

**PRESS CENSORSHIP IN NIGERIA, AN IN-DEPTH ANALYSIS OF THE LEGAL
FRAMEWORK OF PRESS FREEDOM IN NIGERIA**

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2020/LW/14483

**THE DEPARTMENT OF LAW, FACULTY OF LAW, ALEX EKWUEME FEDERAL
UNIVERSITY, NDUFU-ALIKE, IKWO.**

SEPTEMBER, 2025

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SUBMITTED

BY

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2020/LW/14483

TO

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SEPTEMBER, 2025

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2020/LW/14483

**BEING A PROJECT SUBMITTED TO THE FACULTY OF LAW, ALEX EKWUEME
FEDERAL UNIVERSITY, NDUFU-ALIKE, IKWO, IN PARTIAL FUFILLMENT OF
THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF BACHELOR OF
LAWS (LL. B)**

SEPTEMBER, 2025

CERTIFICATION

This is to certify that this long essay titled “Press Censorship In Nigeria, An In-Depth Analysis Of The Legal Framework Of Press Freedom In Nigeria” has been assessed and approved by the Undergraduate Studies Community of the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike Ikwo” as an original work carried out by Nmereole Kelechi Emmanuel with registration number: 2020/LW/14483 in the Faculty of Law, Alex Ekwueme Federal University, Ndufu-Alike Ikwo, under the guidance and supervision of Dr. Nnaemeka Amadi.



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DEDICATION

I dedicate this project to God Almighty, he's been amazing all through my stay in school, blessing me with the most amazing and supportive parents, siblings, friends especially my cabal and lecturers. This is especially for my mom, she's my best friend and has pushed me to always be better and want the best for myself.

ACKNOWLEDGEMENT

I would like to express my sincere gratitude to all those who supported me in completing this project. I am particularly grateful to Dr. Nnaemeka Amadi, my supervisor for his invaluable guidance, insightful feedback, and unwavering support throughout this endeavour. His expertise and guidance were instrumental in shaping this work.

I also extend my gratitude to Prof. Ezeni Azu Udu, the dean of faculty of law, and Dr. K.G Onyegbule, the Head of Department, for their support and for providing the resources and environment conducive to academic research. And to every other lecturer and staff of the faculty, their commitment to fostering a strong academic is greatly appreciated.

To my parents, Mr. and Mrs. Nmereole, for always being a source of strength, encouragement and support to me. To my siblings; Emeka, Ugochi and Chinedum, for always being my safe space and to my friends for their patience, understanding, and constant encouragement. Their belief in me and their support were essential in helping me overcome challenges and stay focused on this project.

Thank you all.

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LIST OF ABBREVIATION

ACHPR – African Charter on Human and Peoples Rights

CFRN – Constitution of the Federal Republic of Nigeria

EHRN – European Human Rights Reports

FOI – Freedom of Information

HRLRA – African Human Rights Law Reports

ICCPR – International Covenant on Civil and Political Rights

LCN – Law Council Letters

NFVCB - National Film and Video Censors Board

NBC – National Broadcasting Commission

NPC – Nigerian Press Council

NWLR – Nigerian Weekly Law Report

SERAP – Socio-Economic Rights and Accountability Project

UDHR – Universal Declaration of Human Rights

ABSTRACT

Press Freedom is sacrosanct for any democracy, a free press has many benefits to the democratic struggle, that it carries the expectation of an ‘absolute right.’ This research critically examines the paradox of press freedom and censorship in Nigeria within the broader framework of democratic governance and constitutional law. The press, often described as the Fourth Estate of the realm, plays a vital role in holding government accountable and promoting transparency; yet in Nigeria, it operates under a dual framework of constitutional protection and statutory restriction. The aim of this study is to analyze the legal foundations that both guarantee and limit press freedom in Nigeria, interrogating how these frameworks affect the role of the press in a democratic society. The objectives include identifying the constitutional and statutory provisions that regulate the press, examining institutional mechanisms of enforcement, evaluating case law, and comparing Nigeria’s press freedom with that of the United Kingdom. The methodology adopted is doctrinal, relying on positive, natural and utilitarian approaches. Primary sources such as the Constitution of the Federal Republic of Nigeria 1999 (as amended), statutes including the Freedom of Information Act, the Nigerian Press Council Act, the Nigerian Broadcasting Commission Act, the Official Secrets Act, and the Cybercrimes Act, as well as international instruments like the Universal Declaration of Human Rights and the African Charter on Human and Peoples’ Rights, were examined alongside judicial decisions. Secondary sources such as textbooks, journal articles, and reports also informed the analysis. The study finds that while Section 39 CFRN guarantees press freedom, the broad limitation clause under Section 45, alongside censorship-oriented statutes, has created a restrictive environment that undermines the press’s constitutional mandate under Section 22 to hold government accountable. Comparative analysis with the UK reveals Nigeria’s stronger tilt towards state control as against the UK’s preference for independent regulation and self-regulation. The study concludes that excessive censorship erodes democracy, silences dissent, and diminishes accountability. Recommendations include narrowing constitutional limitation clauses, amending censorship-prone statutes, strengthening judicial protection of press freedom, ensuring independence of regulatory institutions like the Press Council and NBC, and promoting ethical self-regulation within the press. The research therefore underscores that a democratic Nigeria requires a recalibration of the balance between freedom and restriction, with freedom firmly at the centre of governance

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY.

The word 'Press' in the context of this study is a noun, popular in our everyday parlance as Nigerians, the term comes from the 'printing press' and it means "newspapers or a group of journalists viewed together" as one. The term "the press" or "press" in journalism denotes the collective body of news media, comprising organizations and individuals engaged in the collection, preparation, and dissemination of news and information to the public. It is a word used to collectively refer to all the newspapers, television programs, radio shows, and other means of communication that makes up the news media. This encompasses various mediums, including print publications such as newspapers and magazines, broadcast platforms like television and radio, and digital news outlets. In essence, it refers to the entities responsible for informing the public about current events and matters of public interest. The term can also refer to the people who work within these organizations, like journalists, editors, photographers, etc., but it can also refer to the ordinary people like whistle blowers, anonymous bloggers and even average everyday citizens who report on matters of interest.

When we talk about the press, we are referring to the news media; we are talking about the fourth estate or fourth power of the realm. The word press was ordinarily supposed to or use to refer to only print mass media, but today, the word is used to refer to both print and broadcast media, thus, Radio, Television, magazine, Newspaper etc. are all press.¹

¹Nweze Samuel, 'International Digital Organization for Scientific Research' *IDOSR Journal of Current Issues in Art and Humanities*, (2019) 5(1) 79

Freedom of the press is the right to circulate opinions in print and other channels without censorship by the government.²

Is the Nigerian Press free?

Nigeria is a democratic state, in fact, majority of the world is believed to be democratic, although only 6.6% practice "full and complete democracy." Freedom of speech is a core aspect of democracy, forming the foundation in which the concept of democracy is built on. From the Voting system of the sixth century Athens, to the town hall meeting of the ancient Igbos, freedom of speech has always been a core concept to democracy, there cannot be a democracy if free speech is limited, this freedom of speech over time has then morphed and expanded into the right to free speech, opinion and expression as contained In Article 19 of the Universal Declaration of Human Rights and further enshrined into Section 39 of the 1999 Constitution of The Federal Republic of Nigeria. This right gives strength to journalism in its true form; free, daring, independent and unbiased. Article 19 of the UDHR and Section 39 of the Constitution of The Federal Republic of Nigeria guarantees every person the freedom to hold opinions and to receive and impart information and ideas without interference, including the freedom to own and operate media outlets. The freedom of the press is a cornerstone of democratic societies, serving as a vital conduit for information, public discourse, and accountability.

As fundamental as this right is, it raises questions to its practicality in the world today, especially present day Nigeria. In Nigeria, the exercise of this fundamental right is often curtailed by various forms of undue press censorship, raising critical questions about the delicate balance between state authority and journalistic liberty. Conduct a survey on how free the Nigerian media is among the average Nigerians and you would most likely get more no than yes, with the

² Oladipo Alaka and Rotimi Joseph Akomolafe, 'Press Freedom, Freedom of Information and National Security: Misconceptions, Truth and Perceptions' *Benue State University Law Journal* (2022) 11 2

political playground that has become the Nigerian democracy, with multiple state owned press, it isn't hard to see why this opinion would be held, but what does the law say? Is there an absolute freedom of Press, is there actually any government interference in Nigerian journalism, legitimate or not? What is being done to guarantee the safety of these journalists and their intellectual property? Is press freedom and legitimate censorship relatable to fundamental human rights? What is the relationship between press freedom and legitimate censorship? These questions give body to the topic of this project.

Despite the contents of article 19 of UDHR and section 39 of CFRN, there is a legal limitation to the freedom of press in Nigeria, this right is subject to certain restrictions in the interest of public order, morality, national security, and the rights and reputation of others, also the Cybercrime Act, 2015 amended in 2024 for one is such a broad piece of legislation and had been used as legal backing due to its "cyber stalking" content in section 24 despite its amendment to 'lawfully' imprison, persecute at least 8 journalist in 2024³, causing massive uproar with the Socio-Economic Rights and Accountability Project (SERAP) and Nigeria Guild of Editors (NGE) have urged "...the government of President Bola Tinubu to immediately end the use of the draconian Cybercrimes Act to target journalists, activists, critics and other Nigerians peacefully expressing their views online, and release those in custody across the country under the legislation"⁴ and The Punch Newspaper on The 23rd of June 2024 releasing a detailed article on how Nigerian Authorities and elites take advantage of the ambiguity of the Cybercrime Act to detain and Suppress free press in Nigeria. A 2023 case, *Erisco Foods Ltd v Chioma Okoli*, has been touted

³ Reporters Without Borders *Africa Nigeria*, available at < <https://rsf.org/en/country/nigeria>> accessed on 10 September 2025

⁴ Serap, 'End Use of Cybercrime Act Against Journalists, Release those in Custody' available at <https://serap-nigeria.org/2025/05/04/end-use-of-cybercrime-act-against-journalists-release-those-in-custody-serap-nge-tell-tinubu-govt-others/> accessed on 10 September 2025

as a glaring example of section 24 of the Cybercrime Act being abused by the Nigerian elite to suppress freedom of expression and by extension free press, despite being backed by the act, should such a case hold water?

Press Freedom has deep historical roots, marked by significant milestones that highlight the ongoing tension between state control and the right to free expression. The struggle for press freedom may have started with the martyrdom of Socrates (470-399 BC) who was killed for allegedly corrupting the youth of Athens with his "strange" idea about their freedom: Galileo Galilei (1564-1642); who was killed for his scientific discoveries, contrary to what the authorities of his days knew as the "truth", and the scholarly writing during the rise of Liberalism in Europe. Clyde (1934) traced the travails of the press to the reign of the Tudors and Stuarts in the United Kingdom when the press freedom was curtailed through the practice of licensing and placing a limitation on the number of printers that were allowed to operate. John Milton in his publication *Areopagitica* (1644) attacked the licensing law amongst others. This eventually became a cornerstone of press freedom, leading in 1695 to the abolition of censorship laws in England.' The struggle continued, with the First Amendment (1791) to the U.S. Constitution which declared that

"Congress shall make no law ... abridging the freedom of speech or of the Press"⁵

Coming back home to Nigeria, these historical struggles resonate with contemporary challenges, where laws like the NFVCB Act and Cybercrimes Act impose restrictions that echo historical licensing and censorship practices, threatening the press freedom guaranteed under Section 39 of the Constitution of the Federal Republic of Nigeria, 1999 as amended and Article 9 of the African Charter on Human and Peoples' Rights.

⁵Oladipo Alaka and Rotimi Joseph Akomolafe, 'Press Freedom, Freedom of Information and National Security: Misconceptions, Truth and Perceptions' *Benue State University Law Journal* (2022) 11 2

In a country where over the course of elections, journalist cower in fear of attacks for doing their job, can there be said to be freedom of press? At what point does this freedom of expression start and where does it end? Does our law do enough to protect the rights of journalists? What more can be done to ensure the Freedom of press and safeguard our democracy? In a nutshell is the press in Nigeria free from external influence, these are the questions this study hopes to answer. This project takes an in-depth analysis of the legal frameworks governing press freedom in Nigeria, examining the constitutional, statutory, and judicial fine-lines that shape its practice. By exploring the historical context, contemporary challenges, and legal precedents, this study aims to shine light to the complex nature of press freedom in Nigeria, highlighting its implications for Nigerian democracy, human rights, and the rule of law.

1.2 STATEMENT OF THE PROBLEM.

Press freedom is one of the core features of democracy, The Nigerian Constitution guarantees freedom of expression⁶ and of the press, yet in practice, this right is subject to wide-ranging legal and institutional restrictions. No government or country can be said to practice democracy when there is no freedom of expression which trickles down to Press Freedom, for a right as fundamental as freedom of expression and Freedom of the Press, it cannot be said to be In full practice in Nigeria due to several connected factors. Some of these include, legal, political, social, economic and governmental hindrances. The Nigerian government, both past and present have often justified censorship by taking refuge in the constitution on the grounds of national security, public order and even morality.⁷ These factors act as stumbling block to Nigeria's Press freedom, hindering the practice of the true form of democracy. While these justification are

⁶ Section 39 of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

⁷ Section 45 of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

completely legal and logical even as a catalyst for the advancement of the Nigerian democracy, their application has often times in recent and past years been excessive, unjust, its vague nature sometimes making it prone to abuse as a result of the absence of strong Press and Media Institutional independence.

It is the constitutional duty of the press to Act as a legal watchdog to the executive, the Constitution states:

"The press, radio, television and other agencies of mass media shall at all times be free to uphold the fundamental objectives contained in this chapter (i.e. chapter 2 of the constitution) and uphold the responsibility and accountability of the government to the people".⁸

For this reason it is often described as the Fourth Estate or Fourth realm, this description can be traced to 1787 when a British Statesman and Orator, Edmund Burke categorized the media as the Fourth Estate in a parliamentary debate. He described the Lords spiritual as the First Estate; the Lords temporal as the second Estate while the House of Commons was the third Estate.⁹ The major problem plaguing free press in Nigeria is the recent Restrictive laws, including the Official Secrets Act, sedition provisions, and the Cybercrimes Act 2024, which are frequently weaponized to suppress Nigerian journalists, with charges like "cyber stalking" and criminal defamation which when pursued in court can lead to imprisonment or heavy fines. Outside the Cybercrimes Act, there are other acts whose application directly impact Press Freedom, the Nigerian Press Council Act, the Nigerian Broadcasting Commission Act, the National Film and Video Censors Board Act, empowering regulatory bodies to monitor, restrict, and even sanction

⁸ Section 22 of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

⁹ Nweze Samuel, 'International Digital Organization for Scientific Research' *IDOSR Journal of Current Issues in Art and Humanities*, (2019) 5(1) 79

media content. Although these frameworks were established to promote ethics, professionalism, and public order, they often operate as instruments of state control, creating a culture of censorship that discourages investigative journalism, promotes self-censorship among journalists, and acts as a hurdle to the press's democratic role as a watchdog, wearing down the Nigerian Democracy as an extension. These laws create a hostile environment for Nigerian journalism to exist and flourish. Scaring journalists into silence and serving as the perfect tool for press control.

