



**JLS 712**

**MEDIA LAW  
AND ETHICS**

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## **MODULE 1      THE PURPOSE OF LAW AND ETHICS IN THE SOCIETY**

Unit 1	The Meaning and Purpose of Law
Unit 2	Essence and Purpose of Ethics
Unit 3	The Regulation of the Mass Media
Unit 4	What is Mass Communication Ethics?

### **UNIT 1      THE MEANING AND PURPOSE OF LAW**

#### **CONTENTS**

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	The Meaning and Purpose of Law
3.2	Divisions of man-made Law
3.3	The Purpose of Law in the Society
4.0	Conclusion
5.0	Summary
6.0	Tutor Marked Assignments
7.0	References/Further Readings

#### **1.0      INTRODUCTION**

In this unit, three topics will be in focus:

- Natural and man-made laws
- Divisions of man-made law
- The purpose of law in the society

#### **2.0      OBJECTIVES**

At the end of this unit, you should be able to:

- Understand the differences between natural and man-made laws
- Understand the divisions of man-made laws
- Discuss the general functions of law in the society

#### **3.0      MAIN CONTENT**

### **3.1 Natural and Man-Made Laws**

Laws are the set of rules established by nature or by human authorities, to regulate natural phenomena or human behaviour within a given community or country. From this general definition, it can be seen that laws fall under two broad categories, that is, those which govern natural phenomena and those which govern human activities.

Natural Laws are the laws of nature, such as the laws of the natural sciences. An example of natural law is that which governs the floatation of objects. Those who studied physics in secondary school can still remember Archimedes principles, which states that “if a body is immersed in water, the up-thrust is equal to the volume of liquid displaced”. Based on this natural law, scientists design sea-going vessels. Other natural laws include the Laws of Relativity discovered by Albert Einstein, and the Law of Gravitation, discovered by Isaac Newton. Even the laws of Supply and Demand and Diminishing Returns are natural laws. Also, the fact that the earth revolves and at the same time rotates on its axis is a law which was imposed by nature itself.

But we are concerned in this study with man-made laws. Man-made laws are those imposed by human authorities for the regulation of human activities. Such laws include the United Nations Declaration of Human Rights (UNDHR), various International Conventions, National Constitutions, Statutes, Codes, Decrees and Edicts imposed by governments at different levels and for specific purposes.

The following are generally true of man-made laws:

1. They are imposed by the ruling class of every time and space to regulate the behaviour of people under them.
2. Man-made laws are enforced by the rulers as vigorously as they have the political will to enforce them. Hence some laws may exist in the Statute but are hardly ever enforced.
3. Every law has an effective date
4. Laws can be repealed or amended to suit the desires (policies and objectives) of the ruling class.
5. Man-made laws derive from the values and practices of a given society.
6. Man-made laws respect natural laws and justice.

#### **Man-made Laws Contrasted with Natural Laws:**

In contrast to man-made laws, natural laws have no effective date, nor are they respecters of culture or the ruling class of any time and space.



In short, natural laws are immutable and constant, while Man-made laws can change with time.

### **SELF ASSESSMENT EXERCISE**

Identify 10 natural and 10 man-made laws in the town or village where you grew up.

### **3.2 Divisions of Man-made Laws**

The Law of the land can be grouped into two broad divisions, namely, civil law and criminal law. Civil law seeks to protect civil or private rights while criminal law defines criminal offences and specifies punishments for their breaches. While the violation of civil law is an offence against an individual, the breaking of criminal law is considered as an offence against the state. Some crimes are against humanity, such as genocide, slavery, child prostitution and other such heinous offences.

The following fall under Civil Law: Law of contract, company law, commercial law, family law, insurance law etc. Examples of criminal offences are: robbery, rape, murder, kidnapping, arson, obtaining goods or money under false pretences, defamation, sedition, etc.

### **SELF ASSESSMENT EXERCISE**

With the aid of the Criminal and Penal codes, make a complete listing of the laws against the state.

### **3.3 The Purpose of Law in the Society**

Ewelukwa (2004:1) identifies five important contributions of law to the society as follows:

- i) Regulation of human conduct
- ii) Reconciliation of the interest of the individual to that of the community
- iii) Pointing out when interests exist
- iv) Man owes his dignity to law
- v) Law initiates changes in economic, political, social and religious structures.

