureau for publishing a report on a police raid on Irri, a small village in Delta State in which an 82 - year old man was shot dead, houses burnt and women raped. (Nwakwo et. al., 1993:40)

Three, a plain clothe security agent of General Babangida on Wednesday January 25, 1989, abused, insulted and harassed journalists, including the then *Sketch* Managing Director,

Mr. Peter Ajayi, at the palace of the Ewi of Ado Ekiti, where they were waiting for the Head of State who was on a state visit to Ondo State. The security agent sent the journalists out of the hall where the Regent of Ado Ekiti, Princess Omotunde Adelabu, was to receive the state - visitor saying in poor English, "all these useless people, den go dey speak English." He also attacked Mr. Tunde Agbabiaka, a *Sketch* correspondent on the President's entourage, whom he accused of taking his photograph, and wrestled to seize his camera. It took the intervention of the Sketch Managing Director and the Ondo State Chiefs and Commissioners present to have the security agent return the camera. Journalists and press - photographers who had walked out of the venue in protest were also persuaded to return by the eminent citizens. (*Daily Sketch*, Jan. 28, 1989)

Four, in addition to detaining numerous print journalists during the crackdown on dissidents that followed the 1990 abortive coup, the Babangida government also seriously harassed many broadcast journalists for simply performing their duties on the coup day. In spite of a national law which then required all radio stations in the country to join all network programmes, many presenters of the government owned Federal Radio Corporation of Nigeria (FRCN) station in Anambra State were marched to the SSS office to explain why they hooked up with the coup broadcast in Lagos. Ditto for presenters at the Anambra and Kwara States Broadcasting Services (Egbu 1990:17)

Five, in June 1990, Mrs. May Ellen Damijo, then *Classique* magazine publisher, was whisked away for a 'chat', a Nigerian police euphemism for arrest, by state security personnel

in connection with a publication in her magazine concerning alleged visit of the wife of the military Vice President, Mrs. Rebecca Aikhomu, to an Ondo - State based spiritualist (Egbu, Ibid.)

Six, on March 9, 1991, Nduka Iraboh, one of the two *Guardian* journalists jailed under *Decree 4 of 1984* by the Buhari regime, as the then Press Secretary to Babangida government's Vice - President, and soldiers "booted" two broadcast journalists, Patrick Ityohegh, Nigeria Television Authority (NTA's) Director of News and Gold Oruh, the station's News Manager, out of their offices. The offence of the two journalists was that they did not relay, in tune with their station's policy, a piece of news phoned in for use by the press secretary. The two journalists were consequently sacked on the orders of the government but were later reinstated after the NTA explained that it had a standing policy of not broadcasting stories received on phone. (Nwakwo et. al., 1993:42).

Seven, in 1991, one of the State Military Governors called a press conference to refute a story written by one Adamu Toro, in which the Nigeria Medical Association (NMA) accused his government of not providing sufficient funds for the development of hospitals and post - graduate training of doctors. When Toro, attempted to ask further questions about the NMA's claims at the press conference:

the governor's orderlies hushed him down on the pretext that he had asked enough questions (Adeneye, 1997:43-44).

Eight, the Nigerian Union of Journalists Press Freedom Committee Report of 1992 concluded partly that during the year:

... press centres were sealed up by the police on four occasions ... and ten ... [journalists] were beaten up in the course of their duties.

Nine, on April 30, 1993, SSS agents at the Murtala Mohammed Airport, Lagos asked three Nigerian journalists, Messrs Folu Olamiti, the then Editor of *Nigerian Tribune*, Femi Ogunleye, a former Public Relations Manager of Nigeria Airways, and a lady journalist with the FRCN, who were returning from private or official businesses in London to step aside from the rest of the passengers. They were given three white SSS forms to fill. Questions asked in the form included their mission(s) abroad, the person(s) or organisation(s) that sponsored their trips, their close associates and friends while in overseas, whether they resided with them and for how long, and the duration of their trips. The SSS officials simply told the journalists that they were "acting on instruction." (*Nigerian Tribune*, May 18, 1993, pp. 1 and 2).

Ten, top functionaries of the Babangida regime usually made scapegoats of the press for social upheavals in the country. For example, Col. John Shagaya, the then Minister of Internal Affairs and member of the Armed Forces Ruling Council (AFRC) and Major General Peter Ademokhai, Commander of the First Mechanised Division of the Nigerian Army in Kaduna, said in 1987 that the press was to blame for the Kaduna religious disturbances of March that year. (*Newswatch*, Sept. 14, 1987, p.15)

Apart from police intimidation and harassment, the Gowon, Mohammed-Obasanjo and Babangida regimes also variously issued warnings and threats to instil fear in journalists. During

the Gowon regime, high ranking officials of state - civilian and military - including Gen. Gowon, the Head of State himself, constantly issued verbal threats to the press and journalists whenever they published whatever the regime did not want published. There were numerous examples of these threats. In July 1974, Godwin Daboh, a Gboko businessman, through the instrument of an affidavit, boldly publicly made serious and detailed allegations of corruption against a top public officer of the Gowon government, Mr. Joseph Tarka, then Federal Commissioner for Communication, and demanded his removal from office as, in view of the allegations, he was no longer suitable for public office. Mr. Tarka did not repudiate the serious allegations. The Gowon government also showed no intention of investigating the allegations or of relieving Tarka of his post. Gowon, in fact, took such allegations as attempts to bring him and his government down. Tarka too shamelessly held on to office in spite of immense public demand that he either denied the allegations with proofs or resigned. The press, as one of the institutional protectors of public interests, duly played a great role in the campaign for Tarka's resignation or sack. Although Tarka was eventually forced to resign on August 2, 1974 due to relentless press and public agitation, the commendable role of the press in the "Daboh - Tarka affair" and similar anti-corruption crusades paradoxically earned it many threats and warnings from principal officers of the Gowon regime.

One of such threats came from Major General Hassan Usman Katsina, the then Federal Commissioner for Establishments and Deputy Chief of Staff, Supreme Headquarters who, in August 1974, criticised the Nigerian press for overstepping its bounds in trying to influence

government policy (apparently in the Tarka affair by asking the government to sack Tarka). The General expressed the view that the Federal Government had not stepped in to put the press in its "proper place because it believed in a free and independent press" (Onagoruwa, 1977:58).

Another principal officer of state, Alhaji Kam Salem, the then Inspector General of Police who doubled as Internal Affairs Commissioner, also warned the press over the Tarka affair. In his words:

A section of the press has over-stepped its bounds and deliberately refused to observe the tenets of its profession (ibid.,)

On an earlier occasion in October 1969, the Inspector General had despatched a courteously worded confidential letter to Alhaji Babatunde Jose, Managing Director of the Times Group of Newspapers, over what he called "press publicity on security matters." The letter nonetheless contained a threat to the effect that if editors did not cooperate, a decree for violation of security information was a possibility. (Jose, 1987:214-215).

The Inspector General of Police also issued a warning to the press on its positive role in another anti-corruption campaign involving the then Military Governor of Benue-Plateau State, Police-Commissioner Joseph Deshi Gomwalk. Encouraged by the Tarka affair and in a Daboh fashion, another businessman, Mr. Aper Aku, also swore an affidavit making serious allegations of corruption against the Governor. He also, through the press, made the allegations public. Instead of investigating the allegations properly, the Head of State, General Yakubu Gowon

summoned the affected Governor for his comments. After the Governor's explanations, he verbally acquitted the Governor of the corruption charges while accusing the press of digging a tunnel to him (the Head of State himself). Following Gowon's summary acquittal of Gomwalk, the Inspector General of Police on August 27, 1974, summoned the press to the Force Headquarters in Lagos and sternly warned that:

The Federal Military Government might be compelled to take drastic and unpleasant measures to curb the excesses of the press and some cranks who profess to be journalists... The government would no longer tolerate press indiscipline and calculated attempts to undermine the Government's authority' ... 'The Government will not allow itself to be blackmailed by the press or stampeded into taking any action in any matter of public interest.' (Cf. Jakande, 1979:117).

The Head of State, General Gowon himself also warned and threatened the press over the anti-corruption campaigns waged against top members of his government at least three times. On return from a state visit to China on September 17, 1974, the General declared his firm determination "to go to war" against those (and these include the press and journalists):

indulging in character assassination with the aim of causing confusion in the country. (*Daily Times* September 18, 1974, p. 2).

In April 1975, three months to the coup that would topple his administration, Gowon again threatened that if the press went too far, he would not mind doing without it for a while. (*Daily Times*, May 13, 1975 p.1 cf Agbaje, 1992: 237). Also while on a state visit to Bahama in the West-Indies two months to the end of his regime, and in the presence of the world press,

Gowon warned the Nigerian press that it was taking a grave risk of losing its freedom if its criticism of his government was not “responsible and constructive” (Onagoruwa, 1977:84; Agbaje, 1992:237).

Like the Gowon regime which preceded it, the Mohammed-Obasanjo government also used the instrument of warning in dealing with the press. For instance, after barely a month in office, the administration issued a strong warning to the press to desist from what it called attacks on its activities and its officials. “Some newspapers”, it said:

use intemperate language bordering on rudeness in their comments on the activities of this government and on government functionaries in ordinary articles and even in their editorial columns. (*Daily Times* Aug. 30, 1975)

This, it said, it regarded as “indiscipline”. It dictated that:

nobody should be a target of attack because he has a job to do in whatever capacity in the interest of this country. (Ibid).

It gravely notified that it would no longer condone this kind of indiscipline “from any quarters”. (Ibid).

The Babangida government, through the then Chief Press Secretary to the Head of State, Duro Onabule, an editor of the *National Concord* during the preceding Buhari regime, also occasionally issued warnings to the press to the effect that it would not tolerate embarrassing publications. According to *Newswatch*, (Sept. 14, 1987, p. 15). Onabule was particularly piqued by an innocuous news - story in *The Guardian* newspaper which reported that General Babangida would engage in a phone - in radio discussion programme during which he would answer callers' questions.

Also after the government's June 23, 1993 annulment of the June 12, 1993 presidential election, the then Secretary of Information, Mr. Uche Chukwumerije, warned the Nigerian press against what he called:

a new system of release of disinformation by enemies of stability in the country. (*Nigerian Tribune*, Sat. July 3, 1993).

Another administrative weapon utilised by the military governments to control the press is redeployment of non-compromising editors and managers of government-owned newspapers. The Gowon and Mohammed - Obasanjo governments employed this weapon. Mr. Labanji Bolaji, a courageous and principled journalist, was in September 1974, removed as General Manager of the Western State Government owned *Sketch* Printing and Publishing Company and redeployed to the civil service because the *Daily Sketch* published a "sober comment" on General Gowon's Airport statement in which the General declared his firm resolve to "go to war" against those levelling allegations of corruption against officials of his regime (Onagoruwa, 1977:66-67); Agbaje, 1992:77). About this time, there were personal protests from the Benue - Plateau Governor, David Gomwalk, one of the targets of the anti-corruption campaigns to the Governor of the West, Brigadier Oluwole Rotimi.

Following the 1975 coup, Mr. Bolaji was redeployed back to the *Sketch* by the new governor in September. He was again removed a month later following his refusal to apologise to the military governor over a controversial story on the West published by the *Sketch*. This led him to resign from the civil service. He subsequently served from November 1975 till

January 1979 as the General Manager of the privately owned *Nigerian Tribune* (Agbaje, 1977:255).

Mr. O. Akinsuroju, editor of the *Daily Sketch* at the commencement of the Nigerian Civil War, who was sent on a month compulsory leave for his paper's support of the Biafran cause, was finally removed from office in November 1967. (Akinsuroju, 1989: 13 cf. Agbaje, 1992:220).

During the Mohammed - Obasanjo era, in 1977 precisely, Mr. Peter Ajayi, the then editor of the Kwara State Government newspaper, the *Nigerian Herald*, was removed by the State Military Government because he failed to defend the government's decision to build an ultra modern stadium complex when other newspapers attacked the project as being too expensive. (Youm & Ogbondah, 1990-91:92) I K Odjugo, the General Manager of the then Bendel State Military Government - owned newspaper, the *Nigerian Observer*, was also summarily removed by the newspaper's proprietor in 1976. Odjugo's offence was that his newspaper "embarrassed" the government by duly performing its ethical and patriotic duty of exposing the waste of public fertilizer on the government farm at Ogba. (Bolaji, 1987).

Indirect censorship was also used by one of the military regimes. Only the Gowon administration utilised this measure. During the life of the regime, attempts were made by police agents to procure a proof-reader of the *Tribune* newspaper to get advance proofs of *Tribune* editorials. In the course of this filthy attempt, the paper had frequent visits by detectives (Onagoruwa, 1977:67).

Refusal to grant interviews was equally employed by the Gowon government. Sometimes when principal officers of state of the Gowon regime did not want to comment on important burning public issues, they simply shielded themselves against reporters. There was an instance of this involving the Head of State himself. In April 1975, reporters who had gone to the Ikeja Airport to report the departure of General Gowon who was travelling out of the country, were prevented from moving near him. In the words of Onagoruwa (1977:83), the reporters “were harassed and caged” by armed soldiers. The objective, according to the *Tribune* (30 April 1975), was to prevent the reporters from interviewing the Head of State. Also, when Anthony Enahoro, the then image maker for the Gowon regime, had to face the press in the heat of so many crises on August 1, 1974, he categorically gave the press a list of questions he would not answer. As he instructed the press:

Don't ask me any question on Tarka, I will not answer. Don't ask me any question on the census, revenue allocation, post 1976 Nigeria, I will not answer them. (*Daily Times*, Aug. 21, 1974).

Both the Gowon and the Buhari regimes also issued direct verbal orders to journalists in order to control the content of their publications. There were at least two instances of the utilisation of this instrument during the Gowon regime. On May 27, 1967 when the Nigerian Broadcasting Corporation (NBC) broadcast Biafra's declaration of secession, the Federal Military Government was gravely embittered. This led to the querying of the Director General of the NBC. When the Director General explained to an emergency meeting of Federal Permanent Secretaries, to which he was peremptorily summoned, that the broadcast and its presentation were in line with the NBC charter and tradition of neutrality, he was simply ordered:

to forget the independence and neutrality of the NBC for the duration of the war. (Ayida, 1987:249; Agbaje, 1992:219-220).

The second instance concerned the press reporting of the 1974 census controversy. In 1973, the Gowon administration conducted a new census for the country. The result of the census became very controversial on its release in 1974. As Agbaje (Ibid. p. 231) captured the controversy:

Some opinion leaders in the South, including those in the military, felt that the provisional figures announced in 1974 for several states in the North were too high compared to those in the South. Even some members of the Census Board resigned following divisions among them over the issue.

The press, as the mirror of society, naturally reflected this controversy. In order to stop the press from continuing this important mirror role, General Gowon, after setting up a Review Committee on the census, summoned the press to Dodan Barracks, the seat of his government, and:

ordered the journalists not to comment on the figures, or do any analysis or compare them with previous censuses. (Ibid. p. 236).

In July 1985, when Nigerians started mounting pressure on the Buhari government to fix a date for returning the country to civil rule, the government simply banned what it called "political debates" either personally undertaken or engaged in through the press. Stressing that the administration did not set any time limit for handing over power to civilians when it seized

power and that elections would have to wait until the economy had improved, the government threatened anyone who published anything about the nature of the future political administration of Nigeria with detention under *Decree 2*. Only about two weeks to its overthrow, the government, through its Chief of Staff, Brigadier Idiagbon, also verbally warned journalists "not to publish anything on politics." (*West Africa*, August 12, 1985).

In addition to giving verbal orders to journalists, some of the military governments physically attacked journalists in an attempt to influence their publications. The Gowon and Babangida regimes utilised this measure. Physical attacks, assaults and battery were employed against many journalists during the Gowon regime in order to force the press to publish only positive information about the military government. We discussed earlier, under the administrative instrument of refusal to grant interview, armed soldiers' physical prevention and "caging" of reporters who wanted to interview General Gowon at Ikeja Airport in April 1974. Years before this incident, the Director General of the then Nigerian Broadcasting Corporation (NBC) had, in May 1967, been slapped on the face by a military officer because the NBC carried Biafra's declaration of secession (Ayida, 1987:248-249; Agbaje, 1992: 219-220)

But by far the most grievous physical attack on the person of a journalist during the Gowon regime occurred in the famous Amakiri case. In 1973, one Mr. Ralph Michael Iwowari, an Assistant Superintendent of Police and aide - de - camp to the military Governor of Rivers State, Commander Alfred Diète-Spiff, caused Mineiri Amakiri, a Nigerian journalist and Chief Correspondent of the *Nigerian Observer* in Port-Harcourt, to be stripped naked and given

twenty-four strokes of the cudgel by his soldier-assistants. Apart from this severe caning, Amakiri also had his head shaven with a rustic razor blade by agents of Iwowari who also falsely imprisoned him for twenty-seven hours with neither food nor water. The journalist had written a story on the grievances of Rivers State teachers which was coincidentally published by his paper on Governor Diете Spiff's birthday. (See Onagoruwa, 1977). This case, which generated stupendous outcry against the Rivers State Military Government, later gave rise to a law - suit. (See *Amakiri v. Iwowari* in the case law segment)

There was, also, at least, an instance of the employment, against journalists, of the weapon of assault by security agents during the Babangida regime. A senior reporter with the Sketch Press Limited, Mr. Tunde Adeleke, was horse-whipped and brutalised at the Nigerian Institute of International Affairs, Lagos on Feb. 11, 1993 by soldiers who were either from the SSS or the Directorate of Military Intelligence (DMI). Adeleke had gone to NIIA to cover the launching of a book; *Operation Liberty: the Story of Major General Joshua Dongoyaro*. As the events progressed, he felt pressed and went out of the NIIA hall to ease himself. He was denied entry back into the hall by soldiers who stood guard at the entrance despite his showing them his identification card. As Adeleke was narrating his ordeal to another reporter who had just arrived:

another soldier in mufti gripped him and dragged him to the NIIA gate, handed him over to other soldiers who further assaulted him with horse whip, tore his notebook and ordered him out of the venue. (*Daily Sketch*, Feb. 12, 1993 p. 9) He sustained bruises and pains in his ears and had to be treated at a private hospital. (Ibid.)

Another non-legislative control weapon applied against the press was deportation of local journalists from their state-beats. This was also employed during the Gowon regime. The then Kano State Military Governor, Audu Bako, used this measure against Femi Ogunleye and John Anisere, reporters of the *Daily Times* and *Daily Sketch* respectively. As Barton, (1979 : 56), documented:

When Femi Ogunleye... and John Anisere... fell foul of the Kano State Military Governor, Audu Bako, he simply deported them out of the state.