Outside these Acts, there are other problems facing free speech in Nigeria, these problems include though subtle and not very loud and visible, governmental interference in the Nigerian press, this can occur through the National Broadcasting Commission's (NBC) imposition of fines and suspensions on media outlets for critical, sensitive coverage, as seen during the 2020 '#EndSARS' protests, where there were reports of many news outlets being fined for covering the protests, the NBC fosters censorship and self-censorship, particularly during politically sensitive periods like elections, with a handful of Nigerian News outlets being owned by state and federal government like NTA and TVC, there is no surprise that there is a heavy governmental influence on what kind of information is aired to Nigerians. Press ownership by politically connected individuals leads to an obvious bias, Economic realities further worsen an already bad problem, as low salaries and economic instability (with inflation at 33.2% as at 2024), drive practices like "brown envelope journalism." Forcing journalists to be at the mercy of the highest bidder, like the saying goes, "he who pays the piper dictates the tune."

Journalists also face significant risks of physical violence, harassment, and arbitrary arrests by state through the police and military, as well as political thugs and militant groups. Due to a fear of being harassed or even killed many journalists are forced to self-censor their works, many are

threatened to stop pursuing sensitive news. Reporting on political issues such as terrorism, Grand corruption, or wrong doings of the elites poses significant challenges, as proven by the threats, attacks, witch-hunts, and prosecutions towards Nigerian investigative journalists, particularly those affiliated with the Foundation for Investigative Journalism (FIJ)¹⁰, a network dedicated to uncovering corruption in the country. Nigeria's 122nd ranking out of 180 on the 2023 World Press Freedom Index, coupled with at least 25 documented attacks or detentions of journalists between 2022 and 2023,¹¹ underscores the severity of these threats. Nigeria ranks among the most perilous nations for journalists in West Africa, with electoral periods marked by significant violence against journalists. In August 2024, approximately 30 journalists faced assaults, arrests, and attacks involving tear gas or gunfire while reporting on nationwide social protests. Crimes against journalists remains rampant, even when perpetrators are identified or apprehended, it still happens majorly due to a lack of effective state mechanisms to protect journalists from danger in their line of work.

Also, the ineffective implementation of the Freedom of Information Act (2011) restricts access to public data, hampering investigative journalism on critical issues like corruption.

Additionally, the rise of recent digital threats, including online harassment, surveillance, and internet shutdowns, as witnessed during the '#EndSARS' protests, compounds the challenges faced by journalists.

¹⁰ Reporters Without Borders *Africa Nigeria*, available at < <https://rsf.org/en/country/nigeria> > accessed on 10 September 2025

¹¹ Reporters Without Borders *Africa Nigeria*, available at < <https://rsf.org/en/nigeria-least-eight-journalists-prosecuted-under-cybercrime-law-despite-new-amendment> > accessed on 6 September 2025

These factors not only threaten the fundamental rights of journalists but also undermine the role of the Press in fostering democratic accountability and public access to information in Nigeria, necessitating urgent legal and policy interventions.

With the Nigerian Law taking different positions as it regards Freedom of Press and its restrictions, it raises the problem of actually protecting this Freedom. This study looks into that problem, it tackles head-on the stifling of the Nigerian Press which arises from the limitations placed on it by the Law, at what point does Freedom of Press start and where does it end? The main difficulty lies in determining where legal regulation ends and unconstitutional censorship begins and this study hopes to tackle this problem. Criticism of government may legitimately fall within the realm of free speech, yet such expression may be prosecuted as sedition under the Criminal Code, investigative journalism may be in the public interest, yet criminalized as a breach of the Official Secrets Act, freedom of expression and opinion may be a core feature of democracy, But yet may be punished as criminal defamation under the Penal and Criminal Codes. This research investigates this conflict between the constitutional of press freedom and the restrictive, censorship legal frameworks in Nigeria. It examines how laws like the National Film and Video Censors Board (NFVCB) Act, the Cybercrimes Act, and the Nigerian Broadcasting Commission (NBC) Act, along with their enforcement mechanisms, undermine these constitutional protections by imposing vague restrictions, and sanctions that stifle Nigerian Journalism.

1.3 RESEARCH QUESTION

This study hopes to ask and answer Pressing Questions as regards the Concept of "Press Freedom in Nigeria"

1. What exactly is the Press?

2. Who are members of the press?
3. Is the Nigerian Press Free?
4. What is the position of the law on Press Freedom?
5. At what point does the right to freedom of expression and the press become limited?
6. What is the position of Law and Morality on this limitation?

1.4 AIM AND OBJECTIVES OF THE STUDY

The general aim of this study is to underscore and scrutinize the legal framework for Press Freedom and its effectiveness, answering questions on how free the Nigerian press is.

Specifically, the study tends to achieve the following objectives:

1. Scrutinize the laws governing press freedom.
2. Dissect the hindrances to press freedom.
3. To analyze to what extent the Nigerian press is independent (judicial and legal backing)
4. To establish Press Freedom and legitimate Censorship as two sides of the same coin.
5. To explore how legitimate press r censorship helps safeguard democracy.
6. To look into what can be done to promote and ensure freedom of press.
7. Comparing Nigerian Press Laws with International laws.

1.5 SCOPE AND LIMITATION OF THE STUDY

The scope of this study is focused on analyzing the Nigerian legal framework guiding Freedom of the Nigerian Press and its effectiveness in safeguarding the right to freedom of expression enjoyed by Nigerian Press and journalistic mediums. The primary focus will be on the current legal framework and how it is utilized in practice to ensure freedom of the Press in the country.

The goal is to provide a comprehensive overview of the various legislation on press freedom in Nigeria and evaluate its effectiveness in promoting free press.

The study further considers the roles of key institutions such as the Nigerian Press Council, the Nigerian Broadcasting Commission, and the National Film and Video Censors Board, analyzing their mandates, powers, and practices as they relate to censorship and press regulation.

Limitation of the Study

The task of researching and writing on this was educating, inspiring especially the fact that it involves a niche area of law, but the research work is demanding and tasking.

The following are some of the major challenges that were encountered by the research:

Financial constraint: In addition to the above listed challenges and to make matters worse, this writer did not have the financial fluidity to meet up with the expenses of typing, printing this work.

Time constraint: There was no sufficient time to carry out of this research, coupled by the fact that the researcher had to combine the course of this research work with his studies, final year exams and some side engagements.

Dearth of Sufficient Materials on the topic: Dearth of sufficient materials on Press Freedom, as a Niche area of law was another severe challenge the researcher encountered in the process of carrying out this study.

1.6 SIGNIFICANCE OF THE STUDY

This study has both theoretical and practical significance. The theoretical significance lies in the exploration of Press freedom, protected under Section 39 of Nigeria's 1999 Constitution. This study enriches the discourse on constitutional and Press law by offering an in-depth analysis of how Nigerian legal frameworks, including the 1999 Constitution of The Federal Republic of Nigeria, the Nigerian Press Council Act, the National Broadcasting Commission (NBC) Act, the Freedom of Information Act, the Official Secrets Act, and the Cybercrimes Act, shape the reality of press freedom in Nigeria. It analyzes how these instruments regulate or facilitate Press operations, highlighting their roles in either upholding or undermining the constitutional guarantee of press freedom under Section 39 of the constitution, highlighting the tension between state security/morality interests and the constitutional role of the press as a watchdog.

Press Freedom is essential for transparency, accountability, and public participation in a developing democracy. This study aims to highlight the significance of a Free Press in Nigeria by looking at the legislation which oversee and protect this right. Despite it being a pre-requisite for a stable democracy, it faces challenges from restrictive laws like the Cybercrimes Act 2015, the study hopes to shed light on the exact content of this law and how it limits Press Freedom, at what point does your right to express opinion become a crime. Exploring this topic allows for an in-depth analysis of legal frameworks, judicial interpretations, and socio-political dynamics, while addressing contemporary issues such as digital surveillance and media censorship. The study tries to illuminate the ongoing journalist harassment rampant in today's Nigeria, by engaging with Nigeria's press freedom challenges, comparing them to international standards, and proposing legal reforms, the project contributes to academic discourse and advocacy, demonstrating critical legal analysis and offering practical relevance for Nigeria's democratic

and human rights landscape. It also ascertains whether Nigeria is meeting its democratic obligations under international and regional instruments such as the African Charter on Human and Peoples' Rights (ACHPR).

The study is significant because it provides a critical legal analysis, a democratic defense of press freedom, and a practical guide for reform and advocacy, ensuring Nigeria's legal framework aligns more closely with its constitutional and international obligations.

Beyond academic value, the research has practical relevance for policymakers, journalists, and human rights advocates. Its findings and recommendations can serve as a guide for institutional reforms, judicial intervention, and advocacy strategies aimed at aligning Nigeria's media regulation with international best practices. In this way, the study strengthens both the theoretical and practical defense of press freedom in Nigeria.

1.7 RESEARCH METHODOLOGY

This study adopts the doctrinal approach to legal research, focusing on the analysis of primary and secondary sources of law in Nigeria related to Press Freedom. Journals, articles, and textbooks on Human Rights will also be consulted to gain insights into current trends and best knowledge on the subject matter. The research will involve a thorough examination of the legal provisions governing Press Freedom in Nigeria, as well as an exploration of the practical implications of these provisions in decided cases. By combining theoretical analysis with practical examples, this study aims to provide a comprehensive understanding of the extent to which the Nigerian Press enjoys independence and freedom.

1.8 CHAPTER ANALYSIS

This research work is divided into five distinct chapters. Chapter one introduced the work and laid a strenuous foundation as regards Nigeria legal framework for Press Freedom and its connotations in the everyday dispensation of information and Nigerian News media. The same chapter also looked out the problem that necessitated the study and as well analyzed research questions, scope of the study among others.

Chapter two discussed some key concepts to the topic of the research and reviewed the position of some scholars and explained in clear terms the gap in knowledge the work intends to fill.

Chapter three discussed the existing legal and institutional frameworks in relation to the topic under discourse. Press freedom in Nigeria is governed by a combination of constitutional provisions, statutory laws, and institutional frameworks. Such legal and institutional frameworks respectively include the Constitution of The Federal Republic of Nigeria, Cybercrimes (Prohibition, Prevention, etc.) Act, 2024, Freedom of Information Act (FOIA), 2011, National Broadcasting Commission (NBC) Act.

Nigerian Press Council (NPC). Chapter four looked at some key issues in the topic of the study while chapter five concluded the work with necessary recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 Conceptual Framework

2.1.1 Press

The term "press" refers to the sum total of media organizations, journalists, and communication platforms that research, source, produce, and share news and information to the general public. Press in its simplest form is journalism, to a layman, it's just a fancy term for 'news' and news media, the press is in a nutshell all routes and channels which information is sourced and shared. The press traditionally includes printed media i.e. newspapers, magazines, visual or broadcast media like television, radio, and, in recent times, digital and web platforms (online news apps, blogs, social media). The press is not merely a commercial entity but a fundamental pillar in upholding democracy, accountability, and the rule of law in Nigeria and other democratic states. With a quick blast from the past you'd find out that the term "Press" was used to describe a piece of parchment, sewn together record judicial proceedings.

The Press doesn't just comprise of your Nigerian Press Council (NPC) recognized journalists¹² or your National Broadcasting Commission (NBC)¹³ approved institutions, Infact those make up one half of press, which is seen as formal Press, in reality, the press includes everyday people who share and disseminate information to the public, from your bloggers to social media influencers and even social media apps(X formerly known as Twitter is currently the number 1

¹² Section 18(1) *Nigerian Press Act*, 2004 (Act No 85)

¹³ Section 2(1) (b) *National Broadcasting Commission Act*, 2004 (Act No 55)

app for Breaking News on the Apple App Store), these fall under informal Press. This study covers both formal and informal Press, their rights and Freedoms.

The Press acts as a Pipeline for information, a watchdog over public and private institutions, and a platform for public discourse, helping to act as a watchdog over the three arms and tiers of government simultaneously, reporting any abuse of power.¹⁴ When we think of Press, the mind wanders to the concept of 'Fourth Estate,' 'Fourth Realm' or 'Fourth Power,' a term in democratic societies and nations which is used to refer to the press for its role acting as a watchdog or a forum for Public discourse.

2.1.2 Censorship

Censorship means in its simplest form, 'restriction.' Censorship refers to the regulation, control, suppression, or restriction of communication, expression, or creative works, by governmental or regulatory bodies, to control or limit access to specific content by the general public. It is the use of legal machineries; Statutes, regulations or state power to limit, or reduce coverage or reach of certain Media or information. As regards this study, Censorship is any restrictions placed on the press (journalists, media houses, print media, and social media) which Interferes with its ability to gather, report, publish or disseminate information at free will to the general populace. Censorship can be direct, when the Nigerian Press is being restricted and "man marked" through laws, Statutes, Acts or indirect through economic pressure on the journalists or Administrative and political pressure on the press to self-censor through the hierarchy at Regulatory institutions like the Nigerian Broadcasting Commission (NBC).

¹⁴ Section 22 of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

In Nigeria, censorship creates a tension between government control and individual freedoms. While laws allow restrictions for maintaining order, it can also limit free speech and press freedom. This project explores how censorship can be necessary for stability but also poses a risk to democracy and human rights when taken too far.

2.1.3 Freedom

Freedom, referred to in the Nigerian Constitution as Personal liberty¹⁵, is the ability of individuals or groups to act, reason, or express themselves without fear, undue restraint or negative consequences to these actions. Oxford Language Dictionary describes it as "the power or right to speak, act, and change as one wants without hindrance or restraint."¹⁶

Freedom, looking at it from a Legal and Political angle is the inherent capacity or ability of individuals to act and speak without undue roadblocks, restraint, restrictions. It is the capability of individuals to act or speak without interference from external forces.