#### **i) Regulation of Human Conduct**

Law exists as a social control of customs and morality to ensure that citizens conduct themselves in an orderly manner.

In an ideal society where citizens conduct themselves in a perfectly orderly manner, guided by their morality, religion and conscience, there would have been no need for law.

But such a perfect society does not exist. Once in a while some people may choose to fight, steal or rob. It is to point out the acceptable way to conduct social life that laws are made so that there can be peace and order in the society.

**ii) Reconciliation of the interest of the individual to that of the Community**

Some people's interest may be at variance with those of the community. But Ewelukwa (Ibid:2) points out that "the interest of the individual must be balanced with the welfare of the community, for the good of all and the public good in particular", hence there are laws.

**iii) Pointing out when interest exists**

In a world of interdependence and interpersonal influence interests are bound to exist and evaluated. The court of law examines cases brought before it and identifies and protects the interest of parties whose interests have been violated.

**iv) Man owes his dignity to law**

The rule of law, not the rule of man, controls every civilized society. The basic assumption of the rule of law is that the law is supreme, that all men are subject to the law of the land and that the inalienable right of citizens are guaranteed by the constitution. It is the rule of law which recognizes the civil and political rights of the citizen.

**v) Change in economic, political, social and religious structures are initiated by law**

Every society moves with the changing times. As the social, economic, and political orders change, society restructures itself to ensure progress and continuity. These changes are initiated by laws. In Nigeria, for example, many obnoxious laws which existed during the colonial and military eras have now been repealed or amended. In their places have been enacted better laws which better protect the rights of the individual and allow him more leverage to improve himself and the society at large.

## **SELF ASSESSMENT EXERCISE**

Identify five “bad” laws promulgated by the military governments which have now been replaced by more humane laws or repealed altogether.

## **4.0 CONCLUSION**

From now on you should understand that the purpose of laws is not necessarily to punish offenders, but to ensure peace and harmony in the society. If laws could be religiously observed by every one then the society will be a good place to live and every one will be happy. Such a place does not exist on earth, but there are places where things are better than in others.

## **5.0 SUMMARY**

In this unit we have considered the meaning and purpose of law in all societies. It was explained that laws are the general rules that govern natural phenomena and human beings anywhere they may be on earth. Laws are divided into two, namely, natural and human laws. Natural laws govern natural phenomena while human laws are those imposed on the society by the rulers.

We also drew a contrast between natural laws and human laws. Natural laws are ordained by God (or nature, for those who do not believe in God), and are immutable. On the other hand, human laws differ from place to place and from time to time.

Finally, the general purposes of law in the society were discussed. They are: regulation of human conduct; reconciliation of the interest of the individual to that of the community; pointing out when interests exist; the fact that man owes his dignity to law; and the fact that law initiates changes in economics, political, social and religious structures.

## **6.0 TUTOR – MARKED ASSIGNMENTS (TMAs)**

Discuss the essence and purpose of law and why there is so much deviant behaviour in modern societies.

## **7.0 REFERENCES/FURTHER READINGS**

Ewelukwa, B.N. (2004). *Introduction to Nigerian Press Law*, Onitsha: Maranatha Press Ltd. Pp 1-2.

Malemi, E. (1999). *Mass Media Law: Cases and Materials*, Lagos: Grace Publishers Inc.

## **UNIT 2 THE ESSENCE AND PURPOSE OF ETHICS**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 The Essence and Purpose of Ethics
  - 3.2 Why should People Lead Ethical Lives?
  - 3.3 Law and Ethics Compared and Contrasted
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignments
- 7.0 Reference/Further Readings

### **1.0 INTRODUCTION**

In this unit three topics are discussed

- The meaning and purpose of ethics
- Why people should lead moral lives
- Similarities and differences between law and ethics

### **2.0 OBJECTIVES**

At the end of this unit the student should be able to:

- Define and explain what ethics means
- Understand why people should lead moral lives
- Discuss the similarities and differences between law and ethics

### **3.0 MAIN CONTENT**

#### **3.1 The Essence and Purpose of Ethics**

While law consists of the laid-down rules that guide people's behaviour in a state, the disobedience of which attracts penalties, ethics is the branch of philosophy which deals with judgement as to the rightness or wrongness, desirability or undesirability, approval or disapproval of our actions. Webster Seventh New Collegiate Dictionary defines ethics as the discipline dealing with what is good and bad and with moral duty and obligation. Ethics can also be defined as a normative science of conduct which is concerned with the right thing to do.