The Gowon government also used a controlled system of news management in subtly influencing media content in its favour. (Agbaje, 1992:230) The main element of this instrument is the telephone which was used for two basic purposes: one, to release information the government wanted published to the press without government attribution and two, to kill stories the government did not want published. As explained by Moses Ihonde, Press Secretary to General Yakubu Gowon:

the telephone was used to make releases mainly when it was a story the Government wanted leaked. The telephone, in that case, allowed one to be distanced from the story which could not be attributed to government. The only other use of the telephone apart from calling press conferences was to kill stories that could create problem for government (cf. Agbaje, 1992:230).

Another administrative control measure employed during the Gowon regime, especially by state military governments, was establishment of newspapers. Ownership of newspapers was perceived and utilised as a veritable instrument of influencing media content and ensuring

that, majorly, editorial contents that were favourable to the owner - governments got published. Almost all the state military governments which hitherto had no newspapers established their own newspapers during the Gowon regime. Newspapers established during this period include the *Nigerian Observer* established on 30th May, 1968 by the Mid Western (later Bendel) State Government; *The Renaissance* (formerly *Biafra Sun* and *Nigerian Outlook*) revived by the East Central State Government from Oct. 1, 1970; The *Nigerian Chronicle* established by the South Eastern (later Cross River) State Government in 1971: the *Nigerian Tide* founded by the Rivers State Government in 1971: the *Nigerian Standard* established by the Benue - Plateau (later Plateau) State Government in July 1972 and the *Nigerian Herald* founded by Kwara State Government in 1973.

The various state military governments, through their proprietorial hold on these papers, directly and indirectly influenced their editorial contents. They appointed and dissolved the boards of the papers at will.

Most of the state military governors assumed the role of Editors - In - Chief and Managing Directors of the newspapers formed by their respective governments (Jakande, cf. Onagoruwa, 1977:162)

Some of the papers, like the *Sketch* (during Brigadier Adeyinka Adebayo's era) were reportedly constrained to write editorials in the military governor's room. (Agbaje, 1992:252).

In conformity with the use of this measure under the Gowon regime, one other state military administration, the Benue State Military Government, also established its own newspaper, the *Nigerian Voice*, during the Mohammed-Obasanjo administration. The establishment of the

newspaper in 1978 followed complaints, by Benue State indigenes, of biased and subjective coverage of issues affecting Benue State and people by the *Nigerian Standard* which, up till the time, was jointly owned by both Plateau and Benue States (Agbaje, 1992:255).

Police raids on newspaper houses were also used during the Gowon era to prevent publication of information which the government did not want published. For instance, apparently having a prior knowledge of *Daily Sketch* editorial of the following day, the government one night sent fifty plain-clothed and uniformed policemen to seize the editorial from the government-owned newspaper. Apart from removing the editorial, the policemen conducted a two hour search on the newspaper's premises and briefly arrested its night editor. They told the staff of the newspaper that:

the activities of the newspaper within the last three months had been embarrassing to the government (*West Africa*, Sept. 23, 1974 p.1175, cf. Uche, 1989:136).

The Gowon and the Babangida governments also summarily temporarily closed many news media. Summary closure of the news media is a breath short of proscription which is a legal control mechanism requiring a back-up legislation and prohibiting a publication either permanently or for a specific period of time. In the case of summary closure, the government simply sends armed soldiers and or policemen to the premises of any news-medium it feels has erred, by publishing whatever it does not want published. The security operatives send away the medium's workers and occupy its premises for as long as the government pleases. Some of the times, they arrest and detain principal officers of the medium. Two such cases occurred during the tenure of Gowon.

The first was the occupation for six days in Nov. 1969 of the premises of the *Daily Times* Group of Newspapers by police detectives on the orders of the Gowon government which was displeased by the newspaper group's anti-corruption campaigns against some corrupt top members of the administration (Jose, 1987:210-216)

The second summary closure involved the Calabar - based South Eastern State owned newspaper, the *Daily Standard*. In 1970, the office of the paper was sealed up on the order of the state military governor, Brigadier - General U.J. Esuene, and the paper was banned because it advocated for the creation of more states out of the South-Eastern State. The paper was resuscitated in 1975 after a change of government via a military coup (Agbaje, 1992:73).

Throughout its eight year rule, particularly immediately after the abortive Orkar coup in 1990 and during the June 12, 1993 election annulment crisis, the Babangida government, at both state and federal levels, routinely summarily closed down 'offending' news media without legislative back-ups. As presented hereunder, seventeen news media groups were peremptorily, albeit eventually temporarily, shut during the Babangida regime:

The Benin offices of the *Observer* publications were, in a gangsteristic manner, sealed off on October 14, 1988, apparently on the orders of the then Bendel State Government, its proprietor. To effect the closure, the paper's staff were forcibly ejected by the police and dispersed with teargas. The newspaper had earlier written an editorial critical of the Bendel State's Commissioner of Sports. (Nwakwo et. al., 1993:38)

The Ikeja base of the *Punch* newspapers was closed down from April 29 to May 20, 1990 for *The Punch's* publication of the coup speech of Major Gideon Orkar, leader of the April 22, 1990 failed coup against the Babangida government (Egbu, 1990:14) and for publishing an 'offensive' editorial comment on the coup in *The Punch* issue of April 27, 1990 (*NewsWatch*, Sept. 14, 1987 p.52).

The Ikeja premises of John West Publications, the holding company for the *Lagos Daily News*, *Evening News* and *Sunday News* newspapers and also the base of John West Publishing Company Limited, was sealed off twice by armed security operatives. The first closure, from May 1 to June 11, 1990, was on account of the editorial comment published in the April 29, 1990 edition of the *Sunday News*. A government source, according to *NewsWatch* (Ibid.), described the editorial which was also on the April 22, 1990 coup as "negative and critical of the government." The second closure, from March 8 to 21, 1991, was in respect of what was termed "embarrassing publications" by the *Lagos Evening News* against General Babangida and his wife, Maryam. The paper, under a front page title: "IBB, Maryam named in Jennifer's deal" published the content of a letter written by the then Chairman of the Drug Law Enforcement Agency (NDLEA), Mr. Fidelis Oyakhilome, to the military Vice-President, Augustus Aikhomu, on the need to detain a business woman, Jennifer Madike, under *Decree 2* (Nwakwo et al., 1993:42)

The Plot 14, Western Avenue premises of *Newbreed* magazine, also housing Ihaza Co. Ltd., H. Hannal Holdings Ltd., Newbreed Printing and Packaging Co. Ltd. and Chris Okolie

Chambers, were sealed off on June 8, 1990 on account of *Newbreed's* publication of a letter said to have been written to General Babangida by the fleeing principal civilian suspect of the failed Orkar coup, Chief Great Ogboru, who was alleged to have financed the coup.

The Lagos base of the *Champion* newspapers was forcibly shut on June 9, 1990 by armed, search and seal, warrant - carrying Lagos State Government security agents who said they were after seditious materials allegedly published in one of the editions of the *Daily Champion*. *This Week* sources however confirmed that the Lagos State Government was angered by the paper's editorial of June 8, 1990 over the Alaba Market traders - police fracas, in which a trader was mistakenly shot by the police, and by the paper's promise (in the issue) to give its readers an indepth analysis of the crisis in the *Sunday Champion* of June 9, 1990. (Egbu, 1990:16-17).

The Lagos offices of the *Vanguard* newspapers were shut for two days from June 7 to 9, 1990, on the orders of the Lagos State Government without the papers being informed of their offence(s). The security agents who effected the closure:

forced open the door leading to the office belonging to the editor's secretary, searched the place and took away some official documents including some printing plates for April 9, 11 [and] June 6 [1990] editions of the paper. (Egbu, 1990:16)

The entire publications of the *Guardian* Group were, for nine days, from May 30 to June 7, 1991, forced off the streets when their offices were shut down on May 29, 1991 on the orders, again, of the Lagos State Military Governor, Col. Raji Rasaki. Their 'offence' was

publishing a report in the *Guardian Express* evening newspaper of May 29, 1991 which said that two students of the Yaba College of Technology, Lagos were shot dead by state security agents during a students demonstration (Nwakwo et. al., 1993:12). The report, which was simultaneously published by the largely federal government owned *Evening Times (Nigerian Tribune, June 1, 1991)* added that the police barricaded the Yaba College of Technology gates to prevent the dead victims of the riot from being taken to hospital, thus causing them to bleed to death.

Addressing Dodan Barracks (the then Federal Government State House) correspondents two days later, Col. Rasaki contended that he closed the *Guardian* group because it misinformed the people of the state. He maintained that it was the students who barricaded the gates of the college during the demonstration and prevented their shot colleagues from being taken to hospital and not the police. He said the publication of such a report at a time the atmosphere in the state was charged was capable of causing disaffection and inciting students into rioting "that could lead to a breakdown of law and order in the state". (*Nigerian Tribune, June 1, 1991, p.2*). The Lagos State Government later charged four journalists of the *Guardian Express* to court for false news on the publication. The charge was however withdrawn midstream. (Details of the case are given under research question 5 below)

Security agents sealed off the premises of the *Good Times Glamour* monthly magazine on June 15, 1993 over its June 1993 edition titled "CIVIL WAR AGAIN? : Generals lace their boots" (*Constitutional Rights Journal, Vol. 3, No. 7 July - Sept... 1993, p. 28*)

Amidst the tension generated by its controversial annulment of the June 12, 1993 presidential election, the Babangida government in July 1993 sent armed soldiers and policemen to close six media houses including Abuja *Newsday* and the Ogun State radio station, OGBC, for their 'offending' publications. While the closure of Abuja *Newsday* and OGBC were not legislated and thus made temporary, the *Concord*, *Punch*, *Sketch* and *Observer* groups of newspapers, which were simultaneously summarily shut, were on August 16, 1993, retroactively proscribed via the *Newspapers, etc. Proscription and Prohibition from Circulation Decree (No. 48), 1993*.

Apart from summary closure of the news media, one of the military regimes- the Mohammed-Obasanjo administration - also employed the instrument of subterranean appeal to control the press. Evidence of the use of the mechanism can be seen in the process leading to the two-year ban of the *Newbreed* magazine as recounted by General Olusegun Obasanjo, the head of the government at the time of the ban. According to General Obasanjo, when his government got wind that *Newbreed* was about to publish a critique of the Nigeria Security Organisation, the publisher of the magazine, Chief Chris Okolie:

was approached and an appeal... made to him to spike the story and stop the magazine from circulation (Obasanjo, 1990:33).

Okolie's refusal to heed the appeal to kill the story, which the government considered to be "in breach of security," the General contended, led to the seizure of the printed copies of the magazine and to the two year prohibition imposed on it.

The Mohammed - Obasanjo regime also utilised the weapon of teleguiding the press. The measure involved constituting a team of very senior civil members of the government to daily receive and study copies of daily editions of some of the government - owned newspapers well ahead of circulation. The government agents, after studying the papers, then persuaded their editors, managers and or publishers, who by virtue of government ownership of those media, are also employees of the government, to “re-arrange” stories embarrassing to the government before circulation. (Agbaje, 1992:87) Mr. Alison Ayida, Secretary to the Federal Military Government during the Mohammed - Obasanjo regime and a member of the newspaper pre-circulation reviewing team, explained his experience on the team this way:

I used to receive my copy of the *Daily Times* by 3 p.m. the day before publication. We adopted ‘friendly’ persuasion to get embarrassing stories re-arranged. It was not censorship. There was no visible penalty attached to non-response. But the Government was better prepared or equipped to answer back through anticipation. (Ayida, 1987: 253)

As observed by Agbaje (1992:87), the system did not require any physically visible penalty for efficacy since:

the various military governments in the Federation owned many of the newspaper houses and, therefore, were defacto employers to a greater percentage of journalists.

Like the Roman censors, both the Mohammed-Obasanjo and the Babangida regimes seized publications in order to prevent them from circulation. Under the Mohammed - Obasanjo government, the Chief of Staff Supreme Headquarters, who announced the *Newbreed*

proscription, Brigadier Shehu Musa Yar' Adua, attested to the fact that, prior to the magazine's ban, the government, on two occasions, stopped the circulation of two of its editions. (*Nigerian Tribune*, July 7, 1978). The proprietor of the magazine, Chief Okolie, also revealed that 10,000 copies of the mid - January 1977 and 50,000 copies of the mid - March 1977 editions of the paper were impounded by the government. The latter issue carried the second portion of a two - part interview with Chukwuemeka Ojukwu, the leader of the abortive Biafran secession bid. (Uche, 1989: 136). Okolie put the loss incurred on the seized copies of the magazine at N172,000.00. This, he said, included production costs, advertisement sales revenue and general and special damages. (*Nigerian Observer*, June 28, 1978)

From 1990 onwards, the Babangida government, through its various security agencies, routinely impounded critical publications and destroyed them in order to prevent them from being circulated. The government's armed security personnel simply invaded printing presses and news - media houses and confiscated 'offending' editions of newspapers and news-magazines without giving any reason.

Where copies [of the publications to be impounded] have already found their way to the vendors, security staff in unmarked cars and motorbikes, rode round the city assaulting vendors and removing from them copies of the 'offending' editions of the press publications. (Aigbogun, 1995:33).

The government, through this process, confiscated hundreds of thousands of copies of news publications including film and printing plates resulting in a loss of millions of naira to the

affected news- media. The following publications, film and printing plates were seized in that manner by the Babangida regime:

- Unquantified copies of the July 1, 1990 edition of *The Sunday Magazine* (TSM). The magazine reported the wife of a Lagos lawyer and politician, Tunji Braithwaite, who was detained for his comments on the 1990 failed coup, as having said that the soldiers who effected her husband's arrest stole her trinkets and other valuables. (Nwankwo et. al., 1993: 41).
- 10,000 copies of *Quality* magazine. These were seized in December 1992. The magazine advertised an interview with Mr. Femi Falana, a human rights lawyer and activist. (Olaitan and Babalola, *Sunday Tribune*, Aug. 1, 1993, pp. 8-9).
- 30,000 copies of the March 22, 1993 edition of *The News* magazine. The magazines were seized by about thirty heavily armed security agents at the Ajao-Estate Headquarters of *The News* on Sunday March 21, 1993. The seizure was strongly believed, to be connected with the published interview given by General Domkat Bali, a former Minister of Defence, under the headline: "There will be coup, if...."
- 30,000 copies of the April 5, 1993 edition of *The News* magazine.
- 6000 copies of the April 16; 1993 No 17 edition of *TELL* magazine titled: Exclusive Interview: IBB's Regime is A Fraud - Obasanjo." These were impounded on April 19, 1993.
- 26,000 copies of *TELL* magazine edition of May 3, 1993 with the cover title: "The People's Verdict: Go IBB, Go" (*Nigerian Tribune*, July 27, 1993, p. 3)

- 70,000 copies of the May 10, 1993 No. 19 edition of *TELL* titled: "Transition: 21 Traps Against Handover" seized by a contingent of SSS agents on May 2, 1993 from Acedemy Press, Lagos, its printer. (*Daily Sketch*, May 3, 1993, p. 3).
- 42,000 copies of *The News* magazine confiscated by security operatives on May 16, 1993. The edition was cover-titled: "Revealed: Babangida's Tactics and Methods." It featured the magazine's interview with the former Chairman of Joint Chiefs of Staff, Rtd. General Domkat Bali. (NUJ, 1994:7)
- 52,000 copies of *The News* with the cover story title: "Help, Nigeria is Dying" impounded by men of the SSS on their invasion of the Acedemy Press, Ilupeju, Lagos on May 22, 1993. (Olaitan and Babalola, 1993:8-9).
- Unquantified copies of No. 27, July 5, 1993 edition of *TELL* magazine titled: "Stolen Presidency: IBB Wages War on the Nation."
- Film and printing plates meant for the printing of *TELL* issue No. 28 of July 12, 1993 seized by men of the SSS during a raid on the Academy Press on July 3, 1993. The issue, of which 80,000 copies were ordered, had as its cover: "Nigeria: The People Say NO to Babangida" (*Nigerian Tribune*, July 27, 1993, p. 3)
- About 50,000 copies of the maiden edition of *TEMPO* magazine with the cover title "The Great Betrayal" seized on July 12, 1993 by over one hundred armed security agents from the SSS, the Police and the National Guard. (*The Guardian*, July 14, 1993, p. 3)

- Copies of the No. 30, July 26, 1993 edition of *TELL* titled: "Nigeria: Waiting for the Worst."
- 100,000 copies of No. 31, August 2, 1993 *TELL* edition with the cover story: "Babangida's death game, now plays the ethnic card", seized from the printers, the Academy Press, by SSS operatives on Saturday July 24, 1993 (*Nigerian Tribune*, July 27, 1993 p.3) and
- 30,000 copies of *TELL*, with the cover title: "Enough is Enough -Opposition Against the Babangida Regime Mounts" impounded by security agents on August 20, 1993.

In addition to seizure of publications, one of the military regimes, the Mohammed-Obasanjo administration, forcefully took over the ownership of some powerful newspapers from their owners. As earlier mentioned, the Mohammed-Obasanjo administration, about September 1, 1975, compulsorily acquired 60 percent equity shares of the *Daily Times* from their private owners. It also totally took over the *New Nigerian* formerly owned by the Northern States governments. An official explanation on the take - over said it was to enable the papers to expand their activities to cover all parts of the country effectively and to enhance the needed channel of communication. The statement added that:

With the take - over, it would not be necessary for the Federal Government to establish a newspaper industry as hitherto envisaged. (*Daily Sketch*, Sept. 1 1975).

Although the government sought to explain away the take over in economic terms, acquiring the two most powerful newspapers in the country, circulation wise, was obviously a way of

putting the press under its firm control. Its proprietorial hold on the papers naturally conferred a lot of power on it to influence their content. Moreover, the acquisition also provided a better alternative to reviving the moribund *Post* newspapers closed down in 1973. (Agbaje, 1992:259)

Two of the military governments - the Mohammed-Obasanjo and Buhari regimes - also banned public officers from expressing their views in the press in an attempt to curb criticisms of their decisions in the press. A state military administration under the Mohammed - Obasanjo regime, the Western State Military Government, in November 1975, banned teachers in its employ from granting interviews to the press or expressing their opinions in newspapers without prior permission. A circular letter dated November 3, 1975 and signed by one O.B. Okuboyejo (Mr.) for the Secretary, Western State Ministry of Education, instructed the teachers inter alia:

... except in pursuance of his teaching duties, no member of the teaching service shall without the express permission of the Central Schools Board, whether on duty or on leave of absence-

- (a) act as the editor of any newspaper, magazine or periodical or take part directly or indirectly in the management thereof;
- (b) contribute to, whether anonymously or otherwise, or publish in any newspaper, magazine or periodical or otherwise publish or cause to be published in any manner, anything which may reasonably be regarded as of a political or administrative nature;
- (c) allow himself to be interviewed or express any opinion for publication on any question of an administrative or political nature or on matters affecting the conditions of service in the teaching service.