Freedom in the context of this study envelopes the right of journalists and media organizations (The Press) to gather, publish and disseminate information without censorship or restrictions. It is the right of the Press to operate independently, free and far away from undue influence by the state, corporations, or private Individuals or entities. It entails the free flow of information and ideas in society, including those critical of the government, thereby safeguarding democratic discourse and accountability.

¹⁵ Section 35 of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

¹⁶ Wikipedia 'Freedom' available < <https://en.wikipedia.org/wiki/Freedom>> accessed 8 September 2025

2.1.4 Press Censorship

Press Censorship is any means of restrictions, strict regulations or even suppression placed on the Press which poses a threat or hurdle in their right to publish or disseminate information. These restrictions are enforced through direct means (legal or Administrative actions) or indirect means (coercive practices). Press Censorship can either be in the form of prior restraint i.e. preventing publication in advance or subsequent restraint penalizing a journalist or media house after publications have been released.

Unlike general censorship, press censorship is directly concerned with the role of the media as a “watchdog” in democracy and the limits placed upon it.

2.1.5 Press Freedom

Press Freedom as a concept is the ability of the press or news media to carry out its investigative and dissemination function of information to the public without any hindrances or fear of negative consequences. It is simply a measure of the extent to which the press enjoys autonomy, independence and freewill. It refers to the right of media outlets i.e. newspapers, magazines, TV, radio, online platforms, and journalists to report news and express their thoughts, opinions or the position of the masses on a matter without censorship, interference, or punishment from government, corporations, or other entities.

UNESCO defines Press freedom as ‘the right of journalists and press organizations to operate independently without censorship or interference from government authorities or other entities’¹⁷

¹⁷UNESCO, *Freedom of The Press* available at <<https://www.unesco.org/en/tags/freesom-press>> accessed on 14 September 2025

Press freedom is one of the major cornerstone of any democratic society, enabling the public to access vital information, hold those in power accountable, and form sentiment on their leaders. A major prerequisite for any sustainable democratic society. Press freedom is ‘the right of journalists and press organizations to operate independently without censorship or interference from government authorities or other entities’¹⁸

2.1.6 Legal Fine-lines

Fine-lines are in simpler terms a thin line between two contrasting or similar terms, it is the difference between two terms. The Oxford Language Dictionary defines it as "a subtle distinction between two concepts or situations."¹⁹ It is according to the Cambridge dictionary "a very small difference between two things that may seem different."²⁰. Legal Fine-lines is therefore those laws, principles which acts as thin line separating two contrasting concepts. It is the difference between two different terms, or concepts backed by the law. It is the difference between two competing legal or constitutional Principles.

With respect to this study, Legal Fine-lines here refers to the delicate legal balance, thin-line, subtle distinction between Freedom of the Press and Legitimate Censorship. It is of great interest to the Nigerian democracy and a protection of the rights of citizens that this thin line is respected and not crossed, The Press is free and should enjoy journalistic freedom, but at the same time, to protect the right to Privacy and Human Dignity of citizens, there should be some restrictions

¹⁸UNESCO, *Freedom of The Press* available at <<https://www.unesco.org/en/tags/freesom-press>> accessed on 14 September 2025

¹⁹Oxford Language dictionary, ‘Fine-lines’ available at < <https://share.google/mO657h0KhOLAmzzCx>> accessed 8 September 2025

²⁰ Cambridge Dictionary, ‘Fine-lines’ available at < <https://dictionary.cambridge.org/dictionary/english/fine-line>> accessed 8 September 2025

placed on it, however these restrictions should not be so excessive that it stifles democracy, but at the same time it should not be so loose that it poses a risk to Public order, security or morality.²¹ This study hopes to explore these Fine-lines.

2.1.7 Fourth Estate

The Nigerian Press has a constitutional role to act as a legal watchdog and oversee the affairs of the various arms and organs of government²². This role is why it has recently come to be known and described by some scholars as the "Fourth Estate." As a watchdog, the Nigerian press exposes corruption, abuse of power, and injustice, through investigative reporting and critical commentary, it ensures that public officials remain accountable to the people. Thereby safeguarding democracy and the rule of law. This concept is very common in Freedom of the Press, without the independence and freedom of the press from unnecessary influence, it cannot checkmate and call out an abuse of power. This description can be traced to 1787 when a British Statesman and Orator, Edmund Burke categorized the media as the Fourth Estate in a parliamentary debate. He described the Lords spiritual as the First Estate; the Lords temporal as the second Estate while the House of Commons was the third Estate.²³

²¹ Section 45 of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

²² Section 22 of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

²³ Nweze Samuel, 'International Digital Organization for Scientific Research' *IDOSR Journal of Current Issues in Art and Humanities*, (2019) 5(1) 79

2.2 Theoretical Framework

2.2.1 Positivist Theory

This theory of law professes that law is as made by the sovereign or his agent. The agent in this perspective is the parliament which is primarily empowered to make laws or a delegated legislator with delegated powers to make delegated legislations or judges who in the course of deciding cases may establish case law or judicial precedents. In other words, law is law as made by the law maker and it remains the law until it is reformed by amendment or abolished. The existence of law is one thing, its merit or demerit is another. A law which eventually exists is a law, though people may dislike it. John Austin believes that positive law is a command set by a political superior for a political inferior and which the inferior has to obey or suffer sanction. That law is a command made by a sovereign for an inferior and which the inferior has a duty to obey or suffer penalty.²⁴

The Positive Theory of Law, illuminates the structural basis of press censorship in Nigeria. Censorship endures not due to its moral or democratic legitimacy, but because it is entrenched in the legal framework of the 1999 Constitution (as amended) and supporting statutes. Section 39 guarantees press freedom, yet Section 45 authorizes restrictions for public safety, order, morality, defense, or others' rights, providing a constitutional basis for state control. Statutes like the Official Secrets Act (2004), Cybercrimes Act 2015 (amended 2024), and NBC Act 2004 further institutionalize censorship by granting government agencies broad powers to regulate media.

²⁴ Oha Akachukwu Caleb, *The Nigeria Legal Framework for Arbitration and its Effectiveness in Dispute Resolution* (A LL,B Project Alex Ekwueme Federal University 2024)

This legal positivism underscores that censorship's persistence stems from its formal sanction within Nigeria's legal system, rather than its alignment with democratic ideals.

2.2.2 Natural Theory

Natural Law Theory, as thought of by philosophers like Thomas Aquinas, John Locke, and Cicero, argues that law must be grounded in universal moral principles of justice, reason, and human dignity. Unlike positivism, which sees law as valid if enacted by proper authority, natural law holds that an unjust law is not a true law (*lex iniusta non est lex*).

The Natural Law Theory bolsters the argument for press freedom in Nigeria by anchoring it in universal moral principles that supersede mere constitutional or statutory provisions. It posits that censorship laws, even if legally enacted, lack validity if they unjustly restrict freedom, contravening justice, truth, and human dignity. This perspective challenges the positivist foundations of Nigeria's censorship regime²⁵, by advocating that press laws align with higher ethical standards, natural law critiques extreme applications and supports reforms to ensure laws uphold the press's role under Section 22 as a democratic watchdog, consistent with moral imperatives of transparency and human rights.

2.2.3 Utilitarian Theory

The utilitarian theory of law was started by Jeremy Bentham. He propounded that life is full of pain and pleasure and that law should be used as a tool of social engineering or means to increase human happiness and minimize pain.

Every law should be enacted to secure or ensure the happiness of the greatest possible number of people. The aim of law should be to maximize human happiness by securing the greatest

²⁵ Section 45 of the *Constitution of the Federal Republic of Nigeria* 1999 as amended

happiness of the greatest number of people. Every person in the view of utilitarian theorists should be allowed freedom to pursue his or her own happiness, advantage, and actualize himself, and to seek self fulfilment without interference by the state. This is a support of a free market economy.

All existing laws and consequently the institutions established by such laws should be reformed to ensure justice delivery to all disputing parties, and when this is done, the greatest happiness possible for the populace would be secured. A law could be seen as good or bad after assessing or evaluating its utility to individuals and society at large.²⁶

The utilitarian theory of law, evaluates legal rules based on their capacity to maximize collective welfare, frames press freedom and censorship in Nigeria as mechanisms to balance societal benefits and harms. Press freedom, as guaranteed under Section 39 of the 1999 Constitution, promotes happiness by fostering transparency, government accountability, and democratic engagement, as reinforced by Section 22's mandate for the press to uphold public interest. Conversely, censorship, authorized by Section 45 for purposes like public safety, order, or morality, is justified when it prevents harm, such as curbing misinformation or incitement, as seen in the application of the Cybercrimes Act 2024. The challenge lies in preventing the abuse of censorship laws under the pretext of utility, ensuring they are applied proportionately to genuinely enhance collective welfare without unduly stifling journalism or democratic discourse.

²⁶ Ibid

2.3 Literature Review.

Many scholars have worked on press censorship and press freedom as well as its legal framework and the provision of the law. The work of some of the scholars are reviewed';

According to Sambe and Ikoni (2004, p.11) “press freedom focuses its attention on the unrestrained liberty to write or publish information for the consumption of the public²⁷”

UNESCO defines Press freedom as ‘the right of journalists and press organizations to operate independently without censorship or interference from government authorities or other entities²⁸

Nwanne B. U is of the view that Nigeria is not yet a free and open society despite the availability of diverse viewpoints flowing from a remarkable abundance of press organizations in the country. Several press organizations in Nigeria lack complete freedom due to censorship, volatile political situations and sometimes the structure or ownership of the press house. In spite of all of this, constitutional provisions for press freedom have not been fully enforced.²⁹

²⁷ John Sambe and Ikoni Ukooh, *Mass Media Law and Ethics in Nigeria* (Nigeria Caltop Publication Ltd 2004)

²⁸ UNESCO, *Freedom of The Press* available at <<https://www.unesco.org/en/tags/freesom-press>> accessed on 14 September 2025

²⁹ Nwanne B.U, Another Look at Press Freedom in Nigeria, *European Journal of Research in Social Sciences*[2014]2(4) 1-11

CHAPTER THREE

3.1 Legal Framework

3.1.1 The Constitution of the Federal Republic of Nigeria

The 1999 Constitution of the Federal Republic of Nigeria is the grand norm of the country, it is the supreme law of Nigeria³⁰ all other laws, bye laws and legislation in Nigeria derive their validity from Constitution. The constitution guarantees press freedom and as such the Nigerian Press should be free from undue influence and able to practice journalism to the full provisions of the law without fear of whose axe is gored. The constitution gives power to Press institutions and bodies to collect and disseminate information³¹. The Nigerian democracy cannot function properly without a free and independent press, it is a constitutional role and duty of the Nigerian Press to hold the government accountable to their roles and duties. The Constitution however doesn't give absolute Freedom to the press through its limitations to the freedom of expression³² as there are no rights without limitations, the problem arises when there are attempts to unduly censor the press outside the constitutional provisions.

The Nigerian Constitution serves as both the guarantor of press freedom and the basis for its limitation and Censorship. While Sections 39 and 22 strongly support freedom of the press, Section 45 permits restrictions that, in practice, are often exploited to censor critical voices due to its ambiguous nature, broad and vague terms used in the section like "morality" and "public order" are often targeted and abused by the government or other individuals to limit journalism.

³⁰ Section 1(1) of the *Constitution of the Federal Republic of Nigeria, 1999* as amended

³¹ Section 39(2) of the *Constitution of the Federal Republic of Nigeria, 1999* as amended

³² Section 45 of the *Constitution of the Federal Republic of Nigeria, 1999* as amended

The judiciary however plays a crucial role in maintaining balance and interpreting section 45 with less stringent tones as to what is reasonably justifiable in a democratic society³³ see the 1998 case of *Punch Nigeria Limited Vs. Attorney General of the Federation*³⁴ where Punch Nigeria Ltd. challenged the closure of its premises by security forces after publishing articles critical of the military government. The closure was justified on grounds of national security, the court held that the closure was unconstitutional, as it violated the right to freedom of expression under the 1979 Constitution. The government failed to demonstrate that the closure was “reasonably justifiable” in a democratic society.

However, the non-justiciability³⁵ of Section 22 which gives the press the role of the watchdog for the Nigerian Government and weak enforcement mechanisms poses a stumbling block to Press Freedom in Nigeria.

3.1.3 Freedom of Information Act, 2011.

The Freedom of Information Act a landmark statute was established in 2011, as a direct response to the lapses in the Official Secrets Act, 2004, it champions transparency and access to information and by extension press freedom. It was enacted to tackle and bring down the barrier faced by journalists and citizens in accessing Official government documents, files and records. The Freedom of Information Act aims to charge this wall head on by establishing a legal right to access public records and information, thereby enhancing the press's capacity to fulfill its constitutional role as a watchdog in ensuring government accountability.

³³ Section 39(2) of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

³⁴ *The Punch Nigeria Ltd v Attorney General of the Federation* (1988) 1 HRLRA 488

³⁵ Section 6(6)(c) of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

Individuals and Journalists through the this act, can source information in the custody of Public officials, agencies or institutions which could prove vital to their story of public interest without needing to show a legal right or specific interest in such public record.³⁶ The act also mandates a prompt reply to any requests for access, giving a seven day deadline³⁷ to prevent unnecessary stalling and delay by public officials to derail the press from gathering and disseminating such information as it relates to public interest and discourse and journalists and any other such applicants are empowered to go to court to challenge any refusals to cooperate by public officials.³⁸

This Act however like all laws do not give absolute access to all governmental information, the act itself still makes room for exceptions in a matter of national security, personal privacy, trade secrets and privileged communications.³⁹

The Freedom of Information Act strengthens the constitutional provisions for freedom of expression and the press's oversight role by guaranteeing access to government-held information, independent of officials' discretion. By providing journalists with legal tools to access documents, budgets, contracts, and records, the Act diminishes the grounds for censorship on the grounds of secrecy.

Despite its forward-thinking provisions, the Freedom of Information Act's implementation has been inconsistent. Numerous public institutions resist compliance, invoking broad exemptions or ignoring requests. Journalists seeking information frequently encounter bureaucratic delays,

³⁶ Section 1(2) *Freedom of Information Act*, 2011 (Act No 4)

³⁷ Section 4 *Freedom of Information Act*, 2011 (Act No 4)

³⁸ Section 20 *Freedom of Information Act*, 2011 (Act No 4)

³⁹ Section 11-19 *Freedom of Information Act*, 2011 (Act No 4)

harassment, or prosecution under conflicting laws, undermining the Act's effectiveness in combating press censorship.