Ethics and morality are often used interchangeably. But Odunewu (2000) points out the difference as follows: “while morality refers to behaviour that is acceptable, ethics deals with the criteria by which decisions about right and wrong are made”.

Those who lead ethical lives are generally regarded as “good” people.

The Josephson Institute for the Advancement of Ethics (Josephson Institute, 2003) identifies certain values as being essential to ethical life. They are:

- a) Honesty
- b) Integrity
- c) Promise-keeping
- d) Fidelity
- e) Fairness
- f) Caring for others
- g) Respect for others
- h) Responsible citizenship
- i) Pursuit of excellence
- j) Accountability.

Let us now take these concepts one by one and discuss what they mean or imply in their ordinary sense, at least.

- a) **Honesty** implies telling the truth always. Honest people are generally respected even if they are poor. The universal belief is that such people will be ultimately rewarded. Hence, the popular maxim: “Honesty is the best policy”.
- b) **Integrity** is being in a “state of entireness, or wholeness, or an unimpaired state of uprightness, honesty and purity” (Akinfeleye, 2005).
- c) **Promise-keeping** means discharging obligations and honouring agreements.
- d) **Fidelity** means being loyal and faithful to one’s spouse, friend, business partner, associate, comrade, or beliefs.
- e) **Fairness** involves treating each person or each case equally and according to the rules or law.
- f) **Caring for others** is the mark of kindness and generosity.
- g) **Respect for others** is a mark of humility, tolerance and patience.

- h) **Responsible citizenship** means being law-abiding, doing one's civic duties, such as paying tax, voting and respecting constituted authority and maintaining peace and tranquillity in one's neighbourhood and work place.
- i) **Pursuit of excellence** means commitment to the highest standards both in personal life and in the world of work. It implies not given to the acceptance of mediocrity, and being willing to go the extra mile to ensure that things are done properly, regardless of personal cost.
- j) **Accountability** means proving that one has performed one's duty creditably and is willing to submit oneself for scrutiny.

### SELF ASSESSMENT EXERCISE

Discuss the essentials of ethics from your own cultural background.

### 3.2 Why Should People Lead Ethical (or moral) Lives?

This writer has identified 10 reasons why people should lead moral lives. They are as follows:

- i) God our maker expects us to lead moral lives.
- ii) The society expects us to lead moral lives.
- iii) Our families expect us to lead moral lives.
- iv) We need to lead moral lives to be in harmony with our fellow humans.
- v) We need to lead moral lives to be at peace with our consciences.
- vi) We need to lead moral lives to live long.
- vii) We need to lead moral lives to be healthy.
- viii) We need to lead moral lives to be productive.
- ix) We need to lead moral lives to show good examples to the younger generation.
- x) We need to lead moral lives to serve the society better and win respect for ourselves and our professions.

### SELF ASSESSMENT EXERCISE

Can you think of other reasons why people should lead moral lives?

### 3.3 Why Ethics Pertains only to Humans

From the foregoing it is evident that only the higher animal, that is, man should be concerned with ethics. The lower animals cannot show concern for ethics, nor can they be held accountable for their actions.

What then are the things about humans that make them concerned about ethics? Okunna (1995: 3) identifies the following as the characteristics of humans which predispose them to being ethical beings:

- a) Human beings are rational
- b) Human beings are social
- c) Human beings are learning beings
- d) Human beings have feelings

**a) Human Beings are Rational**

Humans are endowed with intellect which enables them to reason. The lower animals do not have intellect but instinct. It is this instinct which enables them to live their lives: catching their prey, eating, escaping from danger and procreating. Even though some animals like dolphins, apes and dogs exhibit what one might be tempted to call intelligence, they are still regarded by experts as not to be ascribed intelligence, which is the preserve of man.

At the same time, some human beings sometimes act in ways which tend to suggest that they are just like animals, that is, behaving irrationally or out of instinct. This is probably why the ethical philosopher, Immanuel Kant, believes that the greatest good can be achieved if humans will follow their rational nature and suppress their instincts.

**b) Human Beings are Social Animals**

Also, according to Kant, man's relationship with other humans is his motivation for being ethically-minded. Indeed, according to another philosopher, Erich Fromm, man finds fulfilment only in relation with his fellow man. It is this social nature of man that is also responsible for human progress. If man lived on earth merely to satisfy his biological needs, it would not have mattered how other human beings regard him. But human beings are concerned about what others think about them, and indeed, how they will be remembered when they die.