The circular added that:

Nothing in the foregoing shall be deemed to prevent any member of the teaching service from publishing in his name, by writing, speech or broadcast, any matter in relation to a subject other than one which can be regarded as of a political or administrative nature provided that in so publishing any matter compiled with Government sanction from official records, he gives prominence to a disclaimer of Government responsibility for its accuracy. (*Nigerian Tribune*, Nov. 4, 1975).

The immediate reason for this circular seems to be Alhaji Lam Adesina's article entitled "Is Bolaji's Termination Justified" published in his *Tribune* column, "The Search Continues" of Wednesday October 29, 1975. In the article, Lam Adesina, a school principal with the Western State Government and a *Tribune* columnist, had queried the termination of Labanji Bolaji's appointment as General Manager of the Sketch Publishing Company Limited by the Western State Military Government and had logically floored the reasons given for the termination by the Western State Military Governor. (See *Nigerian Tribune*, Oct. 29, 1975)

Following the issuance of the circular, Lam Adesina's weekly column stopped appearing in the *Tribune* until Wednesday March 24, 1976 when he wrote on an educational issue, the resuscitation of the Sixth Form (H.S.C) in the three states - Oyo, Ogun and Ondo - newly created from the former Western State. He had, a year earlier, on Wednesday April 2, 1975, in an article in the *Tribune* written against the cancellation of the programme in Western State.

The Buhari government, in July 1984, also issued a directive banning public officers from disseminating information without clearance from the "appropriate authority." (*National Concord*, July 3 and July 12, 1984.)

Another administrative control weapon used by one of the military regimes is closure of the office of the foreign press. As a way of controlling the foreign press in Nigeria, the Mohammed - Obasanjo administration in February 1976 closed down the offices of Reuters, the British news agency, over its reportage of events in the aftermath of the abortive coup in which General Mohammed was assassinated. (Youm and Ogbondah, 1990-91:92) The offices were only allowed to reopen in 1980, after the return to civilian rule.

The Gowon, Mohammed-Obasanjo, Buhari and Babangida administrations used the instrument of dismissal of journalists of government-owned newspapers to control the press. In 1969, Adebayo Shittu, the then editor of the *Sunday Sketch*, was dismissed by the military governor of Western State, Brigadier Adeyinka Adebayo, consequent upon the publication in the paper of an article alleging irregular appointments at the University of Ibadan (*West Africa* (London) June 6, 1970, p. 625: cf Agbaje, 1952:252.

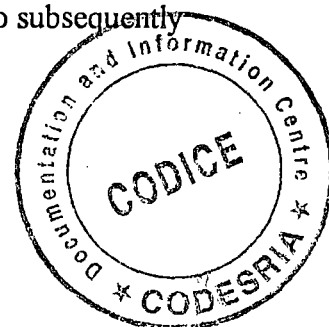
In a similar vein, during the Mohammed-Obasanjo regime two state military government-owned newspaper corporations - the Kwara State Publishing Corporation, publishers of the *Herald* newspapers, and the Sketch Publishing Company, publishers of the *Sketch* newspapers - also summarily dismissed two of their principal media managers. The affected senior journalists, Messers Peter Ajayi and Felix Adenaike, individually challenged their dismissals in court with the court backing one and dismissing the redress - seeking application of the other. (See the case law segment)

Also during the Buhari era, the editor of the *Nigerian Statesman*, Pip Iwuagwu, and two reporters of the paper were dismissed on the orders of the Imo State military authorities. (Youm and Ogbondah, 1990-91:91-92)

As was the case under Gowon, Mohammed-Obasanjo and Buhari regimes, one state military governor under the Babangida regime, Col. Lawrence Onoja of Plateau State, also peremptorily dismissed a newspaper editor. The affected editor, Jonathan Ishaku of the Plateau State Government - owned *Nigerian Standard*, was sacked on August 18, 1987 for publishing an editorial which criticised the Federal Government's arbitrary and unjust retirement of Mr. Oladele Olashore and Dr. Ibrahim Ayagi as Managing Directors of First Bank and Continental Merchant Bank respectively. Before his sudden retirement, Olashore had censured the Federal Government's measure, through the Central Bank, of allowing interest rate on loans to go to as high as 18 to 20 percent. This, he reasoned, would compound problems of extending credits to small scale industrialists. Ayagi, in his own case, had challenged in a court of law, the classification of his bank by the Central Bank in its Foreign Exchange Market transactions. Governor Onoja declared that he sacked the *Nigerian Standard* editor for his:

consistent publications and comments on issues which are at variance with the posture of the present military government. (*Newswatch*, Sept. 14, 1987, p. 13)

Like Jonathan Ishaku, Willy Bozimo, the Deputy General Manager of the Federal Government owned News Agency of Nigeria (NAN), who was detained for several weeks in 1990 because of his personal links with a suspected coup plotter, was also subsequently dismissed from his job. (Nwakwo et. al., 1993: 41)



Further to dismissal of journalists, one of the military governments also banned government advertisements in the private press. In order to financially cripple the private press, the then remaining critical and vocal section of the news-media, the Buhari government, during its tenure, directed all government ministries, agencies and parastatals not to advertise in the private newspapers but with government newspapers only. (Okhiria, 1986:76).

The Buhari regime also used newsprint as a weapon of control in its relationship with the Nigerian press. Newsprint is one of the most important inputs of print publications. Without it, no newspaper or magazine can be published. As a control measure, the Buhari government variously used this peerlessly important input to stifle the press, particularly the private newspapers. First, contrary to established practice, it refused to grant the news media exemption from paying, on the unique commodity, the 20 percent duty it imposed on all imports. In addition, it ordered that customs duty on the raw material be paid in advance. These two measures according to Segun Osoba, President of the Newspaper Proprietors Association of Nigeria (NPAN) in 1985, led to the April 1985 hike of newspaper price from 20k to 30k (*West Africa, April 1, 1985*).

Not too long after this, the Buhari government again imposed on the newspapers, a policy of bulk-purchase of imported newsprint through the Federal Government owned Nigerian Newsprint Manufacturing Company (NNMC) located in Cross River State. The NNMC imported newsprint in bulk and allocated it to newspaper houses. The government, through this method, starved private newspapers of desperately needed newsprint. While it awarded

newsprint in excess of N500,000 to each government owned newspaper, only about N200,000 worth of newsprint was granted each private newspaper. This quantity of newsprint allocated to the private news-media was grossly inadequate for their productions. In order to survive the newsprint onslaught and be able to publish regularly, most of the private papers were forced to thin down their publications. Many also resorted to borrowing newsprint from friendly government owned newspaper houses. Moreover, instead of the decrease in price that should have attended the NNMC's bulk purchase, the company was selling the newsprint to newspaper houses at a price 25 percent higher than if imported directly. This led to a protest by the NPAN which said that the NNMC's price:

had put an additional production cost of 3 kobo per copy on a daily newspaper. (*See West Africa*, July 8, 1985 and Okhiria, 1986:76).

Also in 1985, the Buhari government illegally seized a large consignment of newsprint belonging to the *Concord* Group of Newspapers. The private newspaper house had ordered the importation of the newsprint worth about half a million naira at the time, before the government stopped private importation of the commodity. When *Concord's* imported newsprint arrived, the Buhari government, notwithstanding the surrounding circumstances, impounded it and distributed it among government owned newspaper houses. (*The Nigerian Observer*, April 7, 1987)

Another administrative control measure applied against the press during military rule in Nigeria was banning of journalists from their beats. There was an instance of the use of this

control measure by the Babangida regime. Immediately after the 1990 Orkar coup, the government banned *Newswatch*'s Anetite Usen from his State House beat because his magazine published the coup broadcast. (Adeneye, 1997:41)

Overt censorship was also variously employed by the Mohammed-Obasanjo and Babangida governments to control the press. In 1978, the Mohammed - Obasanjo regime furtively attempted the institution of formal censorship on the press. Faced with ceaseless press criticisms on its handling of the widespread violent students' demonstrations of that year, and believing that the press had helped fuel the crises, it instructed that censor panels to vet all materials meant for publication in all government owned media be set up throughout the federation. The Federal Ministry of Information and Oyo, Ogun and Bendel State Military Governments had already started acting on the federal directive before the attempt was called off consequent on expression of massive public disapproval. (see Agbaje, 1992. pp 88, 199 and 240).

Direct censorship was also employed in regulating the press during the Babangida regime. There was one egregious instance of this involving the Military Governor of Oyo State, Col. Adetunji Olurin, and the *Sketch* Newspaper Group then jointly owned by the governments of Oyo, Ogun, Ondo and Oshun States. On getting wind, on the night of Saturday, August 15, 1987, that the *Sunday Sketch* for the following day, which was already being distributed to various parts of the country, contained a critical editorial on the Federal Military Government's whimsical retirement of Mr. Oladele Olashore and Dr. Ibrahim Ayagi, (the two retired bank executives discussed earlier), Col. Olurin summoned all principal officers of the *Sketch* Press

Limited including its General Manager, Olusola Oyegbemi and *Sunday Sketch* editor, Bola Aragbaiye, to Oyo State Government House. After publicly dressing the editor down, the angry Governor ordered him, under threat of serious reprisals, to retrieve all the copies of the paper already despatched to the East and the North of the country and prevent them from being circulated. The whole run of that edition of the newspaper was retrieved and burnt in line with the Governor's order! (*Newswatch*, Sept. 14 1987 pp.11-12)

The Babangida government, through its principal information officials, also engaged in the practice of inserting ghost-written articles in, particularly, government owned newspapers. Evidence of the use of this weapon by the regime burst open from the forced resignation of Alhaji Yakubu Abdulazeez from the editorship of the *New Nigerian* immediately before the June 1993 election annulment and its subsequent crisis. Uncomfortable with the unethical practice of publishing ghost materials under his imprint, the editor, on June 16, 1993, chose to resign. He told the Chairman and Chief Executive of the paper, in his resignation letter, that he had been under intense pressure from the Secretary of Information, the Chairman of the company and the Executive Director for Publication and Marketing on the issue for the past two weeks.

The editor wrote:

I took exception to your habit of faxing materials
and ghost - written features/advertisements; the climax
of this trend is the editorial published in the *New Nigerian*
on June 16, 1993... (*Daily Sketch*, June 18, 1993, pp. 1 and 7)

The Babangida government also utilised the subtle method of "buying over" of buyable key mass communication practitioners and news - media in an attempt to control press contents.

This weapon has been variously described by different media scholars. Uche, (1989:137-139) calls it co-opting. Agbaje (1992: 265-266) tags it state - corporatism or the suborning of press operatives and managers. The control measure can also be described as clientelism or paternalism. Irrespective of the name given it, the method is a systematic way of silencing the press by making it soften its criticisms of bad policies of government to the detriment of the citizenry. This is achieved in two principal ways: through direct bribing of journalists and media managers and by appointing journalists who often criticise bad policies and actions of government into the government.

Evidence of direct bribery is often difficult to come by. That the Babangida government was involved in buying over of journalists, even at the highest level of media management, was however revealed in the *Newbreed* issue of October 1990. The magazine reported that a secret meeting was held between government security agents and media managers in July 1990 at the end of which material gains were exchanged for pledges of loyalty and self-censorship. It added that the government agents at the meeting issued guidelines to the press managers. (Agbaje, 1992: 265)

The Committee for the Defence of Human Rights (CDHR), a notable human rights group in Nigeria, also disclosed that:

a special meeting was held between government and newspaper publishers and editors at Abuja in September, 1990 where large sums of money were allegedly distributed with an understanding of co-operation. Guidelines were issued to the press to censor subversive reports. (CDHR, *Annual Report*, 1990 p. 12; cf. Adeneye, 1997:41-42)

The Dele Giwa Murder

As mentioned earlier, Dele Giwa, 39, was gruesomely assassinated by parcel bomb in his Lagos residence on Sunday October 19, 1986 a year and two months into the Babangida regime. Before his vicious murder, the journalist was questioned several times by state security agents on his critical writings on the Babangida regime. In one instance, he was taken to task on an article in his "Parallax Snaps" column in which he wrote that should the Babangida government's Structural Adjustment Programme (SAP) fail, its authors ran the risk of being stoned on the streets. Three days to his horrible assassination, the government's security agents led by Lt. Col. A.K. Togun, the then Deputy Director of State Security Service (SSS), interrogated him on the accusations of gun running, planning a socialist revolution with leftist groups, planning to fight the cause of CSP Alozie Ogbugbuaja, (the then Lagos State Police Command Public Relations Officer who was being tormented by the police for expressing critical views on Nigerian soldiers and coups), and planning to write another story on the removal of the erstwhile second - in - command to General Babangida, Commodore Ebitu Ukiwe. The parcel-bomb that killed Dele Giwa was delivered to him at his house thirty five minutes after a telephone discussion with Col. Halilu Akilu, then Director of Military Intelligence (DMI). Akilu had, about twenty three hours earlier, also through the phone, asked Funmi, Giwa's wife, of the address and full description of their home on the information that "the CDC has something for" Dele Giwa. The parcel bomb, sealed with red wax and stamped *confidential*, appeared to have come from the President's office as the Nigerian Coat of Arms and "from

the Commander - in -Chief' were printed on it. While opening the parcel, Dele Giwa himself had said; "This must be from the president." After the blood-chilling killing, the Babangida government rejected popular calls for an independent judicial enquiry into it. The then Federal Minister of Information, Mr. Tony Momoh, a friend to Giwa, who promised a government probe immediately the murder was perpetrated later swallowed his words. Commenting on the allegation that he had a hand in the killing of the journalist, Lt. Col. Togun told reporters at the Murtala Mohammed Airport on October 27, 1986, eight days after the assassination that:

...If a motorcycle man suddenly dashed into the front of a driver and the driver kills that motorcycle man - another motorcycle man who was there would not say that the motorcycle man was wrong - he would say I (sic) deliberately killed him knowing that he killed himself. (See Olojede and Adinoyi - Ojo, 1987 and Fawehinmi, 1988).

On the basis of the foregoing circumstances, Dele Giwa's lawyer, Chief Gani Fawehinmi, accused the two Babangida government's security agents, Col. Halilu Akilu and Lt. Col. A.K. Togun, of the murder of the journalist. Fawehinmi fought many legal battles and suffered severe deprivations and harassments from Babangida government's security agents in an attempt to prosecute the security chiefs. Although he succeeded (in the process) in establishing that the Nigerian legal system allowed private individuals to prosecute suspected criminals if the Attorney General was not interested in doing so, (see Fawehimi, 1988), his efforts at legally conclusively probing the death were eventually frustrated.

Research Question 4

4.4 How were the press laws and the administrative measures of the military era construed by the courts and the military tribunals?

In the space of twenty three years of military rule (under the five regimes covered in this study) the Nigerian press, like other societal institutions, was gradually removed from the protective umbrella of constitutional law and subjected to special military legislations and measures.

Building on the martial foundation laid by the Ironsi regime, the successive federal and some state military governments enacted restrictive decrees and edicts against the press and maltreated some journalists, non-journalists and the news media. Some of the military legislations and actions did not go unchallenged in court. Constitutional questions were raised and the courts' decisions in cases brought by the press and other individuals against the governments and those instituted by the governments against the press and individuals helped to define the legal boundary of press freedom.

Probably because of its short tenure, the Ironsi regime had no major suit instituted against it by the press or individuals. Nor did it take any journalist to court. The remaining four regimes however sued journalists or were sued by journalists, individuals and or the press. Although the courts tried to correct and redress some of the constitutional illegalities committed by the military regimes, in the cases they were called upon to adjudicate, they were hamstrung particularly during the Babangida regime, by the governments' reliance on ouster clauses in

their laws. The major cases that came up during the rule of the four military regimes are presented below regime by regime.

The major cases that came up during the Gowon regime were on proscription, sedition and assault, battery and false imprisonment.

In 1968, the People's Star Press Ltd., the publishers of *Sunday Star and Imole Owuro*, two Ibadan based newspapers proscribed by the Western State Military Government, became the first newspaper proprietor in Nigeria to challenge, in court, the proscription of its newspapers by a military government.

The proprietors of the papers went to court to seek, among others, a declaration that the two Western State Government edicts (the Sunday Star and Imole Owuro (Prohibition) Edict (No 17) 1968 and the Printers and Publishers of the Sunday Star and Imole Owuro (Declaration as Unlawful Society) Edict (No 19) 1968) which were in the course of the courts proceeding on the case, repealed by the government, were inconsistent with Section 25 of the 1963 *Nigerian Constitution* which guaranteed freedom of expression. They also contended that Edict No. 17 was inconsistent with and was a contravention of the *Circulation of Newspapers Decree, 1966*.

Section 25 (1) of the 1963 *Nigerian Constitution* states that:

Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

Section 25 (2) says:

Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society...

In its ruling delivered on 29th May, 1970, the High Court of Western State, Ibadan Judicial Division under Justice Ayoola held that notwithstanding the military governance of the time, the proscription edict contravened section 25 of the *1963 Nigerian Constitution* and section 3 (3) of the *Circulation of Newspapers Decree of 1966* and was therefore illegal. According to Justice Ayoola:

In this case, it has not been shown before me that the newspapers in question contravened any law of the state or that the imposition of a ban on them was warranted by any law that is reasonably justifiable in a democratic society. *The Edict No. 17* therefore in my view conflicts with section 25 of the *Constitution of the Federation* and a fortiori with section 3 of *Decree 2 of 1966* and is hereby declared void.

Sedition, one of the laws inherited from the civilian dispensation of the First Republic, also generated conflict between the press and government during the Gowon regime. The legal tussle occurred between the Western State Military Government on the one hand and Bunmi Iyeru, Acting Editor *Nigerian Tribune*, and African Newspapers Ltd., publishers and printers of the *Nigerian Tribune*, on the other.

On December 5, 1969, the Western State Military Government arraigned Bunmi Iyeru at an Ibadan Magistrate Court for seditious publication sequel to an editorial comment captioned "West In The Past Few Days" published in the *Nigerian Tribune* of the previous day. The

editorial opinion commented on Governor Adebayo's instructed seizure and burning of the dane guns, charms, amulets and 'juju' of farmers in Ikire and Gbongan who had gathered to welcome the governor on his visit to the two towns earlier that week. The governor had, about two weeks to the time, ordered that farmers should stop carrying such weapons. The farmers had previously used similar weapons in their shoot-out with police and the army during some tax riots.