3.1.4 National Broadcasting Commission Act, 2004.

The National Broadcasting Commission Act was initially brought to life during the military era under decree 38 of 1992, giving birth to the National Broadcasting Commission in 1992 to regulate the broadcasting sector. The Nigerian Constitution gives the people freedom to establish and operate any medium for sharing of information through the assent of the state⁴⁰ and this is the basis for the National Broadcasting Commission Act. This Act gives power to the National Broadcasting Commission (NBC)⁴¹ the principal regulatory body for broadcasting in Nigeria. The acts stipulates provisions which aims at promoting harmony in the Nigerian Press and Media space, inculcating professionalism and quality of broadcasts given to the Nigerian Audience.

The National Broadcasting Commission (NBC) Act establishes the NBC with the authority to regulate and oversee the various media houses⁴². The NBC is empowered to receive, evaluate, and issue broadcasting licenses, though this is subject to presidential approval,⁴³ This Act grants power to the National Broadcasting Commission to establish codes and standards for broadcast content.⁴⁴ The Act functions as a regulator for the Nigerian Press further authorizing the Commission to monitor broadcasts for content deemed harmful, offensive, or unlawful, and to

⁴⁰ Section 39(2) of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

⁴¹ Section 1(1) *National Broadcasting Commission Act*, 2004 (Act No 55)

⁴² Section 2 *National Broadcasting Commission Act*, 2004 (Act No 55)

⁴³ Section 2(1)(a)-(c) *National Broadcasting Commission Act*, 2004 (Act No 55)

⁴⁴ Section 2(1)(h) *National Broadcasting Commission Act*, 2004 (Act No 55)

impose sanctions on non-compliant stations.⁴⁵ The act gives licensing power to the commission, stipulating that all licenses are subject to conditions set by the Commission, which may be altered or revoked at its discretion,⁴⁶ raising concerns about potential overreach and its implications for press freedom and censorship. By requiring Media houses to obtain licenses and comply with content provisions of the Act, it gives the government and high ranking individuals significant leverage and control over the press, creating opportunities for indirect censorship. The Act helps to promote local content and pride by limiting foreign ownership of broadcasting houses or networks, enforcing a minimum of 60 percent local content to maintain a broadcasting license in Nigeria.⁴⁷ Under the Act, foreign content is permissible provided it conveys intrinsic relevance to the education, information and entertainment of the Nigerian public.⁴⁸ The NBC Act requires the NBC to satisfy itself when granting a broadcasting license that the applicant can demonstrate to the satisfaction of the NBC that he or she is not applying on behalf of any foreign interest. Foreign investors can therefore participate in broadcasting activities, provided that the majority of shares in a broadcasting company are held by Nigerians.⁴⁹ The 2020 amendment to the 6th edition of the Nigeria Broadcasting Code, issued by the National Broadcasting Commission (NBC), defines local content for broadcasting programs by stipulating that the producer must be a Nigerian residing in Nigeria, the directors must be Nigerian, or the authors of the program must be Nigerian. This framework, while aimed at promoting local talent, imposes

⁴⁵ Section 2(1)(n) *National Broadcasting Commission Act*, 2004 (Act No 55)

⁴⁶ Section 10 *National Broadcasting Commission Act*, 2004 (Act No 55)

⁴⁷ Lexology, 'In brief: media law and regulation in Nigeria' available at <https://www.lexology.com/library/detail.aspx?g=26e2cfe1-f2cd-428d-b1f4-2ed660458f4a> accessed 9 September 2025

⁴⁸ Ibid

⁴⁹ Ibid

strict criteria that could limit creative freedom and indirectly enable censorship by restricting who qualifies to produce or broadcast content.

Arguments have been raised against the Act citing its lack of adequate safeguards against abuse. Critics argue that the NBC has often been used as a political tool to suppress dissenting voices of recent times, rather than as a neutral regulatory body.

3.1.5 Cybercrimes (Prohibition, Prevention, etc.) Act, 2024.

Signed into law in 2024 to correct lapses in the now defunct 2015 Cybercrimes Act. The 2024 amendment sought to broaden the scope of the act to cover the evolving and growing digital threats and dangers. The amendment brought about a broadened definition of cyber offences, increased authority of security personnel as it relates to surveillance and enhanced enforcement structures. The Act before its amendment was the pioneer legislation addressing Cybercrimes or crimes committed through the internet, its primary function was safeguarding national security, protecting critical information infrastructure, and combating cyber threats such as identity theft, online fraud, cyber stalking, terrorism financing, and child pornography. The Cybercrimes Act 2024 despite amendment is a vague law that's been used to target journalists, especially under on cyber stalking.⁵⁰ Even with changes meant to make it fairer, at least eight journalists were arrested or harassed in 2024, causing a big outcry from groups like the Socio-Economic Rights and Accountability Project (SERAP). This shows how the law Through the Cybercrime act is being twisted to silence the press and limit free speech.

The Cybercrime Act is a controversial piece of legislation in the Nigerian Legal System, it is accused of being a safe haven for the government or influential individuals, giving them enough

⁵⁰ Section 24 *Cybercrimes Prohibition, Prevention, etc.) Act, 2024 (Act No 17)*

legal grounds for persecution of journalists as seen with the 2024 matter of a journalist, Daniel Ojukwu, detained by the Police under the Cybercrime Act without a court appearance for over a week after publishing a story exposing an alleged corruption by the government. Mr. Ojukwu unfortunately is just one in a plethora of such cases with Nigeria's Foundation for Investigative Journalism (FIJ) reporting that at least 25 journalists have been charged under The Cybercrime Act since inception.

The 2024 amendment in its attempt to broaden the law to keep up with rapidly changing cyber world may have just opened the door up for more ambiguity in interpretation of its sections with section 24 being heavily criticized. The section on cyber stalking carries a fine of up to 7 million naira or imprisonment for up to three years and it prohibits sending messages through computer networks that are pornographic, known to be false, with the intention of causing a breakdown of law and order.⁵¹ The argument becomes how does one determine a message which is sent with an intention to breakdown law and order? And it's this ambiguity that has been used to silence journalists. This promoted SERAP to act in defiance of this section, In March 2025, the Socio-Economic Rights and Accountability Project (SERAP) filed a lawsuit at the ECOWAS Community Court of Justice, challenging Section 24 of the Cybercrimes (Prohibition, Prevention, etc.) (Amendment) Act 2024. SERAP contends that the provision is arbitrary and overly vague, breaching rights to freedom of expression and information as protected under Article 9 of the African Charter on Human and Peoples' Rights (ACHPR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR). The group argues that it is routinely misused to criminalize legitimate journalism, activism, and blogging, thereby enabling censorship of critical voices in the digital space as seen in the matter of Seun Odunlami, Precious

⁵¹ Section 24 *Cybercrimes Prohibition, Prevention, etc.) Act, 2024 (Act No 17)*

Eze, Olawale Rotimi and Rowland Olonishuwa arrested in an alleged breach of section 24 of this Act, through their investigative report on Guaranty Trust Holding Company (GTCO) bank and its CEO, Segun Agbaje all though later released with all charges dropped after a public outcry.

Section 24 of the Cybercrimes Act 2024 has often been weaponized against journalists, bloggers, and activists who publish content critical of government officials. Many reporters and online commentators faced arrests, detention, or prosecution on cyber stalking charges, despite their work being legitimate journalism or free expression. This sparked claims that the Act serves as a gag law to silence dissent and curb free speech in digital spaces, curbing Press freedom and promoting undue Censorship.

3.1.6 Official Secrets Act, 2004.

The Official Secrets Act is a received English law from the colonial era weavon into our legislation, enacted in 2004 to protect Confidential State information or matters of National security. The act punishes possession⁵² or disclosure,⁵³ of governmental documents, files or information of interest in national security without appropriate legal authority or backing. It punishes the acceptance or receipt of Official government information by unauthorized persons.

This Act and its provisions has been used by the government and other influential citizens to deny the Press access to vital information, punish journalists for whistleblowing and also Public servants who share these information to journalists, this creates a tensed atmosphere and stifles Press Freedom as fear sets in for both journalists and their sources. A trending story on the social

⁵² Section 1(1)(b) *Official Secrets Act*, 2004 (Act No 29)

⁵³ Section 1(1)(a) *Official Secrets Act*, 2004 (Act No 29)

media platform X was on the alleged query of the civil servant who shared information on a federal land allocation scandal involving The FCT minister, Nyesom Wike on the grounds of unauthorized disclosure of official information to an unauthorized person.⁵⁴ Such occurrence, given strength by the Official Secrets Act acts as a hindrance to Press Freedom.

The act has sadly become a legal recourse to justify undue Censorship against the Nigerian Press, it has been used to intimidate journalists and discourage investigative reporting into corruption or security matters. Its threat of criminal prosecution forces journalists to self-censor, as they may start avoiding sensitive topics to protect themselves from legal sanction.

3.1.7 Nigerian Press Council Act, 2004.

The Nigerian Press Council act originally introduced in 1992 is as contained in it's oath, an Act to provide for the repeal of the Nigerian Media Council Act 1988 and establish the Nigerian Press Council to as contained its oath promote high professional standards for the Nigerian press, and deal with complaints emanating from members of the public about the conduct of journalists in their professional capacity or complaints emanating from the press about the conduct of persons or organizations towards the press and for other matters connected therewith.

The Act while in it's pure Theoretical Framework hopes to protect the rights of journalists, the reality sadly has become that its content, strict regulations and Sanctions has aided in undermining the rights of journalists, the very thing it sought to fight against, in 2021, four media development and freedom organizations came out to oppose some proposed amendments By the national assembly to the act, they argued that the measures contained in the amendment Bill seek to make the government the arbiter of truth while subjecting the entire media sector in

⁵⁴ X < <https://x.com/ugojustrealugo/status/1940394420097941548?s=46>> accessed 9 September 2025

Nigeria to the control of the Minister of Information and Culture in violation of internationally accepted norms and standards. This worrying tales show attempts at undue Censorship by the government.

In 2010, Registered Trustees of Newspaper Proprietors Association of Nigeria (NPAN) opened a case against the Attorney-General of the Federation, NPAN argued that by establishing the Nigerian Press Council with powers to regulate newspapers, investigate complaints, and enforce ethical standards, the Act gave the state undue control over the press. They contended that the Act infringed upon the constitutional guarantee of freedom of expression and of the press contained in Section 39 of the 1999 Constitution.⁵⁵ Specifically, NPAN claimed that the statutory regulation of newspapers amounted to state censorship, undermining the independence of the press. Justice A.M. Liman presiding over the Federal High Court gave ruling in favour of NPAN, ruling that the Nigerian Press Council Act, by imposing statutory regulation and control over newspapers, violated Section 39 of the 1999 Constitution. It held that press freedom is a constitutionally protected right, and regulation through a government-controlled body constituted unconstitutional censorship. Consequently, the court invalidated provisions of the Act that granted the Council authority to directly control newspapers, reinforcing protections against press censorship.

3.1.8 National Film and Video Censors Board Act, 2016.

The National Film and Video Censors Board Act came to life in 1993, under decree no.85 of the then military government and amended in 2016, the Act establishes the NFVCB under the

⁵⁵Nigerian Press Council, 'Nigerian Press Council Not Against Press Freedom' available at <https://presscouncil.gov.ng/press-statement-nigerian-press-council-not-against-press-freedom/> accessed 8 September 2025

ministry of Information and Culture as a corporate entity with perpetual succession and the capacity to sue or be sued. The act holds that the NFVCB "shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name."⁵⁶ The National Film and Video Censors Board (NFVCB) Act grants the NFVCB authority to censor and classify films and video works for public exhibition, distribution, or broadcast in Nigeria. The Board can approve or ban films deemed contrary to public order, decency, morality, or national security. It also licenses film distributors and exhibitors, maintains registers of licensed practitioners, regulates the import and export of films and videos, and ensures content aligns with Nigeria's cultural and moral values.⁵⁷

The president approves members of the board upon recommendation of the minister of information, given the task by the act to oversee the functions of the board.⁵⁸ By placing the Board under the supervision of the Minister of Information, the Act ties it directly to government oversight, creating potential for political influence and raising concerns about its use as a tool for censoring film and video content critical of the state. The powers and functions of the Act are broad and enveloping, enabling restraint and censorship, with content critical of the government, positioning itself as a massive roadblock to press freedom. Critics of the Act hold the opinion that the National Film and Video Censors Board (NFVCB) Act is a smoke screen, it strives for political control over news rather than its main function, safeguarding morality and public order. For instance, documentaries and films critiquing government policies are often denied approval

⁵⁶ Section 1 *National Film and Video Censors Board Act, 2016* (Act No 55)

⁵⁷ *Ibid* Section 2

⁵⁸ *Ibid* Section 3

on vague grounds such as “security” or “public morality,” enabling the state to suppress dissenting voices and undermine press freedom under the guise of content regulation.

3.1.9 African Charter on Human and Peoples’ Rights (ACHPR)

The African Charter on Human and Peoples' Rights is an international law which is recognized, justiciable, valid and operating in Nigeria due to its domestication as the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, 2004.

The ACHPR is an international safeguard for press freedom through the provisions in its articles. The African Charter on Human and Peoples’ Rights (ACHPR) guarantees every individual’s right to receive information,⁵⁹ it ensures the right to express and share opinions within legal boundaries and provisions.⁶⁰ These provisions establish an international albeit regional framework for press freedom and access to information, empowering investigative journalism, reporting, and the dissemination of ideas free from undue interference. However, their application in Nigeria is challenged.

Despite its efforts to encourage a free press, ACHPR still recognizes the need for some semblance of Censorship to checkmate excess and not trample on the rights of others in the enjoyment of the right to free press, the ACHPR permits limitations on rights only for “the rights of others, collective security, morality and common interest.”⁶¹

⁵⁹ Article (9)(1) *African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, 2004 (No 2)*

⁶⁰ *Ibid* Article (9)(2)

⁶¹ *Ibid* Article (27)(2)

3.2 Institutional Frameworks

3.2.1 National Broadcasting Commission (NBC)

The National Broadcasting Commission, established in 1992 by the National Broadcasting Commission Act before its 2004 revision, is the primary body or organization with a statutory responsibility over all broadcast media in Nigeria. It concerns itself with licensing, sanctioning, monitoring and regulation of the content that is made available to the general Nigerian populace. It is a regulatory body, which due to the nature of its function as the primary body for overseeing press broadcasts in Nigeria, ensuring content compliance with national values also works as a Censorship organ against media deemed harmful to public order, the NBC is also charged with reviewing the National Broadcasting Code, regularly making sure it's content standards are at par with the realities of the Nigerian populace.

The commission also handles as part of its duties regulations of media houses or networks in Nigeria, from receiving and acceptance(subject to the approval of the president) of applications for establishments and operation of press networks (radio and television stations) for private owners and the regulation of state or federal government owned Broadcasting networks and mete out punishment and sanctions for broadcasting networks who fail to follow the directives of the commission as stipulated in its Broadcasting Act. These sanctions range from fines, suspension or even a full revocation of broadcasting license.

The National Broadcasting Commission (NBC) operates under the Federal Ministry of Information and Culture, making it susceptible to political influence. Critics contend that this structure compromises the NBC's independence, enabling successive governments to manipulate the Commission to silence dissenting voices. The requirement for presidential approval of

broadcast licenses further grants the executive substantial power over the existence of broadcast organizations, creating opportunities for indirect censorship and control over press freedom. The National Broadcasting Commission (NBC) frequently exercises its enforcement powers in ways that effectively censor the press. In 2020, the Commission imposed a 3 million sanctions each on stations like AIT, Channels TV, and Arise News for broadcasting '#EndSARS protest' content. The commission labeled it as “subversive,” “unpatriotic,” "unprofessional" and in violation of the broadcasting code⁶² a move strongly criticized by The Socio-Economic Rights and Accountability Project (SERAP) who described the sanctions as "yet another example of Nigerian Authorities' push to silence Independent media and voices" threatening legal action against the NBC.⁶³ The 2020 amendment to the Broadcasting Code introduced harsher fines, up to ₦5 million, for vaguely defined offenses like “hate speech,” “fake news,” "unverified reports" and “unpatriotic reporting,” which journalists and civil society groups have criticized as mechanisms to stifle government criticism. This environment fosters self-censorship, as broadcasters, fearing hefty fines or license revocation, often avoid reporting on sensitive issues such as government corruption, security lapses, or public protests.

3.2.2 Nigerian Press Council (NPC)

Nigerian Press Council, inaugurated in 1992 is an agency under the Federal Ministry of Information and National Orientation. It was established by the Nigerian Press Council Act CAP N128 to promote high professional standards for the Nigerian Press. The Nigerian Press Council,

⁶² Premium Times, ‘NBC Imposes N3m Sanction on AIT, Channels, Arise TV’ available at <https://www.premiumtimesng.com/news/more-news/423162-endsars-nbc-imposes-n3m-sanction-each-on-ait-channels-arise-tv.html>> accessed 8 September 2025

⁶³ Premium Times, ‘SERAP fumes as NBC fines Channels, AIT, Arise TV’ available at <https://www.premiumtimesng.com/news/more-news/423160-endsars-serap-fumes-as-nbc-fines-channels-ait-arise-tv.html>> accessed 8 September 2025

was founded as an institutional body for upholding ethical and professional standards in journalism. Its functions spread wide from research and documentation of press development, to the accreditation of journalism programs in tertiary institutions, it also handles training and workshops, and the monitoring and investigation of complaints against the press.⁶⁴The council is tasked with achieving numerous goals and objectives, but its core objectives remain; to promote professionalism and encourage the highest standards in journalism, safeguard Freedom of the Press, protect the Rights and Privileges of Journalists, protect the public from journalists' excesses.⁶⁵ Unlike the NBC, which oversees broadcasting, the NPC's jurisdiction is primarily over newspapers, magazines, and other print-based journalism.

In practice, the Council serves as a mediator between the press, government, and the public, aiming to promote professionalism while safeguarding the public interest. The Council promotes and serves an alternative for dispute resolution, reducing the cost and procedures it would take to have gotten press related disputes solved due to backlogs in our Nigerian courts. It serves as a people oriented, cheap and viable option for quashing and ironing out conflicts that may exist as a result of misinformation or other factors.

3.2.3 National Film and Video Censors Board (NFVCB)

The National Film and Video Censors Board is the regulatory body set up by Act No.85 of 1993 to regulate films and video industry in Nigeria. The Board is empowered by law to classify all films and videos whether imported or produced locally. It is also the duty of the Board to register all films and video outlets across the country and to keep a register of such registered outlets

⁶⁴ Section 3 *Nigerian Press Council Act 2004*

⁶⁵ Nigeria Press Council, available at < <https://presscouncil.gov.ng/service/>> accessed 8 September 2025

among other functions such registered outlets among other functions across the country and to keep a register of such registered outlets among other functions.⁶⁶

It was established by the National Film and Video Board Act to regulate and censor films and videos within the country as its major function, with its major goal being to contribute to the positive transformation of the Nigerian society through the censorship of films and video works whilst balancing the need to preserve freedom of expression within the law, and limit social harm caused by films. The board is tasked with other key functions which includes; vetting and licensing individuals to exhibit films and video works, licensing premises for such exhibitions, classifying films and videos, enforcing safety regulations in licensed venues, controlling cinematographic exhibitions, and overseeing the import of foreign films and export of Nigerian films. Additionally, the Board undertakes other necessary functions to effectively carry out its legal mandate⁶⁷ like ensuring that films conform to Nigeria's cultural values, security interests, and public morality. As a subsidiary of the Federal Ministry of Information, the Board has a direct link to the executive who oversees its operations, which can create an environment for indirect Censorship to survive.

The National Film and Video Censors Board (NFVCB) is at the centre of content control and censorship in Nigeria. Legally, by the content of the NFVCB Act, no film or video can be distributed or exhibited without the Board's prior approval and classification. Films that depict the government negatively, tackle sensitive topics like civil unrest or insurgency or even films which challenge the cultural values or religious norms are often censored or banned outright. This system of prior restraint subjects artistic and journalistic expression in video formats to state

⁶⁶ Section 2 *National Film and Video Censors Board Act*, 2016 (Act No 55)

⁶⁷ *Ibid* Section 2(e)

scrutiny before release, significantly restricting press freedom and creative liberty in Nigeria, films on corruption, human rights violations, electoral malpractice or security failures may be censored on grounds of “public order” or “national security.”

These regulatory powers, particularly over content classification and exhibition, can potentially be used to impose restrictions that indirectly censor creative expression, raising concerns about press freedom and artistic liberty in Nigeria, while established to protect public morality and security, its broad discretionary powers enable it to suppress dissenting narratives, thereby chilling freedom of expression.

3.2.4 The Nigerian Courts

The judiciary in Nigeria occupies a **pivotal role** in the regulation of press freedom. While the Constitution provides for both press freedom⁶⁸ and its limitations,⁶⁹ the bulk of the task ultimately falls on the courts that interpret these provisions, mediate disputes, and strike a balance between Press Freedom and Regulation.

Nigerian courts have consistently recognized freedom of expression and press as vital to democratic governance, intervening in cases of arbitrary detention, harassment, or prosecution of journalists, thereby safeguarding press independence. In *Arthur Nwankwo v The State*,⁷⁰ the Court of Appeal invalidated sedition charges under the Criminal Code, ruling that such provisions were incompatible with Section 39 of the 1999 Constitution (as amended) absent compelling justification, emphasizing that political criticism is essential to democracy and must

⁶⁸ Section 39(1) of the *Constitution of the Federal Republic of Nigeria*, 1999 as amended

⁶⁹ *Ibid* Section 45

⁷⁰ *Arthur Nwankwo v The State* (1985) 6 NCLR 228

be protected. The court balance press freedom under Section 39 of the CFRN by ensuring it does not violate other constitutional protections, including the right to privacy,⁷¹ human dignity,⁷² or a fair trial.⁷³ This judicial oversight ensures that media activities respect these rights, as seen in cases where restrictions are upheld to prevent harm, aligning with the principle of reasonable justification in a democratic society under Section 45, frequently adjudicate defamation suits, where they balance free speech with the protection of reputation. For instance, in *Guardian Newspapers Ltd v Ajeh*⁷⁴ the Supreme Court upheld damages for defamatory reporting.

Nigerian courts safeguard press freedom by protecting journalists from undue government interference and upholding their constitutional rights, as seen in cases like *Arthur Nwankwo v The State*,⁷⁵ where sedition charges were struck down to preserve democratic criticism. However, courts also enforce statutory restrictions under Section 45, applying censorship laws and penalizing unethical or unlawful reporting that infringes on rights like privacy⁷⁶ or dignity,⁷⁷ as demonstrated in *Guardian Newspapers Ltd v Ajeh*⁷⁸ where defamatory publications were sanctioned to balance competing constitutional protections.

⁷¹ Section 37 of the *Constitution of the Federal Republic of Nigeria, 1999* as amended

⁷² *Ibid* Section 34

⁷³ *Ibid* Section 36

⁷⁴ *Guardian Newspapers Ltd v Ajeh* (2011) 10 NWLR (Pt. 1256) 574

⁷⁵ *Arthur Nwankwo v The State* (1985) 6 NCLR 228

⁷⁶ Section 37 of the *Constitution of the Federal Republic of Nigeria, 1999* as amended

⁷⁷ *Ibid* Section 34

⁷⁸ *Guardian Newspapers Ltd v Ajeh* (2011) 10 NWLR (Pt. 1256) 574

CHAPTER FOUR

LEGAL ANALYSIS OF PRESS FREEDOM VIS-A-VIS PRESS CENSORSHIP

4.1 The Fine-lines Governing Press Freedom

The term "Fine-lines" has already been explored and expanded in this study to refer to the delicate legal balance, thin-line, subtle distinction between Freedom of the Press and Legitimate Censorship, both different but need one for the other to work, if there was no legitimate Censorship, then our democracy and human right structures would fall apart and vice versa on the path of Press Freedom. Press Freedom and Censorship (when just) are two sides of the same coin, they should not be looked at individually from different lens but seen as one half of the pie that makes up the Nigerian democracy, placing them side by side to examine as they complement each other. It is important to note that Press Censorship In the context of this section of this study looks at the terms 'Press Freedom' and 'Press Censorship' through its Theoretical and Legal lens, with little regard to its practical application or interpretation.

Press Freedom and Press Censorship (when due and just) work hand in hand to drive the Nigerian democratic dream forward, it is a well-accepted assertion that your right ends where another person's begins, Press Freedom is not calling for an absolute Freedom without any checks, power corrupts, absolutely power corrupts absolutely, rather it's asking simply for a fair hand in implementing these limitations.

In the case 1985 of Arthur Nwankwo v The State⁷⁹, the appellant published materials considered defamatory against the then Governor of Anambra State. He was then charged with sedition. The

⁷⁹ Arthur Nwankwo v The State (1985) 6 NCLR 228

Court of Appeal condemned sedition laws as incompatible with freedom of expression, but acknowledged that freedom of the press is not absolute, stressing that while freedom of expression is protected, it is not absolute. It may be restricted in cases of defamation or when the rights of others are affected affirming that the Constitution allows restrictions under Section 45 in the interest of public order.

A vivid look at the legal fine-lines governing press freedom being practically examined. According to his lordship Olatawura JCA:

“The decision of the founding fathers of this present constitution which guarantees freedom of speech which must include freedom to criticize should be praised and any attempt to derogate from it except as provided in the Constitution must be resisted. Those in public office should not be intolerant of criticism. Where a writer exceeds the bounds there should be a resort to the law of libel where the plaintiff must of necessity put his character and reputation in issue.⁸⁰”

The Constitution of the Federal Republic of Nigeria guarantees Freedom of the Press through its provisions in section 39 for freedom of expression, it holds in this section thus:

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

(2) Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions:

⁸⁰ Nwanne B.U, Another Look at Press Freedom in Nigeria, *European Journal of Research in Social Sciences*[2014]2(4) 1-11

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorized by the President on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for, any purpose whatsoever.

(3) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society -

(a) for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or

(b) imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police Force or other Government security services or agencies established by law⁸¹"

The same Constitution goes on to give exceptions to this freedom in section 45(1-2) holds:

"(1) Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society

(a) in the interest of defense, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights and freedom of other persons

(2) An act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 33 or 35 of this Constitution; but no such measures shall be taken in pursuance of any such act

⁸¹ Section 39 of the *Constitution of the Federal Republic of Nigeria* 1999 as amended

during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:

Provided that nothing in this section shall authorize any derogation from the provisions of section 33 of this Constitution, except in respect of death resulting from acts of war or authorize any derogation from the provisions of section 36(8) of this Constitution."⁸²

To the unlearned mind, the Law is contradictory for how can we say the Press is Free and still go on to limit its scope, the beauty in this distinction is the Fine-lines governing Press Freedom, yes, theoretically speaking, the press is free, but it exercises this freedom to the extent in which it conforms with section 45 of this Constitution and also the natural law of good conscience. The Press should not in the enjoyment of their right to expression, issue any blatant publication to bring disrepute to a fellow Nigerian, this tramples upon the right to personal liberty and freedom from discrimination. The legal fine-line between Press Freedom and Press Censorship is that point which by law freedom of expression stops and the limitation to this freedom starts. Section 39(1) of the 1999 constitution gives the basis for the freedom of the press, it bestows the 'freedom to hold opinions and to receive and impart ideas and information without interference.' upon all citizens, it gives one the right or freedom to make publications and creative writings and publish it on any platform of their choice without any fear of harassment, the press is guaranteed constitutional protection to write and publish information and disseminate it to the public without negative consequences, this right exists and would continue to be enjoyed by the press as long as such publications is not against or threatens public safety, order, morality or health. This is the Fine-line to the right to freedom of expression as it pertains the Nigerian press. In as much as

⁸² Section 36(8) of the *Constitution of the Federal Republic of Nigeria* 1999 as amended

section 39 provides the basis for free speech, it also provides the foundation for regulation and Censorship laws.

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

This provision gives the subtle distinction between Freedom of the Press (expression) and just Censorship, the law gives the press freedom but that freedom is limited by the provisions of certain laws duly passed as acts of legislature of the country's lawmakers. The legitimacy of these laws as discussed in this section relates to their relevance as acts of the legislature and not necessarily public opinion as it relates to their practicality in everyday life as it relates to the Nigerian Press. Looking deeper into section 39(2), the law gives the right for citizens to establish, own, operate media houses or press networks, but right under it, it makes an exception that such persons when they aren't governmental agencies would have to be approved and recognized by the government and that's where the NBC comes in to fulfill this function.

"(2) Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions:

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorized by the President on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for, any purpose whatsoever."

This is a fine-line, the Press and in-fact Nigerian citizens maintain and enjoy a freedom to run and operate media houses to share news, but this right is not absolute and they enjoy it by

adhering to the provisions of the NBC act which gives the commission power to review and recommend to the president requests for broadcasting license.