But the *Nigerian Tribune*, in its opinion, disagreed with the governor's treatment of the farmers. Although it believed that the *raison detre* of the action was "to make the people less violent," it nonetheless described the governor's behaviour as an "unnecessary show of power." The action taken against the farmers, it said would create "the unfortunate impression" that:

Brigadier Adebayo's government does not care a hoot about the well being and happiness of the farmers.

According to the paper:

it is common place (sic) that majority of farmers in the West are professional hunters who live on games of their hunting.

Contending that the governor should have further appealed to the farmers to stop carrying their guns about instead of seizing and burning the weapons, the editorial reminded both the governor and its readers that:

it is part of Yoruba tradition to meet and welcome an important personality like Governor Adebayo with booming of guns to express happiness at his august visit.

It suggested, among other measures, that:

the governor should revisit the farmers and explain to them that he meant no harm by ordering the destruction of their guns and charms

in order to “surely bring the farmers close to himself and his government” (*Nigerian Tribune*, December 4 - 5, 1969).

Although Bunmi Iyeru pleaded not guilty to the sedition charge on December 5, 1969, he was remanded in police custody for one week. At the resumption of the hearing of the case on Friday January 16, 1970, the Western State Military Government withdrew the charge and substituted it with a fresh one (also on seditious publication) which made the publishers of *Tribune* the first defendant while Iyeru, the editor, became the second defendant (*Nigerian Tribune* January 16 - 17 1970). Both the publisher and the editor were however discharged of the alleged offence on Wed. February 12, 1970 by Chief Magistrate Olatunji Adeyemi on the two grounds that: (i) seditious intent in the publication complained of was not stated in the charge and (ii) there was nothing seditious in the publication. As held by Mr. Adeyemi:

It is clearly legitimate for any person to criticise the government to effect a change of policy or even a change of political set-up though not to criticise in a malignant manner. (*Nigerian Tribune*, February 12, 1970).

In the course of government press relationship during the Gowon era, there was also a suit on assault, battery and false imprisonment. The suit was instituted by a Nigerian journalist, Mineiri Amakiri, in concert with the Newspapers Proprietors Association of Nigeria (NPAN) against an agent of the Rivers State Military Government, Assistant Superintendent of Police,

Ralph Micheal Iwowari, the aide-de-camp to the Rivers State Military Governor. The Amakiri case in core had to do with the stripping, the severe caning, the rustic-blade head shave and 27 hour false imprisonment inflicted on Mineiri Amakiri, Chief Correspondent of the *Nigerian Observer* in Port Harcourt, by Iwowari's soldier - assistants on the orders of Iwowari. Amakiri's 'offence' was that he wrote a news-story on the grievances of Rivers State teachers which was coincidentally published by his paper on the birthday of the Rivers State Military Governor, Commander Alfred Diete Spiff. The event unfolded from July 30 - 31, 1973 while its consequent suit was filed on October 2, 1973.

At the on-set of the legal tussle, peace overtures were made by the Rivers State Government for an out-of-court settlement but these flopped because of disagreement on certain basic issues. During the trial, Iwowari's counsel sought to justify his client's actions under the *Armed Forces and Police (Special Powers) Decree (No. 24) 1967* and or the police power of arrest granted by the *Police Act*, but this was rejected on the ground that no detention order was issued for Amakiri's arrest by the Inspector General of Police, or the Chief of Staff of the Armed Forces.

Delivering judgement in the case on March 22, 1974, Mr. Justice Ambrose Allagoa, then Acting Chief Justice of Rivers State, found Iwowari vicariously liable for Amakiri's brutal treatment and false imprisonment and awarded Amakiri N10,000.00 damages plus N760 costs. The learned Justice declared that:

the plaintiff should never have been flogged because whipping as a mode of punishment [for adults] was abolished by section 385 of the Criminal Procedure Law as far back as 1960

He also ruled that the detention of Amakiri was illegal and unconstitutional and contrary to section 21 of the *1963 Nigerian Republican Constitution*. Describing Iwowari's conduct as "uncivilised," Justice Allagoa asserted that:

...although there is a Military Government in power and some democratic provisions of the Constitution were consequently suspended, the Fundamental Rights touching personal liberty, freedom of movement, right to property and freedom of conscience are still provided in the Constitution. (See *Amakiri v. Iwowari*, Suit No. 222/73 of 22/3/74).

He emphasized that these rights should be preserved and not be trampled upon because "we are not in a police state." (See *Sunday Observer*, March 24, 1974)

Partly because of Mohammed-Obasanjo regime's stern measures against 'offending' journalists at the Federal and state levels, particularly after General Mohammed's assassination, and perhaps because the press largely refrained from publishing allegations of corruption against public officers after the 'Ohonbamu case,' there were few cases involving the government, the press and individuals in the regime's four year tenure. Three of these case which concern false publication and breach of contract are worth reviewing.

In October 1975, a University of Lagos Senior Law Lecturer, Dr Obarogie Ohonbamu, as editor/publisher of the *African Spark* magazine, published, in that month's edition of the magazine, an editorial titled "How Total is our Revolution?" The article reviewed Brigadier

(later General) Murtala Mohammed's spirited campaign against corruption and hinted that even the new Head of State had corruptly enriched himself as a war commander during the Nigerian Civil War. The offending part of the editorial went as follows:

But for an effective cleansing operation, we of this paper appeal to Brigadier Murtala Mohammed to let charity begin from home. If he should take the initiative by declaring his own assets and passing the ones he can't account for to the state, then the war against corruption is half won. The present nation-wide whispering campaign being waged against him about his own alleged ownership of fleets of vehicles and houses in Kano must have been crushed before any damage is done to his image and regime. After him, all his associates must follow suit; then none of us can hide under the slogan "physician heal thyself." (*African Spark*, Vol. 3, No. 10, Oct. 1975, p. 6)

Consequent upon this publication, Ohonbamu was, on November 7, 1975, arraigned at a Lagos Chief Magistrate Court charged with sedition under sections 50-52 of the *Criminal Code*. Within a week of his arraignment, he was placed on suspension by his employers, the University of Lagos, a federal government owned university. On March, 11, 1976, while the sedition case was still on, the Mohammed-Obasanjo administration promulgated the *Public Officers (Protection Against False Accusation) Decree* and backdated it to July 29, 1975. The Decree came twenty-six days after General Mohammed's assassination. Sequel to the enactment of the new Decree, Ohonbamu's case was transferred to a Lagos High Court where he was charged, under the Decree, with publishing a rumour alleging that:

... General Murtala Mohammed, a public officer, corruptly enriched himself, which rumour is false in all material particulars
... (*Nigerian Tribune and Daily Sketch*, March 19, 1976)

At the first hearing of the case at the High Court, Ohonbamu pleaded not guilty to the charge. At the second sitting, his counsel told the court that there was a move to settle the case out of court. This was denied by the Federal Director of Public Prosecution (DPP), Mr S. O. Sogbetun, who pointed out that only civil cases could be settled out of court. The defence counsel thereafter urged the court to stop the prosecutor (Mr Sogbetun) from continuing with the case as he was to be one of the "vital witnesses" for the defence and had been subpoenaed (*Daily Sketch and New Nigerian*, March 31, 1976) While withdrawing the sedition case at the Lagos Chief Magistrate Court on March 17, 1976, Sogbetun had told the court that the late Head of State, General Mohammed, showed both him and the then Attorney - General of the Federation and Commissioner for Justice, Mr Justice Dan Ibekwe, all the particulars of the few property he possessed including his bank account. (*New Nigerian*, March 18, 1976) It was on this basis that Ohonbamu picked Sogbetun as one of his vital witnesses. Sogbetun however denied ever making such a submission at the High Court and the court allowed him to continue with the prosecution of the case.

At the resumption of the case on April 7, 1976, Ohonbamu changed his earlier submission and pleaded guilty saying inter alia:

My objective in inserting that paragraph [the offending part of the editorial quoted earlier] in a whole editorial of honest and patriotic advice to the Federal Military Government was to kill the rumour. It has now come in bold relief to our knowledge that the rumour of properties (sic) in Kano and a fleet of vehicles was false and without any foundation in truth. If by that publication, the wrong impression had been created that the late General was corrupt... I honestly and deeply regret any embarrassment I could have caused the late General, his immediate families and the entire Federal Military Government. I am awfully sorry for the whole episode. (*Nigerian Tribune*, April 8, 1976)

Having thus admitted his culpability, Ohonbamu was found guilty as charged. But instead of imposing imprisonment "without the option of a fine" which the Decree compulsorily prescribed, the trial judge, Mr Justice B.O. Kazeem, seriously warned and discharged him. The judge remarked that he was:

extremely disappointed that a person of Dr. Ohonbamu's standard and status and particularly someone charged with the training of our youths in one of the country's universities could go to the press and publish any rumour without checking his facts. (*Nigerian Tribune*, April 8, 1976. See also *Daily Sketch* and *New Nigerian* of same date)

Apart from Dr. Ohonbamu's case, two state military government-owned newspaper corporations - Sketch Publishing Company and the Kwara State Printing and Publishing Corporation - summarily dismissed one each of their senior managers during the Mohammed-Obasanjo regime. The two managers, Mr. Peter Ajayi who was with the Kwara Printing Corporation and Mr. Felix Adenaike of the Sketch Publishing Company, contested their dismissal in court. While Ajayi was awarded costs for wrongful dismissal, the court in the Adenaike case held that:

anybody who accepts an appointment from the Head of State or Governor is like a public servant and can, therefore, be dismissed at will.

The major cases that came up during the Buhari regime were on false report. The cases were grounded on the minatory and repressive *Public Officers (Protection Against False Accusation) Decree*. After the trial and conviction of *The Guardian* and two of its journalists under the Decree, the Nigerian press in the words of *The Guardian*:

resigned itself to the innocuous chronicling of the pronouncements of public men, and government is preoccupied with incestuous monologues with itself. (See *West Africa*, March 11, p. 489)

Under this kind of 'Afghanistic' government - press relationship, there was hardly any need for more legal tussles. The details of the suits are presented below.

On March 31, 1984, *The Guardian* published a news story titled "11 Foreign Missions to be Closed." In the story, the paper intimated the public with names of eleven missions which it said the Federal Military Government had decided to shut down. On April 1, 1984, the paper published another story informing the public that eight military chiefs had been tipped as ambassadors. On April 8, 1984, the paper also published a report in which it speculated that Major General Ibrahim Haruna was to replace Major General Hannaniya as UK envoy. These three stories formed the bases of the Buhari government's suit against *The Guardian* and its two journalists.

Sequel to these reports, the Buhari government, on April 11, 1984, arrested and detained Mr. Tunde Thompson, *Guardian's* Senior Diplomatic Correspondent. The government also arrested and detained Mr. Nduka Iraboh, *Guardian's* Assistant News Editor, on April 16, 1984. It gave no reason for the arrest and detention of the two journalists although while they were being held, the government's security agents made strenuous but vain efforts to procure from them the identities of their sources of information on the ambassadorial postings. It was in fact reported that the journalists were detained for refusing to disclose their sources of information (*The Guardian*, April 27, 1984).

The same day it detained Nduka Iraboh, the Buhari government released to the public a piece of legislation on false publication - the *Public Officers (Protection Against False Accusation) Decree (No. 4) 1984* - which carried a retroactive date of March 29, 1984. On May 2, 1984, it constituted a special tribunal comprising three military officers and a civilian judge to try the detained journalists and their news - medium. The three accused were, on June 4, 1984, arraigned before the tribunal on a three-count charge of publishing false statements contrary to section 1 (1) of *Decree No. 4 of 1984*.

After sitting for exactly one month, the special tribunal, on July 4, 1984, ruled that there were three false items in the three news reports over which the three accused, were arraigned. It held, concerning the first report, that while it was true that eleven foreign missions were to be closed, the name of one of the eleven missions given in the story, (Buea), was wrong. On the second story, the tribunal said it found out that although it was true that eight military officers were tipped as ambassadors as reported, the names of Rtd. Colonel Sani Bello and Group Captain Usman Jubril included in the list of seven names given in the report were not correct. Thirdly, it held that Major General Haruna was not to replace Major General Hannaniya as UK envoy as published in the third report. While the tribunal discharged and acquitted the three accused on the first two lapsés on the technical ground that the correct details of the offences were not included in the charge preferred against them, it convicted them for publishing false report, to wit: "Haruna replaces Hannaniya as New UK Envoy." It sentenced the two journalists to one year imprisonment each and fined their medium N50,000. The fine was

ordered to be paid latest by 1.30p.m the day after judgement. (*The Nigerian Journalist*, September 1984, pp. 121-125)

The enactment by the Buhari regime, of *Decree No. 4 of 1984* and the prosecution, under the decree, of *The Guardian* and two of its journalists also gave rise to two other legal suits as discussed presently.

In the first suit, which went on to appeal, the NUJ and its National Secretary, Mr. Jola Ogunlusi, on April 25, 1984, filed, at a Lagos High Court, on behalf of Nigerian journalists, an action seeking to nullify *Decree No. 4 of 1984* on the major ground that the decree constituted an executive interference with the freedom of the press and or a prior censorship of the Nigerian press. While the case was being heard, the plaintiffs, on June 4, 1984, the day the Buhari government formally charged *The Guardian* and its two journalists under *Decree 4*, also requested the court to restrain the special tribunal trying the accused from sitting pending the determination of their on-going suit. The court, as per Mr. Justice Yahaya Jinadu, on June 5, 1984 refused to stop the tribunal on the ground that it (the tribunal) was not a party to the suit before it. (*Daily Times*, June 6, 1984). The court also ruled on June 8, 1984 that the plaintiffs had no *locus standi* (right in law) to challenge *Decree No. 4* on behalf of their union members. (*The Guardian*, June 9, 1984) Counsel to the NUJ made a fatal error by not annexing the NUJ Constitution to the pleadings to show that the union had a sufficient interest in the case. (Akinola 1998: 10) The appeal court also supported the two high court rulings when the plaintiffs appealed against the decisions.

While the NUJ and its Secretary were contesting on appeal the two judgements of the Lagos High Court on *Decree No. 4*, the Guardian Newspapers Ltd. also applied to a Lagos High Court seeking to nullify the Decree and obtain, among others:

a perpetual injunction restraining all functionaries, agents or servants of the Federal Military Government from unlawfully interfering with the liberty of the plaintiff or its officers, servants or agents to publish reports or statements by its correspondents or other staff as from the date of this action.

The Lagos High Court also refused to grant *The Guardian's* prayers ruling that by the provision of section 1 (1) of the decree,

...it is unlawful for any person to publish a report or statement which brings or is calculated to bring the Federal Military Government or a state government or a public officer to ridicule or disrepute even when the publication is true.

The court added:

The provision may be harsh, but it is nonetheless the law of the land. (*The Guardian*, August 6, 1984)

In contrast to the four regimes before it, there were many cases between the Nigerian press and the Babangida government at both federal and state levels and between the regime and other individuals. Perhaps because of the fatal effect of summary closure and proscription on the very existence of the news media, the two control weapons were the most legally challenged in the course of the regime's eight - year rule. Many human rights activists and groups, the Nigerian Union of Journalists (NUJ) - the umbrella body for journalists - and some of the newspapers affected by the two control measures resorted to the court in an effort to

nullify the closures and proscriptions. In spite of the government's hamstringing of the judiciary through the ouster clause, (which was eventually declared illegal by the court in *The Registered Trustees of the Constitutional Rights Project v. President of the Federal Republic of Nigeria & two Ors.* on May 5, 1993), some of the suits were successful.

Apart from the cases on proscriptions, Chief Gani Fawehinmi, in 1988, also successfully redressed the illegal seizure of his books on the murder of Dele Giwa through the court. Richard Akinola, a human rights activist, in conjunction with the Lagos State Branch of the NUJ, equally successfully disputed the government's *Newspapers Decree of 1993*. Many state military governments and police authorities also prosecuted many journalists and newspaper vendors for sedition and false news in respect of their contributions to and or sale of some newspapers. This was in spite of the fact that the Court of Appeal had, in 1984, in *Arthur Nwakwo v. State* declared the law of sedition dead. Interestingly and instructively, all the cases were withdrawn midway by the respective governmental authorities. The intention of the prosecuting authorities in the cases, it seems, was not to secure conviction but either to harass the affected media and journalists or justify the arbitrary punitive measures already taken against them and prevent them from seeking redress in respect of the unjustified punitive actions. (See NUJ, 1994:3). The major cases which came up during the Babangida era are presented forthwith starting with those on proscription.

The Babangida government proscribed six groups of newspapers through decrees in its eight year tenure. It also sent armed security agents to seal up and occupy the premises of ten

others without specifically proscribing them. Some of the newspaper groups like the state government owned *Observer* and the privately owned *Daily News*, *Punch*, *Newbreed*, *Champion*, *Vanguard* and *The Guardian* were either sealed up and proscribed at different times or were sealed up more than once. Four of the proscriptions and closures produced six litigations as discussed hereunder.

The proscription, for six months, of the *Newswatch* magazine, over its publication of the Cookey (Political Bureau) report in April 1987 constrained a Lagos lawyer, Dr. Gabriel Olu Onagoruwa, to institute a suit against Major General Ibrahim Babangida on April 15, 1987. In the suit, filed at a Lagos High Court (See *Onagoruwa v. General Babangida* (1987) INLR 254) Dr. Onagoruwa, through his counsel, Chief Gani Fawehinmi, sought to nullify the *Newswatch (Proscription and Prohibition from Circulation) Decree (No 6) 1987* on two grounds. He contended that the proscription of the magazine violated his constitutional right to receive and impart information without interference as guaranteed by section 36 of the 1979 *Nigerian Constitution* and that the decree was:

a usurpation by President Babangida of the judicial powers of the federation vested in the courts by section 6 of the 1979 [*Nigerian*] *Constitution*.

Onagoruwa also sought an interlocutory order to restrain the Babangida government from implementing the Decree pending the final determination of the suit.

By way of reply, the then Attorney - General of the Federation, Mr. Bola Ajibola, contended that Onagoruwa had no *locus standi* to institute the action, that his action improperly joined

President Babangida as a person in “an attempt to embarrass him” and that the court had no jurisdiction to try the case based on the provisions of *The Constitution (Suspension and Modification) Decree (No 1) 1984* which specifically stated that no question as to the validity of any decree or edict shall be entertained by any court. (*The Guardian and New Nigerian*, April 28, 1987)

In line with Babangida government’s submission, the court, as per Justice George Oguntade, on May 18, 1987, struck out the suit on the ground that it had no jurisdiction to entertain it. The judge ruled that having regard to the provisions of *Decrees 1 and 13 of 1984*:

the provisions of a decree override those of the unsuspended parts of the *1979 Constitution*. (*The Guardian*, May 19, 1987, p.3).