Asides the relationship between section 39 and 45 of the constitution, there are other relationships between sections 39 and other Acts or legislations, to explore the NBC's National broadcasting code (BC). Section 39 provided in section 1 as mentioned earlier freedom of expression for press, a freedom to share ideas and information, without a without any interference whatsoever, this gives journalists the right to share their opinions and thoughts on matters of interest, the BC, however in 1.9.3 holds that 'A broadcaster shall ensure that it's presenter/anchor does not express his or her opinion in the programme.'⁸³ This makes it difficult for the freedom of expression expressly bestowed upon all citizens of Nigeria to function, this is a fine-line as it relates to television program anchor, in sharing or reporting the news as scripted, he shouldn't not mix it with his personal opinion on the matter, the press or television journalists have a guarantee to freedom of expression as long as these opinions are kept within and not shared during the television program.

The Nigerian Press Council Act is another key law that is used in the arguments for and against press censorship, the Act holds in section 3 its commitment to safeguarding the rights of journalists and its commitment to free press and information, but it still goes ahead in the same section to offer regulations for checkmating the content and activities of the press, to Ensure it follows strict guidelines and regulations by other press laws and regulatory institutions.

“The Council shall be charged with the duty of

⁸³ Article 1.9.3 *The National Broadcasting Code* (6th edn 2016)

(a) Enquiring into complaints about the conduct of the press and the conduct of any person or organization towards the press and exercising in respect of the complaints the powers conferred upon it under this Act;

(b) Monitoring the activities of the press with a view to ensuring compliance with the Code of Professional and Ethical Conduct of the Nigerian Union of Journalists...

(f) Reviewing developments likely to restrict the supply through the press, of information of public interest and importance or which are liable to prevent free access of the press to information and advising on measures necessary to prevent or remedy such development;

(g) Ensuring the protection of the rights and privileges of journalists in the lawful performance of their professional duties."⁸⁴

An important feature of any democracy is that no right or power is absolute, the right to free press is of the same nature, the press is Free, up until constitutional provisions allows it to be free.

The Freedom of Information Act, is another legislation which safeguards the right to free press, it gives the press constitutional access to information about public records which aids in investigative journalism. The FOI makes it a crime for public officials to deny citizens access to these files and records this easy access helps make the job of journalism easier and quicker, given all these rights to information given to the Nigerian Press, the act still recognizes the need for limitations to protect the Nigerian democracy, these are the Fine-lines to press freedom as it holds in the FOI act.

⁸⁴ Section 3 of the *Nigerian Press Council Act 2004*

"(1) A public institution may deny an application for any information which contains- (a)

Records compiled by any public institution for administrative enforcement proceedings and by any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public institution, but only to the extent that disclosure would-

(i) Interfere with pending or actual and reasonably contemplated law enforcement proceedings

conducted by any law enforcement or correctional agency,

(ii) Interfere with pending administrative enforcement proceedings conducted by any public institution,

(ii) Deprive a person of a fair trial or an impartial hearing,

(iv) Unavoidably disclose the identity of a confidential source,

(v) Constitute an invasion of personal privacy under section 15 of this act, except, where the interest of the public would be better served by having search record being made available, this exemption to disclosure shall not apply, and

(vi) Obstruct an ongoing criminal investigation

(b) Information the disclosure of which could reasonably be expected to be injurious to the security of penal institutions."⁸⁵

'A public institution may deny an application for information that could reasonably be expected to facilitate the commission of an offence.'⁸⁶

⁸⁵ Section 12 of the *Freedom Of Information Act* 2011

⁸⁶ *Ibid* section 12(3)

Yes the Nigerian Press is granted statutory freedom and access to vital information, but where such access is left unchecked then it may cause more harm than good to the Nigerian democratic dream and as such while giving the press rights and freedom, it ensures that these rights do not clash with that of another person, or cause a disorder to our national security. This is the Fine-line governing Press Freedom in the FOI act.

The universal declaration of human rights of 1948 is another peculiar law to further help to bring to life the concept of fine-line as it relates to press freedom. Article 19 of UDHR protects the right to freedom of opinion and expression. It states that everyone has the freedom to hold opinions without interference and to seek, receive, and share information and ideas through any media, no matter the borders. The UDHR does not include any clear rules allowing limits on this right, making it a strong ideal for full press freedom arguments in Nigeria, however these restrictions emerged later in binding treaties, such as the International Covenant on Civil and Political Rights (ICCPR, 1966).⁸⁷ While the UDHR offers a strong, broad protection for seeking, receiving, and sharing information and ideas through any media, the ICCPR which puts the UDHR's principles into enforceable law allowing states to impose limits for reasons like respecting the rights or reputations of others, or protecting national security, public order, public health, or morals. As a result, the ICCPR acts as a fine-line the UDHR's broad guarantee by setting clear boundaries where governments can legally restrict expression, provided the limits are necessary and proportional .

⁸⁷ Article 20 *International Covenant on Civil and Political Rights* 1966

4.1.1 Legal Foundations for Press Freedom

The legal foundation for press freedom are simply those laws, Acts, by laws which govern and over sees Press Freedom in Nigeria. There are a few laws and provisions which give merit to the argument for press freedom in Nigeria. These laws lay the foundation for any arguments in court over the laws of the land as it oversees the freedom of the press to operate without fear in Nigeria.

The legal foundations of press freedom in Nigeria are rooted in a multi-layered framework that encompasses domestic (CFRN, FOI Act), institutional (NPC, NBC), regional (ACHPR), and international sources (UDHR), collectively affirming it as a fundamental right essential to Nigeria's democracy and accountability.

Domestic Sources.

The Constitution of the Federal Republic of Nigeria 1999, as amended:

The CFRN Is the grand norm it is the supreme law of the land and all other laws derive legitimacy from it. The 1999 Constitution of the Federal Republic of Nigeria (as amended) provides the primary and strongest legal foundation for press freedom in Nigeria. Its provisions elevates the press from a mere private enterprise to a constitutionally recognized institution essential for democratic governance.

The legal foundation for press freedom as contained in the CFRN is found is section 39.

This section explicitly guarantees 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.”⁸⁸

This section of the CFRN acts as a safeguard for journalists, media organizations, and the press as a whole, guaranteeing their right to voice opinions, report facts, and share information without undue interference. Its provision explicitly embeds press freedom within the fundamental right to expression, making it a clear constitutional entitlement rather than a mere inference.

Still on section 39, the law in its subsection (2) acts as a foundation for the establishment of Press and Media houses and networks provided thus:

“Without prejudice to the generality of subsection (1), every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions...”

Section 39 of the 1999 Constitution legitimizes the operation of private newspapers, magazines, radio and television stations, and online media platforms by affirming every person's right to own, establish, and operate any medium for the dissemination of information. This provision fosters media pluralism, preventing government monopoly over information flow and enabling diverse voices to contribute to public discourse.

While these excerpts from the CFRN protects the right to press freedom, section 22 acknowledges these rights and puts upon the press a duty to act as a watchdog dog for the government.

⁸⁸ Section 39 *Constitution of the Federal Republic of Nigeria* 1999 as amended

“The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people.”

This section emboldens investigative journalism and provides a strong legal backing for court cases that may arise.

Press freedom is firmly embedded in Chapter IV of the 1999 Constitution (as amended), which outlines fundamental human rights enforceable in Nigerian courts. This strategic positioning allows violations of press freedom such as arbitrary censorship or harassment of journalists to be contested via fundamental rights enforcement procedures under Order II of the Fundamental Rights (Enforcement Procedure) Rules 2009. Consequently, the Constitution elevates press freedom to a justiciable right, enforceable through judicial remedies, rather than a discretionary privilege subject to state, thereby providing a vital legal foundation for all cases in the law court that encourages press freedom.

Freedom of Information Act, 2011:

The Freedom of Information Act 2011 (FOI Act) is a pivotal statute in Nigeria, strengthening press freedom by codifying the right to access public records and information held by government entities.⁸⁹ Enacted on May 28, 2011, it makes the constitutional protections under Sections 22 and 39 of the 1999 Constitution (as amended) operational, converting the right to press freedom (freedom of expression) and the press's watchdog role into a tangible, enforceable mechanism for journalists to demand transparency without needing to prove a specific interest in the requested information. “Through FOI requests, journalists and citizens can track how public

⁸⁹ Section 1(1) of the *Freedom of Information Act* 2011

funds are allocated, who is awarded contracts, and the progress of government projects.”⁹⁰ The act provides:

“Notwithstanding anything contained in any other Act, law or regulation, the right of any person to access or request information, whether or not contained in any written form, which is in the custody or possession of any public official, agency or institution howsoever described, is established.”⁹¹

The act requires every public institution to proactively publish information such as:

A description of its organization and responsibilities categories of information it holds;

manuals, guidelines, and policies affecting the public⁹² and make such information readily available to members of the public through various means, including print, electronic and online sources, and at the offices of such public institutions within 7 days after request⁹³ or risk court action.⁹⁴

The FOI act ensures that journalists, media houses, and ordinary citizens can request access to public records without the need to demonstrate any specific interest or motive. It serves as a vital foundation for investigative journalism, enabling reporters to obtain essential materials such as Information, statistics, contracts, and government decisions and policies, shifting Nigeria

⁹⁰ Abdullahi Muritala, *Behind The FOI Desk*, available at <<https://gijn.org/stories/freedom-information-accountability-journalism-africa/>> accessed on 10 September 2025

⁹¹ Section 1(1) of the *Freedom of Information Act* 2011

⁹² *Ibid* section 2(3)

⁹³ *Ibid* section 2(4)

⁹⁴ *Ibid* section 2(7)

towards transparency by default, directly strengthening press freedom. It provides a shield for public officials who disclose information in good faith under the Act from civil or criminal proceedings, as well as from any adverse employment consequences such as dismissal,⁹⁵ thereby encouraging transparency without fear of reprisal, encouraging the culture of “if you see something, say something” which greatly helps democracy and strengthens a Free press in Nigeria.

Institutional Sources

The Nigerian Press Council

The Nigerian Press Council (NPC) as a statutory body, established by the Nigerian Press Council Act No. 85 of 1992 tasked with upholding high professional standards, ethical conduct, and accountability in the Nigerian press.⁹⁶ The Council through the provisions of the Act ultimately provides a vital institutional legal foundation for self-regulation that balances press responsibility with the reinforcement of press freedom under the CFRN. The Act expands the Council's core objectives, which encompasses upholding the highest professional standards in Nigerian journalism, advancing training and capacity-building for journalists, probing public complaints against the press, protecting journalists' rights and privileges, and promoting research, documentation, and accreditation of journalism programs in educational institutions. These aims support ethical media practice and press autonomy. The council serves as an arbitration committee for press and journalism matters, giving a softer or more detailed hand in dealing with journalistic excesses, shielding journalists from any excessive court actions or scrutiny, it treats

⁹⁵ *Ibid* section 27

⁹⁶ Section 1 of the *Nigerian Press Council Act 2004*

journalistic matters as just journalistic matters, maintaining the freedom of the press, serving as a bridge between government, the public, and the press, ensuring disputes are resolved fairly without undermining press independence. Through the NPC Act, the council explicitly incorporates the safeguarding of press freedom into its core objectives,⁹⁷ thereby affirming that the law views press freedom not merely as an inherent right under Section 39 of the 1999 Constitution, but as a principle warranting proactive defense against state or institutional actions that could enable censorship.

The Nigerian Broadcasting Commission.

The Nigerian Broadcasting Commission (NBC) is Nigeria's principal regulatory body for radio, television, and other broadcasting services. Established under the Nigerian Broadcasting Commission Act, Cap N11 LFN 2004, the NBC plays a critical role in ensuring that the broadcast press operates within a framework that encourages professionalism, diversity, and freedom of expression. By facilitating diverse ownership and preventing government dominance, the Commission promotes media pluralism, which expands press freedom under Section 39 of the 1999 Constitution. Through its licensing functions, the National Broadcasting Commission (NBC) enables private individuals and organizations to establish and operate radio and television stations, thereby giving practical expression to Section 39(2) of the 1999 Constitution (as amended), which guarantees every person the right to own, establish, and operate any medium for disseminating information, ideas, and opinions through this, the commission protects press freedom by Leveling the playing field, preventing Government monopoly and control over the Press, safe guarding it's freedom.

⁹⁷ Section 3 of the *Nigerian Press Council Act* 2011

International sources

The Universal Declaration of Human Rights (UDHR) 1948

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly on December 10, 1948, stands as a cornerstone international instrument that affirms press freedom as a universal human right. Although not legally binding as a treaty, the UDHR has evolved into customary international law through widespread state practice and recognition, serving as a moral and legal benchmark for safeguarding fundamental freedoms, including the right to freedom of opinion and expression under Article 19. In Nigeria, this framework bolsters constitutional protections under Section 39 of the 1999 Constitution.

Article 19 of the UDHR provides that:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

This is the primary international legal foundation for press freedom, It protects both the right to publish and the right of the public to receive information, which is essential for the safeguarding of press freedom. It is vital to observe the wordings used in this article,

“Through any media and regardless of frontiers.”

This is significant as it broadens the scope of this protection the UDHR offers. Article 19 does not limit itself to speech alone but extends to the media

This universal scope recognizes that the press, in all its forms newspapers, broadcasting, film, and digital media is central to the exercise of freedom of expression.

Even though the UDHR is not legally enforceable like the ICCPR or the African Charter, its moral and symbolic force makes it a guiding standard for courts, policymakers, and advocacy groups.

In Nigeria, civil society and press unions frequently invoke Article 19 UDHR to challenge censorship and advocate for reforms.

Regional Sources.

The African Charter on Human and Peoples' Rights (ACHPR)

The African Charter on Human and Peoples' Rights (ACHPR), also known as the Banjul Charter, is one of the most significant regional instruments guaranteeing press freedom in Africa. Adopted in 1981 by the Organization of African Unity (now the African Union), and domesticated in Nigeria through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.

The charter serves as a legal foundation for press freedom through its provisions in Article 9. Article 9(1) provides:

“Every individual shall have the right to receive information.”

This provision is supported by its following provision in Article 9(2)

“Every individual shall have the right to express and disseminate his opinions within the law.”

Together, these provisions form the regional legal foundation for press freedom by recognizing both the right to access information and the right to disseminate opinions through the press. While Section 39 CFRN guarantees freedom of expression, the ACHPR strengthens this by explicitly recognizing the right to receive information.

This complements Nigeria's Freedom of Information Act 2011, making the Charter a broader regional foundation for access to information and press freedom. The ACHPR created the African Commission on Human and Peoples' Rights, which serves as a supervisory body. Cases on undue and unjust censorship against the Nigerian Press can be taken before the Commission, providing journalists and media organizations with an extra layer of protection beyond domestic courts.

In *Media Rights Agenda v. Nigeria* (ACHPR, 1998), the African Commission held that Nigeria violated Article 9 ACHPR by shutting down independent media during the military regime.

4.1.2 Legal Foundations for Press Censorship

As explored earlier in section 4.1 of this study, the law does not offer absolute freedom as this is injurious for democracy. There will always be limitations to protect the rights of others and checkmate actions of citizens in society to protect the sovereignty of the nation and protect law and order. Press Censorship is no different to this constitutional limitations. While Nigeria guarantees freedom of the press through the CFRN 1999 (as amended), and other Acts, this freedom is not absolute. A number of constitutional provisions, statutes, and institutional frameworks provide the legal basis for regulating and limiting the press, often to balance national security, public order, morality, and the rights of others. These legal limitations include:

The Constitution of the Federal Republic of Nigeria 1999 (as amended)

While the Nigerian Constitution is often celebrated as a guarantor of press freedom, it equally provides the legal basis for limiting and censoring the press. These limitations reflect the State's duty to balance individual freedoms with broader concerns such as national security, public order, and the rights of others.

Section 45(1) provides that rights under Section 39 (freedom of expression and the press) may be restricted by:

“any law that is reasonably justifiable in a democratic society in the interest of defense, public safety, public order, public morality, or public health, or for the purpose of protecting the rights and freedoms of other persons.”

This provision is the constitutional backbone of press censorship in Nigeria. It gives the legislature and executive authority to enact laws or take measures that curtail press freedom when deemed necessary for these interests. Section 45(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) permits restrictions on the right to freedom of expression, including press freedoms under Section 39, provided such measures are reasonably justifiable in a democratic society. These restrictions address threats to national defense and security, such as prohibiting reports on military strategies against groups like Boko Haram; to public order and safety, for instance by halting coverage of ethnic or religious conflicts to prevent violence; to public morality, including the suppression of indecent or offensive media content; to public health, like the removal of misleading COVID-19 information that might incite panic; and to the protection of individuals' privacy, dignity, or reputation, through provisions against defamation or intrusive reporting.

The Cybercrimes (Prohibition, Prevention, Etc.) Act 2024.

The Cybercrimes (Prohibition, Prevention, Etc.) (Amendment) Act 2024, which revises the original 2015 legislation, stands as Nigeria's foundational statute governing digital and online conduct. Although its core objective remains the suppression of cybercrimes, fraudulent schemes, and electronic infractions, the Act concurrently establishes a regulatory mechanism for

curtailing press freedoms, especially in the domains of online journalism and digital broadcasting. Building on the 2015 legislation, the act criminalizes specified categories of interest or online mediums, thereby broadening the scope of censorship to encompass journalists, bloggers, and media organizations reliant on digital platforms. Given that a good number of modern day press and journalism operations is done using the internet and social media, the Act functions as a regulatory tool for limiting freedom of the press within cyberspace.

The Act empowers law enforcement agencies, particularly the Nigerian Police Force and the National Security Adviser, to investigate and prosecute offences relating to online publications. This grants government legal cover to monitor, suspend, or prosecute journalists whose online reports are deemed offensive or threatening to public order.

The National Broadcasting Commission Act.

The NBC Act establishes the National Broadcasting Commission (NBC) and gives it wide regulatory powers over broadcasting in Nigeria. While it provides structure for media operations, the Act also functions as a powerful legal instrument for press censorship, particularly against radio, television, and digital broadcasters.

The NBC holds the exclusive statutory authority to grant, renew, suspend, or revoke licenses for broadcasting operations, encompassing radio, television, and all related services. This licensing though dependent on governmental approval, gives entry into the broadcasting sector, thereby furnishing a mechanism for censorship and press regulation by withholding or revoking licenses from media entities who go against the provisions of the Act. The Act empowers the NBC to set standards for content through the National Broadcasting Code. Broadcasters must comply with strict requirements on truth, accuracy, balance, decency, and political content. This provides a

legal basis to censor or sanction programs considered offensive, unbalanced, or contrary to “public interest.”

The Act grants NBC broad discretionary powers to interpret what constitutes a breach of the Code.⁹⁸ Terms such as “decency,” “balance,” or “public interest” are undefined, allowing the Commission to censor based on subjective or political considerations.

4.1.3 Press Freedom vs. Press Censorship

Nigeria's legal framework embodies a profound duality: while the 1999 Constitution (as amended), alongside international commitments such as the African Charter on Human and Peoples' Rights, robustly enshrines press freedom as a bedrock of democratic participation, provisions like Section 45 concurrently authorize state-imposed restrictions on expression, complemented by statutes including sedition laws and the Cybercrimes Act. This inherent democratic and legal tension, pitting expansive guarantees against calibrated curbs in the name of public order, morality or security lies at the heart of scholarly and policy discourse on the press's pivotal yet shaky function in sustaining Nigeria's democracy. Press freedom under Section 39 of the 1999 Constitution (as amended) is vital for Nigeria's democracy, promoting accountability, yet Section 45 permits state censorship for national security, public order, or morality, highlighting a core tension between rights and safeguards.

Courts affirm that press freedoms are not absolute and can be regulated under Section 45 if reasonably justifiable democratically.

In the 2019 case of *Okedara v. Attorney-General of the Federation* (2019)⁹⁹ the court dismissed a challenge to the constitutionality of a provision in the Cybercrime Act on the ground that the

⁹⁸ Section 2 of the *National Broadcasting Commission Act* 2011

offense was overbroad and vague and threatened the constitutional right to freedom of expression reasoned that the provision was not vague, that “cybercrime is incapable of direct definition” and that the restriction on freedom of speech was necessary in a democratic society in the interests of defense, public safety, public order, public morality or public health pursuant to section 45 of the Constitution.

The decision establishes a binding or persuasive precedent within its jurisdiction, allowing the cybercrime Act to be used arbitrarily at will by governmental forces, when do we then say the Act has been violated and used to punish unjustly? This deterrence of the act to provide a definition to its content creates a tension between press freedom and Censorship, cresting a culture of self-censorship. Laws like the Cybercrimes Act 2015 (amended 2024) induce self-censorship among journalists, with over 25 prosecutions since 2015 deterring public-interest reporting on corruption and elections.

This begs the question, does Nigeria's censorship measures truly satisfy Section 45's "reasonably justifiable" standard of proportionality and necessity, or do they erode democratic press Freedom?

4.2 Press Censorship and Infringement, what it means for the Nigerian Democracy.

"Press infringement" refers to the violation of legal rights or freedoms associated with the press, most commonly involving government restrictions on press freedom and violations of copyright law by journalists and news organizations. Governments may infringe on press freedom by restricting information or hindering journalistic activity. Such actions can stifle the press's ability

⁹⁹ *Okedara v. Attorney-General of the Federation* (2019) LCN/12768(CA)

to report ethically, hinder growth in the journalism profession, and negatively affect the public's access to information.

The CFRN and other supporting laws like the FOI Act PC Act are ardent supporters in the rights and Freedom of the Nigerian Press, they make provisions which guide their freedom and protect it however within fine-lines of regulations to ensure the sanctity of the Nigerian Democracy. The problem however becomes in the practicality, interpretation and implementation of these Fine-lines, on paper, from a theoretical view it works to protect the human rights of the average Nigerian, however sadly in application it has been the opposite in today's Nigeria. Nigeria is not yet a free and open society despite the availability of diverse viewpoints flowing from a remarkable abundance of press organizations in the country¹⁰⁰. Several press and media networks in Nigeria lack complete freedom due to censorship what does "reasonably justifiable mean? At what point does a press or media publication threaten national security or order? Who exactly is the judge of morality? While theoretically sound, these limitations which aid in press Censorship are practically vague and prone to abuse by the government and influential individuals to gag the Nigerian press.

Press Censorship when 'just' helps to strengthen and promote the Nigerian democracy, it gives legitimacy and purpose to the democratic system of our country, a core feature of democracy is checkmating excesses, just and legitimate Censorship helps ensure that the Press is not equipped with an excess of power without any checks and balances, ensuring that they do not overstep their powers and trample on the rights of others in the course of enjoying their freedom. While Full Press Freedom sounds good to the ears, the truth is, in application, it would be nothing short

¹⁰⁰ Nwanne B.U, Another Look at Press Freedom in Nigeria, *European Journal of Research in Social Sciences*[2014]2(4) 1-11

of tyrannical, the Press would move like gods, unchecked, free to make whatever publications they wish to, with no regard for the rights of others or what effects their publications may have on the Nigerian Democracy and its sovereignty. Asemah, notes that, for a press to have absolute freedom there must be the presence of ethics of journalism which still could be looked at as another restriction but in the real sense, there is no organization that can exist without ethics or the rules of law.¹⁰¹

Notwithstanding this, the right of a people to freely express themselves and comment on the affair: of state and conduct of government, is an intrinsic part of democracy that demands accountability of rulers and public officials to the citizenry. Press Freedom in itself is inherently democratic, and no true democracy can be said to exist in any country where the press is being unduly censored to be the point of Infringement, how then would the democratic feature of Checks and balances come to full force. Mass Media Law and Ethics in Nigeria define press freedom as an ‘unrestrained liberty to write or publish information for the consumption of the public’,¹⁰².

On 2nd December 2003, when Takiram Peter the Executive Director of Africa Division of Human Rights Watch argued the Commonwealth leaders meeting in Abuja should not give Nigeria a free pass of human right because Nigerians cannot express themselves freely without the fear of grave consequences¹⁰³. Press Censorship and Infringement is not just injurious to our democratic sovereignty, but also our national pride, Nigeria is ranked 122/280 countries for safe

¹⁰¹ Bitrus Umar, Relationship Between media Freedom and Development in the Nigerian Society, *University of Maiduguri Journal* (2013) vol 17

¹⁰² John Sambe and Ikoni Ukooh, *Mass Media Law and Ethics in Nigeria* (Nigeria Caltop Publication Ltd 2004)

¹⁰³ Bitrus Umar, Relationship Between media Freedom and Development in the Nigerian Society, *University of Maiduguri Journal* (2013) vol 17

journalism, a decline from 2024s ranking 112/180¹⁰⁴ indicating an increase in press Infringement with several international organizations and press houses like Aljazeera¹⁰⁵ reporting on these harassment the press face in Nigeria by just carrying out their constitutional duty of acting as a watchdog.

“According to the Centre for Journalism Innovation and Development (CJID) Press Attack Tracker, there have been 110 verified attacks in the year 2024. In comparison to the previous year, the press attacks between the first and third quarter of 2024 have surpassed those of the entire year in 2023.”¹⁰⁶

The press is widely regarded as the “fourth estate of the realm”, a watchdog over government and a conduit for public participation in governance. In Nigeria, the Constitution (Section 22 CFRN) entrusts the press with the duty to hold leaders accountable. However, press infringement and censorship undermine this role and weaken democratic development. Press freedom itself is a fundamental right without which genuine democracy cannot thrive¹⁰⁷.

For meaningful development to be achieved at both local and national level, the press system in Nigeria must be free to certain extent where the populace must have an unrestricted access to information and communication to facilitate development in Nigeria. The right of a people to

¹⁰⁴ Reporters Without Borders *Africa Nigeria*, available at < <https://rsf.org/en/country/nigeria> > accessed on 10 September 2025

¹⁰⁵ Jonathan Rozen, *Nigeria's Cybercrime Reforms Leave Journalists at Risk*, available at <<https://www.aljazeera.com/opinions/2024/4/20/nigerias-cybercrime-reforms-leave-journalists-at-risk>>, accessed on 10 September 2025

¹⁰⁶ Serap, ‘*End Use of Cybercrime Act Against Journalists, Release those in Custody*’ available at <https://serap-nigeria.org/2025/05/04/end-use-of-cybercrime-act-against-journalists-release-those-in-custody-serap-nge-tell-tinubu-govt-others/> accessed on 10 September 2025

¹⁰⁷ Clement Nwankwo, *The Crisis of Press Freedom in Nigeria* (Constitutional Rights Project 1993)

freely express themselves and comment on the affair: of state and conduct of government, is an intrinsic part of democracy that demands accountability of rulers and public officials to the citizenry. Censoring the press is a negative to the Nigerian democratic dream, it sets us back to the colonial era where we could not be critical of the colonial masters. As a democracy, freedom of speech and opinions on political matters is expected to be our motto.

Olatawura JCA, held

“We are no longer the illiterates or the mob society our colonial masters had mind when the law was promulgated...To retain S. 51 of the Criminal Code, in its present form, that is even if not inconsistent with the freedom of expression guaranteed by our Constitution will be a deadly weapon to be used at will by a corrupt government or a tyrant...Let us not diminish from the freedom gained from our colonial masters by resorting to laws enacted by them to suit their purpose.”¹⁰⁸

When censorship is applied arbitrarily, without judicial oversight, it fosters executive overreach. Democratic governance is compromised if the law is used as an instrument of control rather than as a framework for liberty. Excessive censorship often leads to propaganda and “state capture” of the press. Citizens begin to distrust mainstream media and turn to unregulated online sources, which may spread misinformation and disinformation, weakening informed participation, a cornerstone of democracy.