The two decrees, he said, had clearly precluded the courts from entertaining suits questioning the validity of a decree. According to him:

[t]he intention of the lawmakers as manifested by the language of the decrees is that the validity of a decree shall not be looked into by a court of law in Nigeria.

Consequently:

[a] citizen cannot complain that in the promulgation of a decree, the law maker has withdrawn from him the right enshrined in Chapter four of the *1979 Constitution of Nigeria*. (*Nigerian Observer*, May 19, 1987, p.9)

Dr. Onagoruwa appealed against this ruling. He however discontinued the appeal when the Babangida Government reopened the newspaper before the expiration of the scheduled six months. (Personal interview with Dr. Onagoruwa: June 4, 1999).

The May 29, 1991 closure of *The Guardian* Group of Newspapers on the orders of the Lagos State Military Governor, Col. Raji Rasaki, over *Guardian Express* report of the police killing of two Yaba college of Technology students during a student's demonstration also gave rise to two litigations. One was instituted by The Guardian newspapers' management and the other by a consortium of four human rights groups, to wit: the Civil Liberties Organisation (CLO), the Committee for the Defence of Human Rights (CDHR), National Association of Democratic Lawyers (NADL) and the Human Rights Committee of the Lagos State Council of the NUJ.

In the first suit, an *ex-parte* motion filed at an Ikeja High Court on June 4, 1991, The Guardian Newspapers Limited and six other companies requested the court to stay the decision of the Lagos State Government to seal up their offices located at Rutam House, Isolo, Lagos pending the determination of the motion. The plaintiffs deposed in an 11- paragraph affidavit attached to the motion, filed on their behalf by Chief F.R.A Williams (SAN), that prior to the decision to lock up their offices, they were not given the opportunity of a fair hearing as required by section 33 of the *1979 Constitution of Nigeria*. (*Nigerian Tribune*, July 5, 1991, p. 20). They however withdrew the suit the following day consequent on an agreement between them and the Lagos State Government to settle the matter out of court. (*Nigerian Tribune*, June 6 1991, p.1). The Lagos State Government reopened the newspaper house two days later with an announcement that a number of well - meaning Nigerians and organisations like the Newspaper Proprietors Association of Nigeria (NPAN) and the NUJ

had interceded on behalf of The Guardian Group during its closure. (*Nigerian Tribune*, June 8, 1991).

In spite of the reopening of the offices of the newspaper group, the four human rights groups mentioned earlier challenged the newspaper's closure at an Ikeja High Court asking, among other reliefs, for a declaration that the closure offended their right to receive information and express or impart ideas as guaranteed by section 36 of the *1979 Nigerian Constitution* and, as such, was illegal and unconstitutional. (*Nigerian Tribune*, June 5, 1991, p. 20). Based on this suit, the court restrained the Lagos State Government, the police or any government agent from closing any media house in Lagos State until the final determination of the case. (See Akinnola, 1998:5).

The April 9, 1992 summary closure and occupation of the offices of the Concord Group of Newspapers by Babangida government's armed anti-riot policemen was also challenged in court by the coalition of human rights groups which legally contested the 1991 closure of *The Guardian*. Contending that the closure had no justification in law and in fact and that the court was the right place to contest a newspaper's alleged offence, Dr. Beko Ransome Kuti, National Chairman of the CDHR, and five other persons filed an *ex-parte* motion against the Attorney General of the Federation and three others at an Ikeja High Court. By virtue of the suit, the court, as per Mr. Justice Eniola Longe, on April 16, 1992, ordered all policemen and security officers occupying the *Concord* premises to leave the place forthwith. The judge also ordered that the newspapers be reopened immediately. (*Nigerian Tribune*, April 17, 1992, p. 3). The

Babangida government however flouted these orders. Consequently, the human rights groups initiated contempt proceedings against the Inspector General of Police by issuing "Form 48" (Notice of the Consequences of Disobedience to Court Order). The *Concord* press was reopened on April 23, 1992, a day after the contempt proceedings were commenced. (Akinola, 1998:5)

The proscription, *paripassu*, through *Decree 48 of 1993*, of four newspaper groups - the privately owned *Punch* and *Concord* newspapers and the state governments' owned *Sketch* and *Observer* - by the Babangida regime in July 1993 also led to two litigations. The editors of the *Punch* newspapers and the management of the *Concord* Press respectively sued the head of the Interim National Government which succeeded the Babangida regime, the Inspector General of Police, the Attorney - General of the Federation and the Lagos State Commissioner of Police for illegal and unconstitutional proscriptions. In a writ of summon filed at a Lagos High Court by their counsel, Chief Gani Fawehinmi, on September 14, 1993, the *Punch* editors sought, among others, orders compelling Chief Shonekan to reopen their business premises, deproscribe their newspapers and de-prohibit their publication and circulation. (*Nigerian Tribune*, Sept. 15, 1993, p. 3). In addition to similar reliefs, the *Concord* Press also demanded a N100 million compensation (*Nigerian Tribune*, Oct. 19, 1993, pp. 1-2). Although Mr. Justice Oduneye of the Lagos High Court, in a ruling on November 10, 1993, ordered security agents to vacate the *Concord* premises, the security agents did not leave the place until November 18, 1993 when General Sanni Abacha announced the deproscription of

the four proscribed newspapers in his maiden broadcast. (*Daily Sketch*, Nov. 24, 1993, p. 8).

Apart from the cases on proscription, Chief Gani Fawehinmi, on Sept. 5, 1988, also sued the Inspector General of Police and five others at a Lagos High Court over the 496 copies of his book titled: *Murder of Dele Giwa, the Right of a Private Prosecutor* that were seized by security agents at his office on June 10, 1988. Contending that the seizure and the directive to Nigerian Customs agents to further impound copies of the book that may be imported was illegal and unconstitutional, he asked for ₦1 million damages.

In seizing and detaining the books, the Babangida government had alleged that the books contained seditious materials. The Lagos High Court, as per Justice M.A. Ope-Agbe, however ruled, on Oct. 14, 1988, that the seizure of the books and any other contemplated impounding had “no basis in law,” and were “misconceived,” “illegal, unconstitutional, null and void” since the Court of Appeal had, by virtue of *Arthur Nwakwo v. State* and *The State v. The Ivory Trumpet Publishing Co. Ltd.* declared the sedition law dead. The court ordered the Babangida government to return the books or pay its monetary equivalent (₦24,800) within seven days.

The *Newspapers Decree (No 43) of 1993*, one of the press decrees promulgated in the twilight of the Babangida administration, was also litigated upon immediately before and after the tenure of the administration. Suing on behalf of himself and in his capacity as Chairman of Human Rights and Professional Services Departments of the Lagos State Council of the NUJ, Mr. Richard Akinnola, on August 19, 1993, applied to a Lagos High Court for an order suspending the operation of the Decree. Contending that the Decree offended the rights of

freedom of expression and information of members of the Union as guaranteed by section 36 of the *1979 Nigerian Constitution* and Article 19 of the *African Charter on Human and Peoples Rights* and that it violated section 33 of the *1979 Nigerian Constitution* and Article 7 of the *African Charter* both of which stipulate that a law should not be retroactive, he urged the court to declare it illegal, unconstitutional, null and void. (*Nigerian Tribune*, August 20, 1993, p. 16). Based on the suit, the court restrained the Federal Government from implementing the Decree until the final determination of the case.

The Federal Government objected to the suit on two grounds: one, that the plaintiffs had no locus standi to institute it, and two, that the court lacked the jurisdiction to entertain it. But the court, as per Justice Hunponu-Wusu, held that by virtue of the fact that the plaintiff/applicant was an official of the Lagos State NUJ, part of whose responsibility was to protect the interest of its 4000 members in the state, he was competent to institute the action. It also held that since Nigeria is a signatory to the *African Charter on Human and Peoples Rights - Cap 10 Laws of the Federation*, a charter that preserves the jurisdiction of courts and which supercedes any ouster clause in any decree, it had the jurisdiction to entertain the suit. (Akinola, 1998:10-11. Also see *Nigerian Tribune*, Sept. 14, 1993, p. 3 and *Richard Akinola and Anor. v. Gen. Ibrahim Babangida and 3 Ors.* {Suit No. M/462/93})

In 1994, *The Guardian* newspapers also challenged the legality of the *Newspapers Decree, 1993* at an Ikeja High Court. The court, as per Justice Samuel Ilori, declared the Decree “null and void and of no effect whatsoever.” (*Guardian Newspaper Ltd. v. Attorney - General of*

Lagos State and Attorney-General of the Federation. {Suit No. ID/525m/93}

While the Babangida regime at the federal level relied mainly on summary measures in controlling the press, some state military governments and police authorities, in addition to peremptory means, occasionally applied to the court in attempts to bring to book what they perceived as sedition on the part of the press and its associates. The attempts were however always abandoned midstream. Two of such cases came up in Lagos and Ondo States in 1990 and 1993 respectively.

On June 11, 1990, two days after summarily closing down *The Champion* newspapers and detaining Emman Agu, editor of the *Daily Champion*, for his paper's reports on clashes between traders and security men at the Alaba market, the Lagos State Government charged the editor to court for sedition. The sedition charges were however withdrawn two days later. (Egbu, 1990:17 and Nwakwo et. al., 1993:41.)

Also in August 1993, the Ondo State Police Command arraigned the editor of the Ondo State owned Akure-based *Sunday Hope* newspaper, Mr. Kayode Oni, and two vendors, Philip Alolade and one Ezekiel, for sedition at the Akure Chief Magistrate Court. Oni was accused of publishing, in the edition of the *Sunday Hope* of August 22, 1993, a seditious news item captioned "Soldiers urged to check IBB" while the two vendors were put on trial for selling copies of *TELL* magazines which, allegedly, contained seditious publications. The then Ondo State Attorney - General and Commissioner for Justice, Chief Oluwole Olanipekun, in September 1993, barely a month after the exit of the Babangida government, however ordered

that the sedition charges against the journalists and the vendors, and those against two other human rights activists, Dr. Peter Aborisade and Mr. Adewunmi Ogunlana, who were accused of distributing seditious pamphlets against General Babangida, be dropped. In dropping the charges, the Attorney-General stated that it would not be in the interest of justice to go ahead with the prosecution of the accused persons as they contributed in one way or the other to paving the way for the departure of the former military president. (*Nigerian Tribune*, Aug. 25, 1993, p. 3 and Sept. 15, 1993, p. 3.) In other words, the exit of General Babangida was a good riddance.

Some state military governments and police authorities also attempted to prosecute a number of journalists for false news during the Babangida era but, as in the discussed sedition cases, they equally terminated their litigations midstream. Three of such cases were recorded in Lagos, Oyo and Ogun States in May 1991, April 1992 and December 1992 respectively.

After peremptorily shutting down the Guardian Newspapers Group on May 29, 1991 on account of the *Guardian Express* report which stated that two students of the Yaba College of Technology were shot dead by state security agents during a students' demonstration, the Lagos State Government, on May 31, 1991, proceeded to charge the *Guardian Express* editor, Bayo Oguntimehin, and three reporters of the newspaper - Taiwo Akerele, Tunde Sulaiman and Ben Akparanta - with publishing "false news with intent to cause fear and alarm to the public" (*Nigerian Tribune*, June 1, 1991). The charge, preferred against the journalists at an Ikeja Chief Magistrate Court, was however withdrawn on June 11, 1991 after what Mr.

Ladi Lawal, the leading counsel for the journalists, contemptuously described as “seeing the folly of charging innocent people for publishing the truth.” (*Nigerian Tribune*, June 12, 1991)

In a similar vein, the Oyo State Police Command on March 25, 1992 charged three editors of the *Nigerian Tribune*, Messrs Folu Olamiti, editor of the paper, Victor Antwi, the deputy editor, and Seyi Adebayo, the news editor, and one other person with incitement and publication of false information “with intent to cause fear and alarm to the public.” The allegedly false information titled “Ibadan Under Police Siege” was published in the *Nigerian Tribune* edition of March 18, 1992. (*Nigerian Tribune*, April 1, 1992, p. 16). The police however withdrew the charge against the journalists on April 1, 1992. In applying to strike out the case, the prosecuting officer, Superintendent Benjamin Awe, told the court that *Nigerian Tribune* had written a letter he described as “apologetic” and had undertaken to verify and publish positive reports on police activities in the state. Counsel to the editors, Mr. Akinjide Sadiq, however denied that his clients ever wrote any letter of apology, emphasising that “we [the paper and the journalists] stand by the story.” (*Nigerian Tribune*, April 2, 1992, p. 16.)

Immediately the *Tribune* journalists were arraigned in court, the Oyo State Council of the NUJ ordered its members to boycott the coverage of the activities of the Oyo State Police Command. A peace meeting, which was personally attended by the then Oyo State Police Commissioner, Mr. Raphael Osanaye, was held between the police and the Oyo State NUJ before the April 1, 1992 withdrawal of the case.

The Ogun State Police Command also re-enacted a similar scenario on December 31, 1992 when it charged the editor of the *Nigerian Tribune*, Mr. Folu Olamiti, and the Ogun State correspondent of the paper, Mr. Wole Efunuga, with publishing a defamatory story titled "Shina Rambo castrates two cops" and withdrew the charge on January 25, 1993. (*Daily Sketch*, Jan. 26, 1993, p. 9. Also see Akinrinola and Babalola, 1995:78-80)

4.5 Discussion

An appraisal of the relationship between the five Nigerian military governments covered in this study and the Nigerian press reveals that the military regimes unduly repressed the freedom of the press in varying degrees. As noted previously, four of the five regimes (the exception being the Buhari junta) came in with a promise not to censor the press. Yet in an attempt to rigidly control the press, all the governments, except the short-lived Ironsi regime, promulgated numerous repressive press laws and general legislations and employed sundry other administrative weapons. Thus during the rulership of the military governments, the Nigerian press was gradually and largely removed from the protective umbrella of the law and subjected to special press policies most of which were at variance with the established principle of press freedom which constitutionally enjoined the (Nigerian) press to monitor governance and "uphold the responsibility and accountability of the government to the people." A critical look at the laws and administrative control measures of each of the regimes in respect of the press will bear this out.

Although the promulgation of the *Circulation of Newspapers Decree 1966* and the *Defamatory and Offensive Publications Decree 1966* by the Ironsi regime can be said to be reasonably justifiable, given the circumstances prevailing at the time, the regime seemed to have unduly restricted the freedom of the press with the enactment of two other general legislations, namely the *Constitution (Suspension and Modification) Decree (No. 1) 1966* and the *State Security (Detention of Persons) Decree (No. 3) 1966*. While the government, being a revolutionary one not envisaged by the *1963 Republican Constitution*, needed the *Constitution (Suspension and Modification) Decree* to establish itself, section 6 of the law, which created an ouster clause prohibiting the courts from entertaining any legal action questioning the validity of any law made by the military junta, was virtually unnecessary and unreasonable, infringing as it were on the fundamental human rights of Nigerians. Also, while a national security enactment might be desirable, one without objective ingredients of offence and with an ouster clause cannot but be restrictive of press freedom.

For example, the fluidity of interpretation and non-definitiveness of the constituents of offence under the *State Security Decree* was demonstrated in Ironsi government's detention of Stephen Iweanya, Editor of *West African Pilot*, and Akinola Lashekan, an academic and cartoonist for the *West African Pilot*, over a cartoon that made use of the symbol of one of the political parties dissolved by the regime. It was after clamping the editor and the cartoonist into detention that the government informed Nigerians, through an official statement, that it was a breach of the *State Security Decree* to:

display or advertise signs, symbols, slogans or flags
of any of the dissolved political parties or tribal unions.

In which case the regime expected the supposed offenders, as well as all Nigerians affected by the Decree, to correctly presume expressions that would be offensive to the Decree. This kind of law obviously constituted an undue hinderance to the freedom of the press.

The Ironsi government also hindered the appropriate exercise of press freedom through its non - legislative measures of deportation of foreign journalists and suspension of an editor of a government owned newspaper. The appropriate liberal response, compatible with press freedom, where a foreign journalist is alleged to have published false information about a country, is for the country to publish the correct version of the information and or try the journalist in a court of law rather than deport the untried journalist.

Juxtaposed with the Ironsi regime, the Gowon government seemed to be more repressive of the press. With an array of negative direct and indirect laws on the operations of the press by both the federal and state military governments under the regime and an avalanche of subtle and violent extra - legal measures, the regime attempted and, to a large extent, succeeded in fettering the freedom of the Nigerian press. With the military setting of the regime's governance and the Emergency of the Civil War and post Civil War years which naturally compelled restraint on the press, the degree of press freedom that was allowed to operate during the Gowon era could not be anything more than average. But for the traditional resoluteness of the Nigerian press and inferentially journalists, public speakers and writers, and the pluralistic

geo-political structure of Nigeria's civil society (see Agbaje, 1992), perhaps press freedom would almost have been totally obliterated during the Gowon regime.

Concerning the two direct press laws enacted by the Western Region (later Western State) military government under Colonel Adeyinka Adebayo (as he then was), namely: the *Morning Post and Sunday Post (Prohibition) Edict, 1967*, and the *Sunday Star and Imole Owuro (Prohibition) Edict*, the banning of the papers affected by these edicts, simply because they were critical of the government of the Western Region, "seemed to be an arbitrary exercise of power" (Ojo, 1976; 534) Moreover, the Western State Military Government's banning edicts violated the Federal Government's *Newspaper Circulation Decree of 1966*. This was attested to by Justice Ayoola in his ruling two years later in the *People's Star Press Ltd. v. Brigadier R. A. Adebayo & Anor*, (1971, UILR, 269) (Also see Uche, 1989: 125).

One sore point of these illegal Western State edicts was that in spite of the usual unitary nature of military regimes and the existence of legal provisions, (for instance, the *Federal Military Government (Supremacy and Enforcement of Powers) Decree 1970*), disallowing state edicts that conflict with Federal Government decrees, the Gowon Federal Government saw no need to call the Western State Government to order. This implied that the government tended to condone the repression of press freedom by state military governments under it even if the edict enabling it undermined its own (Federal Military Government's) authority.

Unlike the Western State Military Government's prohibition edicts however, the Federal Military Government's *Newspaper (Prohibition of Circulation) Decree of 1967*, under which

Biafra Sun was outlawed, could be justified by the troublous or disturbed circumstances of the immediate pre - Civil War era.

Both the Gowon Federal Administration and the state governments under it however utilised the *Armed Forces and Police (Special Powers) Decree* heavily in their efforts to force the press to toe the pro-government line. They largely ignored the court option while throwing every 'offending' journalist, speaker or writer into detention under Emergency regulations. Although a decree granting special and wide powers of arrest and detention to the police and the armed forces during an Emergency could somehow be justified, Gowon's *Armed Forces and (Special Powers) Decree* was an arbitrarily worded detention law (*Sunday Times*, 7/9/75) It was, in the words of Onagoruwa, (1977:62) "one of the most vicious emergency decrees ever promulgated in the country." As he analysed it: (Ibid. p. 70):

Under this decree, no specific offence need be committed; it is enough that the displeasure of the government had been incurred.

The reckless abuse to which the Decree was put in relation to press freedom was evident in the numerous detention cases already discussed. It is puzzling as it is instructive that the Gowon government did not repeal the Decree years after the end of the Civil War which, *abinitio*, necessitated it.

In respect of indirect press legislations, the Gowon regime seemed to have overreached itself in its promulgation of *Decree No. 53 of 1969*, the *Trade Dispute Decree*, which made it unlawful for an editor or a publisher to publish news of workers strikes. The disregard accorded

this vaguely worded and impossible Decree by the Nigerian press underscored the limit of autocracy. Between the coming into force of the Decree in December 1969 and the termination of the Gowon regime in July 1975, the Nigerian press continued to publish news of strikes as if the Decree did not exist. Yet the Gowon regime did not do anything about it.

In addition to its legal mechanisms, a motley lot of administrative measures was employed by the Gowon administration to forcefully diminish the freedom of the Nigerian press. Of these non-legislative control instruments, physical attack on the persons of journalists, as exemplified in the Amakiri case, was the most infamous and uncivilised. The Amakiri case “marked the high water-shed of ... Gowon government’s intolerance of press freedom..” (Onagoruwa, 1977:127)

Although the courts duly tried to maintain a large scope of freedom for the Nigerian press in the few cases they were called upon to adjudicate between the press and the Gowon government, (see the cases discussed above) the government did not allow the judiciary to make as much impact as it would have made because of its (the government’s) heavy reliance on extra - judicial measures in dealing with the press.

To all intents and purposes, the aim of Gowon government’s legal and extra-legal control measures was to restrain the press from publishing critical and negative information about it. The government temporarily achieved this objective on a number of occasions. For instance, when, in late 1974, at the height of the government’s irascibility to criticism and opposing views, the social critic, Dr. Taj Solarin, wrote an article titled: ‘The Beginning of the End’ in

which he criticised Gowon's announcement that his government would no longer live up to its earlier promise of handing over power to civilians in 1976, and artfully, prophetically observed that this marked the beginning of the end of the administration, no newspaper in the country, whether privately or government owned, accepted the article for publication. Solarin had to distribute it as a handbill himself, leaving "the 'circulation' to the natural whim of free, God-given wind", an act for which he was detained. (Onagoruwa, 1977: 68; Agbaje, 1992: 235; *West Africa* (London), 16 March, 1981, p. 541). On another occasion in 1969, *The Times* Group of Newspapers had to suspend, for a while, its anti-corruption campaign against some prominent members of the Gowon regime after a six-day paralysing siege had been laid on its premises by Gowon's security agents. (Jose, 1987:210-216).

Like the two military governments before it, the press policies of the Mohammed - Obasanjo government also substantially circumscribed the freedom of the Nigerian press. Although some of the policies appear conceived with the intention of uplifting the standard of press performance, they contain essential contradictions that negated their very purpose. This is quite evident in some of the direct press legislations enacted by the regime, namely the *Public Officers (Protection Against False Accusation) Decree, 1976* and the *Nigerian Press Council Decree, 1978*. Let us briefly appraise these legislations.

While it appears that the *Public Officers (Protection Against False Accusation) Decree, 1976* was intended to curb the publication of frivolous allegations of improprieties against innocent public officers, the Decree, as structured, had fundamental drawbacks detracting

from this good intention. By shifting the onus of proof to the accused, it reversed the sound and established legal principle that an accused is presumed innocent until the contrary is proved. This principle is enshrined in our constitution and built into our laws. In respect of the Ohonbamu case, changing the trial mid-way from sedition to publication of false allegations under the *Public Officers Decree* seems to be the Mohammed-Obasanjo government's way of shielding itself from the burden of refuting the allegation. Much as the regime's recourse to the law court instead of to summary detention in the handling of the case was commendable, Ohonbamu's trial should have been logically concluded under the law of sedition.

Secondly, the requirement by the *Public Officers (Protection) Decree* that allegations be true "in every material particular" appears to have the ulterior motive of scaring journalists and other anti-corruption crusaders who might have substantial evidence of corruption against any public officer from publishing it. This is supported by the fact that the then existing laws on false allegation such as the *1964 Newspapers Amendment Act* and the *Defamation Law* afforded the accused a defence if an allegation was substantially true. Even these laws, including the restrictive *Sedition Act*, were more than adequate to deal with false allegation. The *Public Officers (Protection) Decree* has the tendency of scaring a would-be-corruption-crusader the more because it puts him in double jeopardy. Apart from prescribing imprisonment without the option of fine as penalty for conviction, the Decree, in section 3, also reiterates the right of any affected public officer to take civil proceedings against any false accuser after the latter has failed to justify his allegations. Viewed from these perspectives, the enactment of the Decree

was bound to create fear in the minds of press men and deter them from exposing corrupt public officers.

Although the Mohammed-Obasanjo administration's *Nigerian Press Council Decree, 1978* was also predicated on the positive object of fostering and maintaining the highest standard of press performance, the nature of the composition of the Council, as outlined in the Decree, was an assault on the freedom of the press. A press council is, primarily, an impartial ethical disciplinary arbiter between the press and the government on one hand and between the press and the public on the other. Given that only three of the fourteen members of the - Press Council conceived in the 1978 Decree were to be journalists while the remaining eleven would come from other professions and be appointed mainly by government and given the prescribed powers of the Council to register, deregister and discipline journalists, the Press Council envisaged by the *Press Council Decree, 1978* could not be anything other than a censorship board. The implications of the Council's composition was that a majority of its members might not be conversant with the operations of the press and, being government appointees, they would most likely, be susceptible to government influence.

While the two direct press legislations of the Mohammed-Obasanjo regime discussed above appear to have positive bases, the remaining two major press enactments of the regime - the *Newspaper (Prohibition of Circulation) (Validation) Decree, 1978* otherwise called the *Newbreed Decree* and the *Daily Times of Nigeria (Transfer of Certain Shares) Decree, 1979* are blatantly anti-press freedom.

As highlighted earlier, the *Newbreed* Decree purported to legalise the two-year proscription of the *Newbreed* magazine. It also confiscated thousands of copies of two editions of the magazine previously impounded by the government on the allegation that the publication breached national security. These actions, taken against the magazine, were patently illegal and could not stand the test of the rule of law which stipulates that, for fairness, a complainant ought not to be the prosecutor and the judge in his own cause. The Mohammed-Obasanjo government ought to have prosecuted the publisher and journalists of the magazine in court if they had published anything contrary to law or harmful to the security of the state. It was probably the realization of the illegality of the government's actions that made it, in its second validating legislation on the ban, to oust the jurisdiction of the court and to indemnify all public officers who had taken part in the action. Moreover, apart from being the first time a newspaper would be officially impounded in Nigeria, the arrest, before circulation, of the two editions of the magazine also constituted the first time a prior - restraint would be imposed by any government - colonial, civilian or military - on a news medium in the country. Onagoruwa (1980:91) has also pointed out concerning the *Newbreed* ban that no government under our law has the right to ban a newspaper without pointing to an existing law which confers such a power on it. As aptly and succinctly put by Justice C.O. Segun in *Mike Ozekhome & Ors. v. President of the Federal Republic of Nigeria & Anor.* (Suit No. M 476/89):

Any act of governance which is not covered under
the umbrella of an enabling law is a nullity.

The *Newspaper (Prohibition of Circulation) Decree, 1967*, to which the Mohammed-Obasanjo regime initially ascribed its authority to ban the magazine gave it no such powers, hence its having to promulgate its own enabling decree after illegally banning it.

As in the case of the *Newbreed Decree*, the Mohammed-Obasanjo regime in promulgating the *Daily Times (Transfer of Certain Shares) Decree, 1979*, also sought to regularise an earlier illegal and procedurally arbitrary action - its 1975 forceful acquisition of 60% equity shares of the *Daily Times*. The compulsory share take-over was a serious contravention of the freedom to operate a news - medium without interference guaranteed citizens in section 25 of the *1963 Nigerian Republican Constitution*. Beyond this, it was an irreverent, egregious and violent violation of the property rights of the citizen-shareholders. Section 31 of the *1963 Nigerian Constitution* protects the citizen's right to the enjoyment of his property. Section 75 of the *Companies Decree, 1968* also unequivocally provides that "the shares of any member in a company shall be personal estate" transferable only "in manner provided by the articles of the company." Not only did the Mohammed-Obasanjo regime divest the *Daily Times* shareholders of their otherwise secure investment without their authority or consent, it also bought the shares below their market values. (Onagoruwa, 1977:152).

Apart from its direct press policies, the indirect legislations employed by the Mohammed - Obasanjo administration particularly the *Armed Forces and Police (Special Powers) Decree (No. 24 of 1967)*, also deserve comments. Although the regime inherited the Civil-War-necessitated Decree from the Gowon government, it is disturbing that it allowed it to continue

to operate for five years after the cessation of hostilities. It has been observed that the regime did not use the *Public Officers (Protection Against False Accusation) Decree* beyond Ohonbamu. In its place, it relied on the *Armed Forces and Police (Special Powers) Decree* with which it detained over twelve journalists.

Also needing review are the myriad of non-legislative control measures employed against the press by the Mohammed - Obasanjo administration. Compared with those utilised by the two regimes before it, five of its eleven administrative weapons are novel. These are subterranean appeal, teleguiding the press, confiscation of publications, forceful take-over of established news-media and banning of teachers from expressing their views in the press. These weapons were first used by the Mohammed-Obasanjo military regime.

While attempting to justify the regime's *Newbreed* ban, General Olusegun Obasanjo, the second Head of State under the regime, explained that an appeal was made to the magazine's publisher to spike the NSO story which printing, he said, largely caused the magazine's proscription. The General tried to impress that the government had to ban the magazine because the publisher did not heed the appeal. Two questions naturally arise from General Obasanjo's submission. One, how could anyone expect a journalist who believed he was doing a patriotic duty demanded of him by society in exposing abuses in government to heed such a secret appeal?. Two, is such a covert appeal, as well as the attendant punishment, officially recognised under our law? In the words of a former Chief Justice of Australia, Sir John Lathan: "it is not our law that what is officially done is law; our law is that what is officially done must be in accordance with law." Also in employing the warning method very early in its tenure, the Mohammed-Obasanjo regime accused the press of "rudeness," "insult" and

“indiscipline” in the way it was commenting on its functionaries and on its activities. These kinds of ‘offences’ can only exist under a paternalistic dictatorial setting.

Of the five military regimes covered by this study, the Buhari government appears to be the most open in its hostility to the press and the most deliberate and systematic in its policy of strangulating the social institution. Through a combination of minatory legislations and draconian administrative measures, the regime seriously repressed the traditional freedom of the Nigerian press, making the practice of journalism exceedingly hazardous while largely depriving itself of critical public opinion by which it could test the soundness and popularity of its programmes and policies. (See *West Africa*, March 11, 1985, p. 489). A perusal of the regime’s press legislation and general laws affecting the press, as well as its specific non-legislative control measures in relation to the news media, will bear these submissions out. We shall begin from the regime’s only direct legislation, the *Public Officers (Protection Against False Accusation) Decree No. 4* of 1984 under which *The Guardian* and two of its journalists were convicted for false report.

To start with, *Decree No. 4* of 1984 which punished as a crime, with imprisonment for two years in the case of an individual, and with huge fine and or forfeiture of assets in the case of a body corporate, any statement, *true of false*, which embarrassed the government or public officers, was clearly a denial of the freedom of speech and an assault on the freedom of the press. As rightly pointed out by Nwabueze (B.O) in a paper he delivered at the 1984 Nigerian Bar Association Conference on August 31, 1984:

the Nigerian press may be irresponsible; it may be careless of the truth; it may even be pervert; but the answer to its lapses and inadequacies does not lie in repression.

Secondly *Decree 4* was an immoral legislation. It jettisoned truth as a defence. It prescribed forfeiture of assets legally and legitimately acquired as part of the penalties for transgression. It also penalised other innocent persons for the 'sin' of a single transgressor. For example if a reporter infringes the Decree, he would not be the only one to pay for the infringement. The medium he works for would equally be penalised. This was, perhaps, to scare publishers from allowing 'embarrassing' publications in their media. In the case of the closure of the medium in consequence of the reporter's violation of the Decree, other innocent co-workers who know nothing about the 'misdeed' of the reporter would also suffer. (Adedipe, 1984 a).

Thirdly, if the intention of the Decree was to curb false reports, it was an unnecessary piece of legislation as the then existing laws of libel, sedition and false report had adequate provisions for the protection of the reputation of not only public officers but of the entire citizenry. The aim of the Decree was obviously to discourage the publication of information embarrassing to the government. But as the *London Times* has pungently observed, unpublished stories do not die, they keep circulating as rumour gathering momentum. (See *The Guardian*, May 3, 1984).

Fourthly, *Decree 4* was a discriminatory and unjust enactment since its overt use was to "protect" a select group of Nigerians, namely public officers. As Sobowale (1984) has rhetorically asked: "is it just for [a] government to make a law that protects a class of citizens to the exclusion of others?"

This exactly was what the Buhari government did with *Decree 4*.

Fifthly, the Decree was, by inference, an open invitation to public officers to be tempted to abuse their offices because with the legislation in force, neither the press nor the public would be able to expose corrupt officers.

On the trial and penalisation of *The Guardian* and its two journalists under the Decree, the news medium and the journalists did not commit much, if any, offence warranting the outrageous penalties visited on them. As Adedipe (1984 a) has correctly noted, speculation "is a legitimate and acceptable norm in journalism" in free societies. All the government ought to have done was deny the aspects of *The Guardian's* report that were untrue and then proceed to set the records straight. Adedipe (1984 b) has also rightly observed that:

disclosing the names of ambassadors and doing it wrongly for that matter, before the process of appointment was concluded, publishing the offensive articles of the fugitives and the rest, are all issues that a warning to the media houses concerned would have taken care of.

Just as the direct press legislation of the Buhari regime was repressive of press freedom, so also were the junta's general laws, particularly *Decree 2, (The State Security (Detention of Persons) Decree)*, and *Decree 13, (The Federal Military Government (Supremacy and Enforcement of Powers) Decree)*, both of 1984.

Decree 2, was:

perhaps [one of] the most draconian decrees ever created by the military in Nigeria in contravention of the rights guaranteed Nigerians by the Constitution. (Nwakwo et. al., 1993: 35)

It conferred arbitrary powers on the state to tamper with the personal liberty of citizens. (*The Guardian*, Editorial, Nov. 20, 1989). Although not directly aimed at the press, the Decree with its amorphous definition of state security:

turned out to be the most suppressive on the press
of all the military laws. (Nwakwo, et. al., 1993:35)

As discussed earlier, the Buhari junta used the preventive detention law to incarcerate, without trial, and most times without being informed of their offences, at least fifteen journalists. Nearly every newspaper house in the country had at least one journalist detained under the Decree during the Buhari regime.

Concerning *Decree 13*, it was also an assault on the freedom of the press because it made the decrees of the Buhari government supreme over the modified or unsuspended provisions of the *1979 Nigerian Constitution*. The effect, in respect of the press, was that:

even if section 36 (i) and (ii) of Chapter 4 of the *1979 Nigerian Constitution* which provided for freedom of the press was not suspended by *Decree No. 1 of 1984*, it [*Decree No. 13*] made such provisions subject to decrees promulgated by the Federal Government or edicts enacted by state governments. (Youm & Ogbondah, 1990-91:89).

The administrative control measures employed by the Buhari regime against the press were equally no less suppressive of press freedom as its legislative mechanisms. Take the bizarre and near 'Amakiri' treatment of Mallam Waziri Garba of the *New Nigerian* as an example. The journalist was drilled in a military fashion, or, more appropriately, tortured, for asking a harmless question of public importance from a military officer who was performing a

civil public assignment. The hostile treatment meted to the journalist smacked of outright hatred of the press and or ignorance of its role and mode of operation.

Evidence of open hostility and sheer hatred of the press, particularly of the more critical private press, manifested in not a few of the administrative measures of the Buhari regime. For example, the regime banned the placement of government advertisements in the private news media and also, deliberately, deprived them of indispensable newsprint. It is common knowledge that advertisement revenue is a major, and the most important, sustainer of the news media. Moreover, in a developing country like Nigeria, government is a major advertiser. By employing the economically strangling measures, the Buhari government, most probably, intended to break the pecuniary jugular of the news-media and turn them into unprofitable economic ventures. The reasoning, perhaps, was that with economic strangulation and legislative repression, the press would be forced to refrain from criticising the government and would thus be kept under total subjugation and control.

Also in its relationship with the press, the Buhari government manifested incontrovertible ignorance regarding the social role of the press and its *modus operandi*. There were two examples of this in the course of Buhari's rule. One, the regime did not understand that in free societies, cartoonists chiefly perform to give comic relief to readers. At his April 27, 1984 media briefing, the Chief of Staff of the regime, Brigadier Tunde Idiagbon, while wearing "a humpy countenance" and expressing disgust, said that:

he could not understand why and how cartoonists can have the effrontery to ridicule the leaders of their country in drawings. He took it as a gratuitous insult. (Adedipe, 1984a)

The implication of this want of knowledge was that cartoonists, like mainstream journalists, were also liable to harrassment and detention under the regime.

The second index of the regime's palpable ignorance respecting the mode of operation of journalists and inferentially of the press also came from no less a principal representative of the regime than its Chief of Staff. Speaking on the two *Guardian* journalists who were detained by the regime in April 1984 for speculating on new ambassadorial appointments, Brigadier Idiagbon told the journalists' colleagues whom he was addressing that:

the authorities ... would like to know the source of the information *The Guardian* published. (*The Guardian*, April 28, 1984).