A free press is a signal of a developing nation, Media freedom can be seen as an oil machinery of development. Schramm notes that the mass media contribute substantially to the amounts and kinds of information available for dissemination to the people of a developing country where the

¹⁰⁸ *Arthur Nwankwo v the State* 6 NCLR 228 1985

media focuses attention on problems and goals of development. Habte posit that "news and information media are viewed as essential intermediaries between policy decision makers and public mobilizers to accept new ideas and modern techniques without creating cultural and ethical tension and psychological frustrations and anxieties."¹⁰⁹ Indeed, the press is one of the bulwarks of democracy, because a country with a free press is most able to thwart tyranny and provide opportunity for ventilation of ideas in achieving national development¹¹⁰ press infringement leads to poor election choices, Democracy thrives on the ability of citizens to access accurate, timely information about government activities. When the press is censored through NBC sanctions, the Official Secrets Act, or harassment of journalists the flow of information is disrupted. This creates a democratic deficit, as citizens cannot make informed decisions or hold leaders to account. When the press is being muted and silenced especially during electoral season, then national development will be stalled, a government who has no regard for the democratic process of elections cannot be trusted to take the country forward. In recent times we have seen electoral periods as being one of the worse times to be an outspoken journalist in Nigeria, the 2023 general elections was marred by so much alleged human rights and press freedom violations that in the end, it went into the books as the most controversial since the country's return to democracy in 1999. In the details of the murderous chaos that characterized the election, there was also a plethora of press freedom violations, including physical attacks on journalists, the bombing of broadcast stations, and the government sanctioning and or issuing threats against media houses. However, as has been reported by the International Press Center (IPC), the Media Foundation for West Africa's (MFWA) partner

¹⁰⁹ Bitrus Umar, Relationship Between media Freedom and Development in the Nigerian Society, *University of Maiduguri Journal* (2013) vol 17

¹¹⁰ Clement Nwankwo, *Crisis of Press Freedom In Nigeria* (2nd edn 1993)

organization in Nigeria, no perpetrators were brought to book.¹¹¹ This culture of lack of journalistic freedom and protection has made most journalist go into hiding, weighing the opportunity cost on making investigative reporting against the Nigerian Government. Self-censorship by journalists has become a significant feature of the practice of journalism. Often journalists in Nigeria come across significant information that they believe ought to be brought to the attention of the public, but for fear of repercussion - which could be death, injury, arrest, forced closure of his media.¹¹²

A core feature of democracy is the plurality of voices including opposition parties, critics, and minority groups. Censorship enables government to silence dissenting opinions under the guise of “public order,” “decency,” or “national security.” This leads to a one-sided public discourse, more characteristic of authoritarianism than democracy. Investigative journalism exposes corruption, abuse of office, and maladministration. Censorship laws such as the Official Secrets Act criminalize access to “classified” information, often used to shield corruption. The result is a culture of undemocratic secrecy, where government operates without scrutiny, contrary to democratic ideals.

For Nigeria to sustain a true democracy, press freedom must outweigh censorship, with limitations applied narrowly and only when strictly necessary in a democratic society.

¹¹¹ MFWA, *Nigeria: Long List of Press Freedom Violations Recorded during 2023 Elections*, available at <https://mfwa.org/issues-in-focus/nigeria-long-list-of-press-freedom-violations-recorded-during-2023-elections/>, accessed on 10 September 2025

¹¹² Ibid

4.3 Comparisons Between Nigeria and Other Jurisdictions (USA, UK and South Africa)

To fully understand the legal framework which govern press freedom in Nigeria, it is vital to place it side by side in comparison with various jurisdictions around the world, limiting our scope to the Legal Frameworks for Press Freedom in the United Kingdom, the United States of America and bringing it closer to home in South Africa.

The United Kingdom.

To begin let's examine Press Freedom in Nigeria, exploring its Constitutional Guarantees and Constraints.

In Nigeria, Section 39 of the 1999 Constitution (as amended) enshrines the right to freedom of expression, including press freedom, allowing individuals to hold and share opinions and information without undue interference. Section 22 further mandates the press to promote government accountability and democratic principles, underscoring its pivotal role in Nigeria's evolving democracy. However, these rights are qualified by Section 45, which permits restrictions deemed reasonably justifiable in a democratic society to safeguard public order, morality, safety, health, or the rights of others. Statutory provisions, such as those under the Criminal Code addressing sedition and false publications, further enable state control. In *The Queen v. The Amalgamated Press of Nigeria Ltd*¹¹³, the court upheld convictions for seditious publications, affirming the validity of such laws to protect public order, despite their tension with Section 39 protections. This case reflects Nigeria's historical reliance on colonial-era sedition laws, which persist as tools for censorship, often targeting critical journalism.

¹¹³ *Queen v. The Amalgamated Press of Nigeria Ltd* (1961) 1 All NLR 199)

While, in the UK, press freedom is safeguarded by Article 10 of the European Convention on Human Rights (ECHR), incorporated via the Human Rights Act 1998, which guarantees freedom of expression, including the right to impart and receive information. Restrictions are permissible only when necessary, proportionate, and prescribed by law for objectives such as national security, public safety, or the protection of others' rights. UK courts adopt a proportionality test, balancing press freedom against competing interests, as seen in cases like *Sunday Times v. United Kingdom*¹¹⁴, where the European Court of Human Rights ruled that injunctions against reporting must be narrowly tailored to avoid undue restraint. Unlike Nigeria, the UK lacks a direct equivalent to sedition laws, having repealed such provisions under the Coroners and Justice Act 2009, reflecting a shift toward broader expressive protections aligned with European human rights standards.

Both Nigeria and the UK constitutionally affirm press freedom as essential to democratic governance, with Nigeria's Section 22 and the UK's Article 10 underscoring the media's role in accountability. However, Nigeria's framework permits wider state discretion in censorship, rooted in Section 45's broad derogations and statutes like the Cybercrimes Act 2015 (amended 2024), which have been used to suppress online journalism. Cases like *The Queen v. Amalgamated Press* illustrate Nigeria's retention of restrictive colonial legacies, contrasting with the UK's more restrained approach, where proportionality ensures minimal interference, as evidenced by *Observer and Guardian v. United Kingdom*¹¹⁵, which prioritized press freedom over prior restraint. While both systems allow limitations, Nigeria's broader and less scrutinized

¹¹⁴ *Sunday Times v. United Kingdom* (1979) 2 EHRR 245)

¹¹⁵ *Guardian v. United Kingdom* (1991) 14 EHRR 153)

restrictions often foster a chilling effect, unlike the UK's rigorous judicial oversight grounded in European norms.

In conclusion, Nigeria's legal landscape, shaped by post-colonial and security concerns, enables more extensive censorship compared to the UK's human rights-centric model, which prioritises proportionality and judicial scrutiny, highlighting a fundamental divergence in balancing press freedom with state control.

The United States of America.

The United States being a world power and an ally of Nigeria is a good mirror for the Nigeria legal frameworks regarding Press Freedom and Censorship. When comparing press freedom and censorship between Nigeria and the USA, several legal frameworks and landmark cases illustrate the distinctions.

In Nigeria, the core foundation for all laws on Press Freedom is Section 39 of the CFRN. This section guarantees the right to freedom of expression and of the press but it is not absolute, it makes provisions for restrictions, in areas where section 39 conflicts with laws that are 'reasonably justifiable' in Nigeria.¹¹⁶ These restrictions include laws like Official Secrets Act, Cybercrime Act. such as those reflected in the case of *Leadership Newspapers Ltd v Chief Tony Anenih* (2013),¹¹⁷ The Supreme court ruled on whether the statements made by Leadership Newspapers about Chief Anenih were defamatory, Invoking Section 45(1), the court ruled the restriction justifiable to safeguard public morality and protect the rights of individuals from reputational harm, which could erode public confidence. Additionally, Section 22 of the

¹¹⁶ Section 39(3) of the *Constitution of The Federal Republic of Nigeria* 1999 as amended

¹¹⁷ *Leadership Newspapers Ltd v Chief Tony Anenih* (2013)

Constitution mandates the media's role in holding the government accountable while still subject to certain regulatory controls.

In contrast, the USA places a much higher emphasis on press freedom as articulated in the First Amendment to the Constitution, which prohibits Congress from making laws that abridge the freedom of speech or of the press. Landmark cases like *New York Times Co. v. Sullivan*¹¹⁸ established the "actual malice" standard, which protects the press from liability in defamation cases involving public officials unless the statements are made with knowledge of their falsehood or reckless disregard for the truth. This strong legal protection has fostered a culture of robust journalistic freedom in the USA.

While both countries recognize the importance of press freedom, Nigeria operates under a framework that permits more censorship and legal limitations, especially concerning sedition, whereas the USA's legal framework fiercely protects against government interference in press matters.

South Africa.

As an African country, drawing distinction between South Africa's legal Framework and Nigeria's framework is of great value to this study, as discussed multiple times in this study, the legal foundation for press freedom is contained in section 39 of CFRN, while the legal foundation for its regulation and Censorship is found in section 45.

In South Africa, Section 16 of the 1996 Constitution broadly protects freedom of expression, explicitly encompassing press freedom and the right to impart and receive information. The Constitutional Court has consistently upheld this right as fundamental to democracy, as seen in

¹¹⁸ *New York Times Co. v. Sullivan* (1964) 376 US 254

South African Broadcasting Corporation Ltd v National Director of Public Prosecutions,¹¹⁹ where the court affirmed the media's role in exposing societal issues and ruled that any restrictions must be narrowly justified to avoid undermining democratic discourse. Unlike Nigeria, South Africa repealed its apartheid-era sedition laws, and its legal framework, supported by an independent judiciary, imposes a high threshold for censorship, ensuring proportionality and necessity.

Both Nigeria and South Africa enshrine press freedom as a cornerstone of democracy, with Nigeria's Section 22 and South Africa's Section 16 emphasizing the media's role in fostering accountability. However, Nigeria's framework, shaped by post-colonial security concerns and statutes like the Official Secrets Act, permits broader censorship. In contrast, South Africa's post-apartheid constitution and judicial approach, exemplified in *SABC v NDPP*, prioritizes robust protections, with fewer statutory constraints and a stronger mechanism for challenging censorship through the Constitutional Court.

While Nigeria's restrictions often create a chilling effect on journalism, South Africa's framework fosters a freer media environment, reflecting a deeper commitment to democratic expression. In conclusion, Nigeria's legal system, rooted in colonial legacies, enables more extensive censorship compared to South Africa's progressive framework, which leverages constitutional protections and judicial oversight to safeguard press freedom, highlighting stark contrasts in their approaches to balancing media rights with state interests.

¹¹⁹ *South African Broadcasting Corporation Ltd v National Director of Public Prosecutions* (2007) (1) SA 523 (CC),

CHAPTER FIVE

SUMMARY, RECOMMENDATIONS AND CONCLUSION.

5.1 Summary of Findings

This study critically evaluates press censorship in Nigeria, focusing on the legal framework that both protects and restricts press freedom. Central to the analysis is the tension between Section 39 of the 1999 Constitution (as amended), which guarantees freedom of expression and press, and Section 45, which permits limitations for public safety, order, morality, defense, or others' rights, forming the basis of Nigeria's censorship regime.

The research examines statutory instruments reflecting this duality. Progressive laws like the Freedom of Information Act 2011 and international commitments, such as the UDHR and ACHPR, bolster the press's democratic watchdog role, alongside the Nigerian Press Council's ethical oversight. Conversely, restrictive statutes, including the Official Secrets Act (2004), Cybercrimes Act 2015 (amended 2024), and NBC Act 2004, empower censorship on vague grounds like national security or morality.

Institutions like the NBC and National Film and Video Censors Board enforce these controls, often targeting critical media.

The judiciary balances this tension, protecting press freedom in cases like *Arthur Nwankwo v. The State*¹²⁰, which invalidated sedition charges, while upholding restrictions in *Registered Trustees of NPAN v. AG Federation* (2010) to ensure ethical compliance. This duality

¹²⁰ *Arthur Nwankwo v. The State* (1985) 6 NCLR 228

underscores the democratic challenge: Section 22 empowers the press to ensure accountability, yet statutory and executive controls limit its efficacy.

It explores the legal framework of various international jurisdictions particularly the UK which prioritizes press independence under Article 10 of the ECHR, with restrictions subject to strict proportionality, unlike Nigeria's broader state-driven censorship justified by security and order.

5.2 Recommendations

After an in-depth analysis on the legal framework for press freedom in Nigeria, its flaws and shortcomings can be inferred and a few recommendations to rethink Censorship laws.

The Nigerian press is free, but with statutory limitations, the 1999 constitution which provides for its freedom also provides for its limitations.¹²¹ The extent to this censorship some journalists may not be familiar with, as such in the enjoyment of this freedom it may go bound the letters of these restrictive laws. Strict interpretation of the law could prove counterproductive to the Nigerian democracy, diminishing the freedom of Press given by the constitution. The courts should employ frequent use of judicial activism in deciding matters that relate to Press censorship so the freedom given by the constitution will not be denied.

While the National Assembly does their best in carrying out their tasks of making laws for the best interest of their constituency, it may not be the public opinion regarding such matters as it affects the general populace. Government should try to collate the general feelings of the Nigerian public on laws as it relates to press regulations, find out their stance on such laws. A similar thing was done during the Goodluck Ebele Jonathan administration, Confab should be regularly replicated when making laws which regulate the press and other human rights.

¹²¹ Section 39(3) of the *Constitution of the Federal Republic of Nigeria* 1999 as amended

The limitation clause in the constitution is given life by the phrase ‘reasonably justifiable’¹²² this phrase is broad and open to whatever interpretation the judiciary gives it. This can cause a trampling of justice when looked at with facts of a case on press censorship. The limitation clause in section 45 should be amended to provide clearer and narrower grounds for restricting press freedom, aligned with international human rights standards and other more liberal and free international jurisdictions on press freedom. Restrictions should be only applied when strictly necessary, proportionate, and subject to judicial oversight.

The Press has a constitutional mandate to carry out investigative reporting, scrutinize every action of the government, call out its shortcomings and act as a watchdog.¹²³ However, this is a mere declaration as this duty is not enforceable by action of law, it is non-justiciable by chapter 2. Section 22 of the 1999 constitution should be reviewed and made enforceable, ensuring it is not merely declaratory but carries binding obligations on state institutions. This would give the press more confidence to carry out its functions on investigative journalism, removing press self-censorship and encouraging the development of the Nigerian democracy.

The Nigerian Broadcasting Commission’s licensing and sanctioning powers should be subject to independent judicial or parliamentary review, reducing the risk of arbitrary closures of media houses.

It is a difficult situation to criticize your employer and that is the same with press, The NBC, Press Council, and NFVCB should be reformed to operate transparently, with stakeholder participation, to avoid executive capture. The executive should be not be part of the board of the

¹²² *ibid*

¹²³ Section 22

NBC and NPC. These institutions should be put as independent bodies and not under the executive through the ministry for information and culture.

5.3 Conclusion

This study highlights the inherent fine-lines and tension within Nigeria's legal framework, where constitutional guarantees of press freedom under Section 39 of the 1999 Constitution coexist with restrictive statutes and institutional controls that enable censorship. Despite Section 22's mandate for the press to ensure government accountability, laws such as the Official Secrets Act (2004), Cybercrimes Act 2015 (amended 2024), and NBC Act 2004 empower state agencies with broad discretion to suppress media, often undermining democratic transparency. While courts occasionally protect press rights, as in *Arthur Nwankwo v The State*¹²⁴, they frequently uphold restrictions, reinforcing state control. This imbalance stifles dissent, erodes accountability, and weakens democratic governance. To strengthen Nigeria's democracy, legal reforms, robust judicial oversight, independent institutions, and enhanced media ethics are crucial to prioritize press freedom and limit censorship to strictly necessary and proportionate measures.

¹²⁴ *Arthur Nwankwo v. The State* (1985) 6 NCLR 228

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