As he emphatically put it:

We [the Buhari government] want to know how you [the press] got such information; you must tell us. (Ibid.)

The pre-trial detention and subsequent trial of the detained journalists under the retroactive and obnoxious *Decree No. 4 of 1984* were, most probably, motivated by the refusal of the journalists to disclose their sources of information. (See *The Guardian*, April 27, 1984 and *The Nigerian Journalist*, September, 1984, pp. 4 - 5) whereas the ethics of journalism worldwide forbids journalists from disclosing their sources of information in order not to open the sources to backlash or reprisal.

In addition to revealing the ignorance of the Buhari regime about the functions and mode of operation of the press, the regime's relationship with the press also showed that the military government had a warped idea of the meaning and functions of government in society as well as a perverted understanding of the fine and complex relationship between the institution of government and other equally important social institutions. Another principal officer of the Buhari regime, (who also played a prominent role in the succeeding Babangida regime before he was executed for alleged coup plotting), Major General Mamman Jiya Vatsa, provided a vivid and instructive insight into the thinking of military politicians about government and law and about the interrelationship between government and the press while defending the promulgation of 'the press decree,' *Decree No. 4 of 1984*. In an article he titled "Be Wise, Fear Decree 4," (*New Times*, Mid-April 1985) Vatsa declared:

The basic role of government is to govern. Its shade or colour or professed ideology or lack of it exists to regulate the affairs of men and women in a polity, be it in a country, a state or local government or village level. Its existence is contingent on the existence of every other human institution including the press. *What it says is the law. What it does is assumed to be in the best interest of the people it governs. The press therefore is a government institution ...* (Emphasis, mine)

Contrary to Vatsa's archaic views which seem to represent the thinking of Nigerian soldiers and military politicians, the press is a government institution only in totalitarian societies; the actions of governments are not *assumed* to be in the best interest of citizens in free societies; and the words of governments are not just simply accepted as laws in countries that operate

the rule of law. As Justice Mathews has logically submitted as far back as 1884 (see *Hurtado v. California* 110. US. 516 535-536 {1884}):

It is not every act, legislative in form, that is law. Law is something more than mere will exerted as an act of power... Arbitrary power, enforcing its edicts to the injury of the persons and property of its subjects, is not law, whether manifested as the decree of a personal monarch or of an impersonal multitude...

The last but not the least of the regimes covered by this study is the Babangida regime. The press policies of the Babangida junta is a study in chicanery and irony. The regime came to power chiefly on grounds that the fundamental human rights of Nigerians, especially their freedoms of expression and of the press had been badly abused during the Buhari regime which it displaced. (Onanuga, 1993:16). It, on this premise, promised Nigerians the enjoyment of a high degree of press freedom under its governance. The regime, through various negative measures, however turned out to be the most repressive of the operational freedom of the Nigerian press of all Nigerian military governments before it. In notoriety and ferocity of assaults on the freedom of the press, no military administration before the Babangida regime could measure up to it. Ironically, no military administration in Nigeria enjoyed the high degree of press support the Babangida administration received at its outset.

As enumerated earlier, the Babangida regime enacted ten direct press legislations. Of the ten, only two - the *Concord Group of Newspaper Publications (Proscription and Prohibition from Circulation) (Repeal) Decree (No 17) 1992*, which revoked the unimplemented *Concord*

(Proscription) Decree (No. 14) 1992, and the Nigerian Press Council Decree (No 85) of 1992, which finally established the Nigerian Press Council - can be said to possess any positive attributes for the Nigerian press. The remaining eight were simply assaults - often violent and brutal - on the press and its freedom. It is apposite that we briefly review the eight negative promulgations.

The Babangida regime started its legislative encroachment on the freedom of the press with the *Newswatch (Proscription and Prohibition from Circulation) Decree (No 6) of 1987* with which it banned *Newswatch* for six months.

The proscription of the *Newswatch* magazine by the Babangida regime was an unjustifiable abrasion on the freedom of the press. As noted by Fawehinmi (*The Guardian*, April 8, 1987):

it flagrantly violates the fundamental right to be informed entrenched in the *Universal Declaration of Human Rights, 1948*, to which Nigeria subscribes, and the *1979 Constitution of the Federal Republic of Nigeria*.

Rather than ban the magazine, the Babangida government ought to have prosecuted its editors in court if its publication breached the *Official Secrets Act* as alleged. Moreover, the freezing of *Newswatch's* bank accounts by the government was patently illegal and amounted to a crude harassment of the news-medium. Or what other reasonable object could the freezing of the magazine's bank accounts serve other than inflict additional arbitrary and premeditated injury upon its unjustifiable proscription?

After the *Newswatch (Proscription) Decree*, the Babangida government promulgated the *Nigerian Media Council Decree (No. 59) of 1988*. Although the regime professed the intention of uplifting the standard of press performance in the Decree, the letters and spirit of the Decree were an immoderate emasculation of the freedom of the press and a serious erosion of the right of citizens to public information. Apart from failing to give adequate representation to journalists in the composition of the 18 member Council which it proposed, (only eight members may be journalists), the Decree also gave the Babangida government the power to appoint, directly and indirectly, all members of the Council. With the Council's power to issue subpoena, to impose fines, to impound documents in any media house without having to show any probable cause, and to register and deregister journalists, the Council envisaged by the *1988 Decree* was a press court and a licensing authority rather than a press council. (*The Guardian*: Editorial, Feb. 8, 1989 p. 8). Moreover, as further pointed out by *The Guardian* (ibid.), the Decree's limiting of registrable journalists to only those who have successfully completed approved journalism courses to the exclusion of those who trained on the job, irrespective of the duration of their practical training, was jejune.

If Babangida regime's *Media Council Decree*, 1988 had some iota of public interest in it, the regime's next press legislation - the *Concord Group of Newspaper Publications (Proscription and Prohibition from Circulation) Decree (No 14) 1992* - was a different ball game altogether. Although it was eventually withdrawn after an unwarranted and unethical public apology by the *Concord* publisher, the Decree was an egregious and vulgar infraction

on the freedom of the press as it was an unjust and an unreasonable piece of legislation. As rightly pointed out by Bayo Onanuga, the then *African Concord* editor, in his resignation letter, the stories published by the *African Concord* magazine, which, according to the government, provoked the Decree were never faulted by the government for “inaccuracies and willful lies.” Nor did the Babangida regime contend that the reality “so vividly portrayed” by the magazine in its stories did not exist. The government’s allegation of a breach of national security by the *Concord* publication as a basis for promulgating the Decree is untenable as there is no connection whatsoever between the stories published by the magazine and a reasonably defined national security. Perhaps this was why the then Minister of Information, Prof. Sam Oyovbaire, found it difficult to pinpoint the specific national security element breached by the *Concord* publication when asked by journalists. The Minister, in a vain attempt at justifying the government’s promulgation of the Decree said:

At any point in time when there is a government, it is a protector of national interest. It is not in the interest of government to get down and indicate the specific element of national security and national interest that it is protecting. That itself is a security matter. (*West Africa*, July 6-12, 1993, p.1123)

The logic in this statement is definitely spurious. The statement underlines the serious primitive abuse to which the Babangida regime subjected the fine and sensitive concept of national security in using it as a cloak to whimsically encroach on the freedom of the press.

Moreover, even if the *African Concord* publication at issue truly offended national security, the right course of action for the government, in consonance with the rule of law as opposed to

the rule of the thumb, was to prosecute the magazine and its journalists in court rather than seek to unilaterally proscribe it. It was not only the *African Concord* magazine, which published the allegedly offending stories, that the government sought to proscribe with *Decree 14 of 1992* but the entire *Concord* stable consisting of thirteen different publications. Visiting the alleged offence of a single journal on twelve other publications as the Babangida government purposed to do with the Decree was unfair, brutal and fiendish.

The Babangida regime enacted all its remaining five repressive press legislations within the last six months of its tenure, that is between March and August 1993. The government released four of the five decrees to the public after its June 23, 1993 annulment of the June 12, 1993 presidential election thus implying that the draconian decrees were part of its design to contain the crisis occasioned by the election annulment. Three of the five press promulgations are also final proscription decrees. These are: *The Reporter (Proscription and Prohibition from Circulation) Decree (No 23) 1993*, through which the junta proscribed *The Reporter* newspaper for six months (renewable if necessary), for publishing an editorial which held it responsible for Nigeria's socio - economic problems; *The News (Proscription and Prohibition from Circulation) Decree (No 36) 1993*, which banned the publication and circulation of *The News* magazine for four months (also renewable); and the *Newspapers etc. (Proscription and Prohibition from Circulation) Decree (No 48) 1993*, which indefinitely proscribed four newspaper groups - the *Concord*, the *Punch*, the *Sketch* and the *Observer* - in one fell swoop.

Like all peremptory banning decrees unleashed on allegedly offending news media without hearing, the three decrees named above constituted an arbitrary and despotic erosion on the freedom of the Nigerian press. Even if the media affected by the decrees had committed any offence known to the then existing laws of Nigeria, the Babangida government ought to have prosecuted them in courts of competent jurisdiction instead of summarily banning them as it did, thus being the complainant, the prosecutor and the judge in its own causes.

Moreover in enacting the *Newspapers etc. (Proscription and Prohibition from Circulation) Decree (No 48) 1993*, the Babangida government created a record, albeit a negative one, in press legislations in Nigeria. The promulgation of the Decree marked the first time that more than one newspaper group would be proscribed at a go by any government in Nigeria, military or civilian.

Secondly, the allegations, by the Babangida government, against the four newspapers proscribed by *Decree 48 of 1993* was essentially that they were engaging in unethical practices. This being the case, the government ought to have taken the concerned newspapers to the Nigerian Press Council which it established to curtail unethical conduct by the press. That it did not follow this right course of action indicates that it had no confidence in the instruments and institutions it created to regulate media practice.

The remaining two direct press legislations of the Babangida regime - the *Offensive Publications (Proscription) Decree (No 35) 1993* and the *Newspapers Decree (No 43) 1993* - are no less violative of the freedom of the Nigerian press than the government's previously

discussed press promulgations. They are, in fact, two of the most reprehensible press legislations of the Babangida era. The *Offensive Publications (Proscription) Decree*, for example, empowered the Babangida government to proscribe, confiscate or seize any publication whose content was “offensive” to it in terms of scuttling its oft - amended and variously elongated Transition - to - Civil - Rule - Programme. While purporting, in its dangerous novelty, to nullify court reliefs already obtained in retrospect, the Decree also purposed to prevent whatever was done pursuant to it from being subjected to the *African Charter on Human and Peoples Rights* and other similar enactments.

Although the Babangida government gave the smooth prosecution of the Transition-to-Civil-Rule-Programme as the *raison detre* for the *Offensive Publications (Proscription) Decree*, the government seemed to have promulgated the Decree to arm itself with a standing legislation with which to speedily ban any publication that might publish whatever it did not want published, thus saving itself the trouble of having to promulgate a new decree each time it wanted to ban any publication. The issuance, by the regime, of the *TELL Magazine (Proscription from Circulation) Order, 1993* the day after enacting the Decree attests to this point.

Moreover, by seeking to neutralise the *African Charter on Human and Peoples Rights*, a treaty which Nigeria not only freely entered into but had already ratified and transformed into her domestic law (Olaitan and Babalola, 1993), the Babangida government seemed to want to prevent a successful legal challenge of the *Offensive Publications (Proscription) Decree* or

of its application(s). Having successfully repressed the Fundamental Human Rights provisions of the *1979 Nigerian Constitution* through ouster clauses and similar provisions, the regime probably wanted to deprive the Nigerian press, journalists, human rights groups and other citizens of the use of the *African Charter*, to which they usually resort in their legal challenge of infringing government actions or legislations. The *African Charter*, for instance, does not condone the ouster clauses usually contained in the government's decrees. But has the Babangida government the legal and moral right to override the *African Charter* in its local statutes? The answer is a definite no. As rightly contended by Clement Nwakwo, counsel to Richard Akinnola in *Richard Akinnola and Anor. v. General Ibrahim Babangida & 3 Ors.* (Suit No. M/482/93) and confirmed by the court in its ruling in that case:

where there is a conflict between the provisions of domestic statutes and international instruments to which Nigeria is a signatory, the international obligation prevails. (See *Nigerian Tribune*, Oct. 11, 1993, p. 12).

Also as succinctly expressed by the Court of Appeal in the epochal case of Chief Gani Fawehinmi v. General Sani Abacha (as per Mustapher, J.C.A.):

While the Decrees of the Federal Military Government may override other municipal laws, they cannot oust the jurisdiction of the Court whenever properly called upon... in relation to matters pertaining to human rights under the African Charter. They are protected by the international law and the Federal Military Government is not legally permitted to legislate out of its obligations.

There is also one other objectionable element in the *Offensive Publications (Proscription) Decree*. This concerns its investing the Head of the Babangida regime, General Babangida, who, in the first instance, enacted the Decree, with the power to solely and finally determine offenders. This confers absolute discretion and arbitrary power on a fallible individual. As soundly noted by C. O. Segun (J) in *Mike Ozekhome & Ors v. President of the Federal Republic of Nigeria & Anor* (Suit No. M/476/89):

Unfettered discretion in the exercise of a power granted by law cannot exist where the rule of law reigns.

Moreover, such an absolute power is capable of easy abuse and it is an investiture of tyranny. Analysing the shortcomings of unlimited authority in respect of individuals and governments, Kutner (1962:32-33) has rightly pointed out that:

[u]nrestrained power is a corruptive influence of itself. Man in his weakness and illogic can always convince himself that his acts are for the sole benefit of the state, for the good of the many as against the few. From this conclusion to the conviction that the end sought excuses any means is but a short leap for any person or government possessed of unrestrained power.

Like the *Offensive Publications (Proscription) Decree*, the *Newspapers Decree, 1993* is also an unwholesome and obnoxious press legislation in four respects. First, it lays extremely stringent conditions for the registration of both existing and upcoming publications. For example, in line with section 4 (c) and (d) of the Decree, anyone wishing to register a newspaper is required to pay a very large pre-registration deposit of N250,000 and another non-refundable

fee of N100,000. The Decree also stipulates in section 17 that all newspapers must establish offices in the capitals of all states and in the Federal Capital Territory, Abuja, wherein they are printed, published or circulated. These requirements effectively make the exercise of the right of freedom of the press through the ownership of newspapers the exclusive preserve of the very rich.

Secondly the Decree prescribes many irrelevant conditions for qualification for a newspaper licence. Some of these, as contained in section 4 (b) of the Decree, are “good character,” “competence” and “integrity” on the part of the directors and other persons in charge of a proposed or an existing newspaper. These, obviously, are very odd and inapposite prerequisites for the enjoyment of the right of press freedom through the ownership or operation of a newspaper.

Thirdly, the Decree invests the Babangida government with too much, if not absolute, discretion in granting or denying citizens the licence to operate a newspaper. As stated in section 5 (1) of the Decree, the registration of a newspaper is not automatic even after meeting all the tough conditions prescribed by the military legislation. The government’s Newspaper Registration Board shall only register a newspaper that has met all prescribed requirements if it is satisfied that, “the registration is justified having regard to the public interests.” The operational definition of “public interest” in view of the Decree is left to the government’s situational determination. The yearly renewal of a newspaper’s licence is also to be granted only “if the Board is satisfied with the performance of the newspaper during the preceding

year.” (Section 5(2) (b)). The yardsticks for measuring satisfactory performance on the part of the newspapers are also assumed in the Decree.

Fourthly, the *Newspapers Decree* provides scaring, outrageous and stone-age penalties for infractions of its provisions. The following penalties subsist in the Decree:

- (i) a fine of N200,000:00 or 10-year jail term or both fine and imprisonment for false news as against a fine of 200 pounds or one year imprisonment prescribed for the offence under section 4 of the *Newspapers Amendment Act, 1964*;
- (ii) a N250,000:00 fine or imprisonment for up to seven years or both fine and imprisonment for owning, publishing or printing an unregistered newspaper;
- (iii) a N100,000:00 fine or imprisonment for up to five years or both fine and imprisonment for circulating an unregistered newspaper;
- (iv) a N50,000:00 fine for printing, publishing, selling or circulating each copy of a newspaper which does not contain the real name of its owner, publisher and printer, the real name and residential address of its editor, the true description of its place of printing and the total number of its issue printed;
- (v) a fine of N50,000:00 against every newspaper owner, publisher or printer and against every newspaper editor who fails to deliver a copy of his newspaper to the Registration Board “for everyday on which he fails to comply”, and
- (vi) a N50,000:00 fine against every newspaper owner, publisher or printer who fails to establish an office for his newspaper in the Federal Capital Territory, Abuja or in state capitals as the case may be.

From the foregoing, it could be deduced that the Babangida regime probably enacted the *Newspapers Decree, 1993* to kill the critical news media in Nigeria and turn the entire Nigerian press into a docile, non-critical and freedom-less one. As correctly observed by Alhaji Alhassan Mamuda Gulu, the then Deputy Speaker of the Kano State House of Assembly (*Nigerian Tribune*, Aug. 19, 1993, p. 2) the Decree has the capacity to make the news media in the country dormant and afraid to perform their legitimate national function of acting as arbiter between the government and the governed.

As pointed out earlier, the Babangida government also utilised two general laws - the *State Security (Detention of Persons) Decree (No 2) 1984* and the *Treason and Treasonable Offences Decree, 1993* - to control the press. The regime detained over forty journalists without trial under *Decree 2* on account of the journalists' 'offending' publications. This shows the colossal extent of repression of press freedom that obtained during the Babangida years. Never in the history of any Nigerian military government, before the Babangida regime, had such a large number of journalists been detained without trial; not even during the nine-year-long Gowonian rule with its emergency of the Civil War years.

Although the Babangida regime did not visit the *Treason and Treasonable Offences Decree, 1993* on any journalist before "stepping aside," the unprecedented Decree, which makes it possible for journalists to be condemned to death and be executed for performing their constitutional duties, is one of the government's most serious legislative offensives against the press. Notwithstanding its enactment as a general law, the Decree can be said to be the peak

of Nigerian military governments' legislative assaults on the freedom of expression and the press. It is one of the most threatening and one of the most dangerous decrees ever created in respect of press freedom by any military government in Nigeria.

Like its press legislations, the Babangida government's non-legislative control measures respecting the press are also an avalanche of gruesome and primitive violations of press freedom. Through various uncivilised instruments of physical, mental, psychological and economic torture, the Babangida government practically laid a suffocating siege on the Nigerian news media, especially on its private genre. As already shown, journalists in both government and private news media were constantly harassed on spurious reasons by agents of the regime. State military governors under the administration suspended and dismissed journalists working with state owned news media at will and, as the Col. Olurin and the *Sunday Sketch* case exemplifies, occasionally directly censored the media. The Babangida Federal Government also unduly deported a foreign journalist, wrongly banned *Newswatch's* Anetite Usen from his State - House beat and corruptly "bought over" buyable journalists and news media. In addition to all these, the government unprecedentedly impounded thousands of copies of numerous publications and peremptorily closed down a large number of news media.

Of the twelve administrative measures which the Babangida regime employed to control the press, the gangsteristic seizure of publications and summary closure of news media are the most primitive. Instructively, the two weapons are also the most utilised by the regime. Peremptory closures of news media by the government on account of the media's critical publications bespeaks of extreme intolerance of other persons' views, paranoid fear of criticism

and arrogance and or sheer lawlessness on the part of the government. The same goes for the government's impounding of duly registered publications through uncivilised jungle tactics. Both are exhibitions of illegitimate naked force and brutal assaults on the freedom of the press. They are, moreover, inglorious efforts at financially crippling the affected media.

One other administrative measure of the Babangida government in respect of the press also needs inspection. This is the crude banning of *Newswatch's* Anetite Usen from his State - House beat because the journalist's magazine published the text of the April 1990 Orkar-coup broadcast. This undue vengeful measure by the Babangida government reveals its lack of understanding of the role of the press in a modern society. Contrary to the government's thinking that the press should publish only information favourable to it, as inferable from its action against Usen, the press, as the mirror of and an 'impartial' arbiter in society, is bound to reflect, as a matter of duty, plural views.

Also needing review is the murder, by parcel bomb, of Dele Giwa during the Babangida regime. Although the assassination has not been conclusively legally attributed to the government, there is, obviously, a very strong circumstantial link between the journalist's murder and the activities and public statements of principal security agents of the regime, notably Col. Halilu Akilu, the then Director of Military intelligence (DMI) and Lt. Col. Togun, then Deputy Director of State Security Service (SSS). Moreover, the journalist's killing, given its surrounding circumstances, was bound to serve as a terrifying warning to all Nigerian journalists while the Babangida government lasted.

In concluding our examination of the press policies of the Babangida government, it is worthy of note that the Babangida regime allowed the press very low degree of freedom. The employment, by the regime, of various suppressive legislative and non-legislative control weapons against the press not only greatly hampered the operational freedom of the social institution, it also made the impeded freedom very fluid and uncertain. Most of the time during the life of the regime, it arbitrarily and whimsically determined what constituted journalistic offences and summarily, unilaterally punished them.

A second important noteworthy point, which equally applies to the other military regimes, is that the repression of the press by the Babangida government usually increased whenever there was socio-political crises. There were three most noticeable socio-political crises in the life of the regime: the 1989 anti-Structural Adjustment Programme (anti-SAP) riots, the 1990 Orkar-coup and the 1993 election annulment trouble. During each of these crises, the Babangida government further tightened the noose it had all along put on the neck of the press and its freedom. For example, the government unduly detained many journalists and closed many news media for merely reporting or analysing the Orkar coup. The regime also engaged in the historic wholesale proscription of four newspaper stables and introduced four of its most draconian press decrees, including the *Newspapers Decree, 1993*, during the 1993 election annulment crisis.

On a comparative note, of the five military regimes studied, the Babangida regime was the most repressive of the freedom of the Nigerian press. The indices to this effect are many. One

is the sheer regularity, prodigy and ferocity of the government's assaults on the freedom of the press. For instance, from inception of military rule in Nigeria in January 1966 to the advent of the Babangida regime in August 1985, there were only four peremptory closures of the Nigerian news media. In contradistinction with this, the Babangida government summarily closed or proscribed seventeen news media groups. Another index of the great repression of the freedom of the Nigerian press under the regime is the very wide extent of its imperious detention of journalists and arbitrary seizure of publications both of which reached the peak during the era. The Babangida government also invented the practice of sealing up the premises of proscribed news media in addition to their proscription, thus wrongly violating the property rights of the affected news media with impunity.

Available evidence indicates that but for the traditional resoluteness of a large section of the Nigerian press and the great courage and defiance of, particularly, the private news media and their journalists who, in spite of severe and continuous government repression, insisted that:

[t]he press must publish the truth, even if the truth makes somebody to lose sleep (Onanuga, Bayo cf. *Constitutional Rights Journal*, April-June 1992, p. 10),

the military regimes would have succeeded in completely keeping the freedom of the Nigerian press under their jackboot. Such courage and defiance is evident in Bayo Onanuga and company's resignation of their *African Concord* editorial posts instead of unduly and unethically apologising to military President Ibrahim Babangida. It is also evident in *TELL*'s July 26, 1993 press statement message to the Babangida regime. At the pinnacle of the government's

harassment and intimidation of *TELL*'s journalists and workers and the seizure of thousands of copies of different editions of the magazine by the regime's security operatives, the magazine's management, as per Nosa Igiebor, its Editor-in-Chief, intrepidly told the Babangida regime that its:

...present posture... as exhibited by the security operatives *WILL NOT* deter us from carrying out our primary responsibility of pursuing the truth at all times. (*Nigerian Tribune*, July 27, 1993.)

It reminded the government that:

Nigerians have the right to know what goes on in their country [and] [n]o government or group of people can solely determine what the people should know or should not know. (Ibid.)

In spite of the serious danger the Babangida government's open and, sometimes, secret harassments constituted to the economic well-being and, especially, the personal safety of its journalists and workers, the *TELL* Communications Limited said it resolved:

to continue to publish the truth, no matter what and, if need be, *with the last drop of our blood*

not minding:

the evil machinations of the outgoing dictatorial regime which is nothing but a passing phase. (Ibid.)

This kind of courage and defiance exhibited by many of the privately owned news media, many of which emerged, particularly during the Babangida regime, helped a great deal in preserving even the low degree of freedom enjoyed by the Nigerian press under the military regimes.

CHAPTER FIVE

5.0 SUMMARY, CONCLUSION AND RECOMMENDATION

5.1 SUMMARY

This historical - legal study primarily sets out to investigate the relationship between five Nigerian military governments and the Nigerian press over a period of twenty three years, i.e. from January 15, 1966 to October 1, 1979 and from December 31, 1983 to August 26, 1993. The study focused on four specific objectives vide: one, to examine the laws - decrees and edicts - which defined the limits of press freedom during military rule in Nigeria; two, to draw together in one document the pertinent Nigerian case law in the area of press freedom during military rule; three, to identify and analyse the institutional, legal and non-legal measures and mechanisms utilised by Nigerian military regimes in controlling or dealing with the press; and four, to identify and analyse the socio-political factors that influenced or affected press freedom during military rule in Nigeria.

In order to accomplish these stated tasks, the study has analysed the political interaction between the five Nigerian military governments and the press out of which the special legislations affecting the press gradually emerged. It has reviewed reported and unreported cases involving the press and the various military governments, delineated the permissible boundaries of press freedom during military rule in Nigeria and traced the evolution of the press legislations of the military era partly as responses to the prevailing socio-political climate.

An examination of the press policies of the studied military regimes gives the following major revelations.

In spite of firm promises to duly respect the freedom of the Nigerian press made at inception by four of the five Nigerian military governments (the exception being the Buhari regime) all the governments, excepting the short-lived Ironsi regime, enacted numerous repressive press laws and general legislations which seriously hampered the freedom of the Nigerian press. During the rulership of the five military governments, the Nigerian press was gradually but swiftly removed from the protective umbrella of constitutional law and subjected to special press decrees and edicts whose motivating spirit was merely restrictive. A preponderant majority of these laws were at variance with the established principles of press freedom which constitutionally enjoin the Nigerian press to monitor governance. The circumstances of the promulgation of many of the laws also showed, in no uncertain terms that the military governments were not only irascibly sensitive to press criticisms, they were also intrinsically intolerant of press freedom.

Secondly, in addition to the very many anti-press-freedom laws which the military governments enacted, they also utilised sundry other administrative weapons to control the press. These weapons include: harassment of and assaults on journalists and news media managers, undue suspension and dismissal of journalists working in government owned news-media, banning of journalists from government-house beats, prohibition of government-sponsored advertisements in the critical private press, use of newsprint to strangle critical newspapers, overt censorship, establishment of government newspapers, forceful take over of established

private newspapers, insertion of ghost-written articles in government owned newspapers, police raids on news media, buying over of journalists, deportation of foreign journalists, seizure of publications, peremptory closures of the news media, etc.

Thirdly, in accord with Siebert's *Proposition II* (1952:10) which postulates that:

the area of freedom contracts and the enforcement of restraint increases as the stresses on the stability of the government and of the structure of society increase,

the studied military governments repressed the press more during crises periods than at peaceful times. As was shown in the many cases detailed in this study, the military governments' regimentation of the press was usually exercised in inverse ratio to the security the governments enjoyed. For example, the military governments enacted more restrictive press decrees and edicts at crises times than at peaceful times. The non-legislative measures which the governments took against the press also followed the same pattern.

Fourthly, the degree of freedom that was granted the press during military rule in Nigeria varied from regime to regime. On the strength of the facts presented in the antecedent chapter, the Nigerian press can be said to have enjoyed the lowest degree of freedom under the Babangida government. This is attested to by the regularity, prodigy and ferocity of the assaults visited on the vital social institution by the regime in contradistinction to the situation under the remaining four regimes. The Buhari government can be said to be second to the Babangida regime in press freedom violation. One fundamental difference between the Buhari and the Babangida regimes is that in spite of the draconic atmosphere of the Buhari era, journalists

knew what was an offence. There was *Decree 4* in place alright, but before journalists wrote, they knew what the law said. Most of the time during the seemingly more congenial atmosphere of the Babangida government, the demarcating line between permissible and offensive publications was not only blurred, it also shifted with the government's whims.

Furthermore, both the Gowon and the Mohammed - Obasanjo governments can be said to occupy the third position regarding the relative extent of press freedom that operated under the five military regimes. In spite of the Amakiri and the *Newbreed* cases which occurred respectively during the rule of the two regimes, the two governments still fared better than the Buhari junta in their regard for press freedom. The Ironsi junta was the least suppressive of the freedom of the Nigerian press among the five investigated regimes. This, perhaps, is partly because of the short duration of its rule.

5.2 CONCLUSION

Based on the findings of this study, the following conclusions have been drawn.

No matter how one defines the concept of press freedom, it can be said without any fear of contradiction that the freedom of the Nigerian press was not duly respected by any of the five Nigerian military governments examined. Nigerian military rulers, principal officers of state during military rule and notable communication practitioners often contend that press freedom was adequately respected during military rule in the country. The avalanche or weight of evidence concerning the regimentation of the Nigerian press during military rulership garnered in this study does not support this position. The data presented in this study established that all

the five Nigerian military regimes repressed the freedom of the Nigerian press in varying degrees during their tenure. The press policies of the regimes were found to be similar along the line of militarism. The degree of press freedom that was allowed under each military regime seems to have been dictated by each regime's initial need for 'legitimacy' or 'acceptance,' the extent of the liberal disposition of its head and that of its principal officers and the degree of press criticism attendant to its actions and inactions. Consequently, one of the most liberal conclusions that can be empirically drawn on the Nigerian military regimes is that the first three regimes of 1966 - 1979 did not emasculate the press as much as the two latter regimes which ruled from December 31, 1983 to August 26, 1993.

Negative as it was, the repression of the freedom of the Nigerian press by the various Nigerian military governments is hardly surprising. It bears out Siebert's (1952) postulation that the degree of press freedom operating in any society:

depends on the nature of the relationship of the government to those subject to the government.

Military dictatorships, which mostly relate with subjects using the medieval "might is right" philosophy, are not generally known to uphold or defend citizens' freedoms in governance. Rather, they often uphold the capricious fancies of their leading officers holding transient positions of power while trampling on citizens' rights. For this reason, no high regard for press freedom is usually expected under any military government. The myopic authoritarian military approach to governance is bound to be reflected in the relationship between military governments and the press, moreso as the press and its freedom are organically linked to the people's

freedoms. The paradox in the Nigerian case however was that despite the inhuman laws and other harsh control measures of the military era, the Nigerian press was undaunted and its performance during the period was on the high side and with improved standards. The traditional courage and resilience of the Nigerian press, particularly the courage and resilience of its much harassed, much victimised and much brutalised private genre largely accounts for this commendable performance.

At least, three outstanding scholars of the Nigerian press have testified to the fearlessness of the Nigerian press in the pursuit of public interests. Chief Anthony Enahoro a one-time journalist and former Federal Commissioner for Information, held in 1967 that:

The Nigerian press has a proud record of resistance to colonialism and, since independence, of defence of public liberties... (cf. Ogunade, 1981:13)

This assessment of the Nigerian press holds up to this day. Also analysing the civil society and the Nigerian press under military rule in the context of the state, Agbaje (1993:459) also held that:

right from its inception in 1859, the Nigerian press has always been one with a cause - committed, agitational and often, political.

And reviewing the Amakiri case, Onagoruwa. (1977:69) said that:

The Nigerian press has one intangible factor behind it - a great tradition of fearlessness and defiant dignity.

It is this fearlessness as well as defiant dignity of the Nigerian press that has always largely forced Nigerian military governments to grant it even the low degree of freedom it usually

enjoyed under military rule. Another possible factor in this regard is the regimes' sensitivity to international or world opinion.

Much as the performance of the Nigerian press during military rule has been commendable however, it has not been entirely professionally and ethically perfect or blameless. For instance, the Buhari regime anchored, and perhaps rightly so, its promulgation of the dreadful *Decree 4* on the half-truths and falsehood sometimes dished out by the Nigerian news-media. Other short-comings of the Nigerian press include susceptibility to bribery or the 'brown-envelope' syndrome on the part of many journalists, occasional bias in news presentation, sensationalism and limited professional training and general education on the part of some journalists. These short-comings have the tendency to inhibit the professional capability and effective performance of the press and consequently diminish the respect which governments and citizens ought to have for it.

The press, as defined by the Credo of *Chicago Tribune*:

is a social institution, developed by modern civilisation, to present the news of the day, to foster commerce and industry and to provide that check upon government which no constitution has ever been able to provide.

For the press of any nation to attain this high pedestal however, its news-stories, reports and analyses must be largely professionally and ethically unassailable. The Nigerian press, generally speaking, is yet to attain this desirable and enviable standard.

Chief Anthony Enahoro, as Federal Commissioner for Information and Labour, observed in 1968 that the Nigerian press "seemed to be suffering from two ailments." As he explained:

One is lack of men of stature. The Press is in need of leaders. It is in need of crusaders. It is in need of able, readable, courageous writers... It cannot afford to have too many small men in big boots.

He further elaborated :

The second ailment is lack of the vision to recognise danger and the courage to oppose wrong. The Nigerian Press can inspire no confidence, no respect and no following if its role in nation-building is that of sycophants, guilty of unquestioning differential support of rulers, guilty of flamboyant praise of mediocrity, guilty of popularizing excesses and impropriety, afraid to pronounce against wrong and guilty of a craven desire to bat on any winning side...(cf. Ojo, 1976: 546)

Although the profile, status and educational standard of the Nigerian press have since tremendously improved and Nigerian journalists are no longer regarded as the 'flotsam and jetsam' of society, there is still room for professional and ethical improvement.

5.3 RECOMMENDATION

Although military governments are generally regarded as political aberrations, they have, over the years, made significant and largely discreditable in-roads into the political governance of many countries of the world, Nigeria prominently inclusive. In spite of the current global clamour for democratisation of governance, the legal status of military regimes in the committee of nations remains unaltered. Customary international law recognises coup d'etat as a proper and effective means of changing a government. (Omodunbi, 1978; Achike, 1978:113). As expounded by Kelsen (cf. Achike, 1978 :112 -113):

A national legal order begins to be valid as soon as it has become on the whole - efficacious... The government brought into permanent power by a revolution or coup d'etat is, according to international law, the legitimate government of the state.

In the specific case of Nigeria, although its *1999 Constitution* outlaws military governments (see section 1 (2)) and notwithstanding the discredit that its previous military rulers did to themselves, as well as to military rule, we cannot, at this stage of the country's political development, predict, with total certainty, that its military can no longer usurp political power. The pertinent question at this juncture therefore is: how can the 'cat' and 'rat' relationship between Nigerian military governments and the Nigerian press be improved ?

First and foremost, the nature of the relationship between the government, any government, and the press is usually largely determined by the government's understanding of the role of the press in the polity and by the government's willingness to duly allow the press to play that role. It has been noted, that because of their authoritarian nature and structure and because of their narrow understanding of the complex relationship between the institution of government and other vital institutions in society, military governments are not given to respecting the freedom of the press. Paradoxically, military regimes that are genuinely interested in knowing the true feelings of their subjects about their programmes and activities need a free press, even more than civilian governments (Jakande, 1979:70). Since only such military governments can aspire to satisfy the true yearnings of their people, it is strongly recommended that any possible future military government in Nigeria should shed its autocratic toga and consciously respect the freedom of the press. This recommendation is in line with customary international law which

also obliges military governments to respect the rights and freedoms of their subjects and rule in accordance with the due process of law.

In the event of the refusal or failure of any such government to duly respect the freedom of the press, the Nigerian press, in collaboration with the Nigerian people, should, at all costs, strive to preserve its freedom as it has always creditably done during military rule.

There is really no viable alternative to this reasonable course, for once any government - military or civilian - largely succeeds in repressing the freedom of the press, it is bye - bye to all other freedoms of the people. This is the rationale behind John Zanger's postulation of 1733 that:

No nation, ancient or modern, ever lost the liberty of freely speaking, writing or publishing their sentiments but forthwith lose their liberty in general and become slaves.

While monitoring military governments and attempting to hold them accountable to the people however, the Nigerian press should maintain high professional and ethical standards. This will leave the military governments with no plausible excuses for repressing the freedom of the press. It will also enhance the credibility of and respect for the news media among the citizenry and make them ready to support and defend their freedom.

5.4 SUGGESTION FOR FURTHER RESEARCH

This study has investigated the relationship between the Nigerian press and the first five Nigerian military regimes. There is the need for further research on the interaction between the press and the last two Nigerian military governments - the Abacha and the Abubakar regimes - in order to have a holistic picture of the situation.

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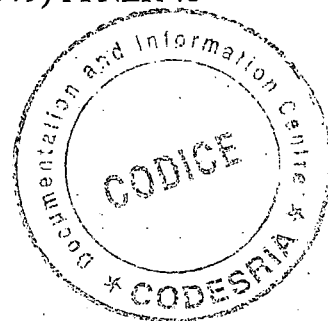
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