**c) Human Beings have Feelings**

Only humans have the capacity to feel compassion for others. This is the compelling reason why the mass media publish human interest stories, that is, stories about humans which make others stop and think: "this is a human being like myself". Because humans have feelings they act in morally acceptable ways which promote solidarity and togetherness.

**d) Human Beings are Learning Beings**

Only humans learn from experience, and this enables them to cultivate norms of ethical conduct aimed at ensuring societal continuity. If there is no experience there will be no foresight. Knowledge is acquired not only from personal experience but also from other people's experiences recorded in books and the other mass media, or passed on as oral tradition from one generation to another.

**SELF ASSESSMENT EXERCISE**

How can you account for the fact that some animals use rudimentary tools and bury their dead? Shouldn't they be considered as having intellect?

**3.3 Law and Ethics Compared and Contrasted**

Law and ethics may have the same basic objective, namely, to ensure order, protect the rights of the individual and preserve the state. Yet, they differ in their peculiar characteristics and processes. The following are the basic differences between law and ethics.

- a) Law is imposed by the outer society, while ethics is self-imposed and self-enforced (e.g. by a professional body for its members).
- b) Law has a definite effective date while ethics has no effective date.
- c) Law can expire, or be repealed, but ethics is continuous.
- d) Law has more formal institutions, such as the legislature, police, judiciary (the courts, tribunals, court-martials, etc.) penitentiary (prison, reformatory, etc), but ethics has less formal institutions for its formulation and enforcement. Indeed, the chief enforcer of ethics is the conscience. Moreover,
- e) "While morality protects a way of life by tabooing immoral action even before it takes place, laws only provide a resource after the deed has been done", according to Caster (1983).

**SELF ASSESSMENT EXERCISE**

Law and ethics, which do you consider as superior? Give your reasons.

**4.0 CONCLUSION**

A good man is so regarded because he is ethically minded and leads his life in morally acceptable ways. On the other hand, a bad man is bad because he is not morally upright. In all societies there are standards by



which actions can be regarded as good or bad. Without a concern for ethics there will be no difference between a human being and an animal.

## **5.0 SUMMARY**

In this unit, we have discussed the essence and purpose of ethics. We saw several definitions of ethics and the difference between ethics and morality, even though they are often used interchangeably.

We also listed and explained 10 values which are essential to the ethical life. They are honesty, integrity, promise-keeping, fidelity, fairness, caring for others, respect for others, responsible citizenship, pursuit of excellence and accountability.

Also covered were 10 reasons why people should lead ethical or moral lives. In this unit also, it was pointed out that ethics is of particular concern to humans because they are rational, sociable, capable of learning and have feelings. The lower animals are not bothered about ethics, and you know why.

Finally, we compared and contrasted ethics with law, drawing the similarities and differences.

## **6.0 TUTOR-MARKED ASSIGNMENTS**

1. Find five other definitions of ethics given by authoritative sources
2. What other differences between law and ethics can you think of?

## **7.0 REFERENCES /FURTHER READINGS**

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## **UNIT 3 THEORIES OF ETHICS**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Teleological Ethical Theories
  - 3.2 Deontological Ethical Theories
  - 3.3 Other sub Theories
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

Different people are likely to behave differently when faced with the same ethical situation. This is because of their divergent ethical orientations. An individual's ethical orientation is responsible for his ethical response. This is why it is necessary to understand ethical theories.

### **2.0 OBJECTIVES**

At the end of this unit, you should be able to:

- Define and give examples of teleological ethical theory
- Define and identify examples of deontological ethical theory
- Identify all the other ethical theories subsumed under the teleological and deontological ethical theories.

### **3.0 MAIN CONTENT**

#### **3.1 Ethical Theories**

Theories are ways of explaining phenomena. Theories of ethics are ways of explaining ethical orientations. Okunna (1995:9) points out that ethical theories generally attempt to do one or a combination of the following: explain, describe, prescribe or predict ethical behaviour or standards. They are explanatory when they give reasons why humans take whatever moral decisions in their dealing with others. They are descriptive when they tell us the nature of ethics in general. They are prescriptive when they stipulate how people should behave in certain

ethical situations. They are predictive if they indicate how people are likely to behave under certain ethical situations.

Ethical theories can be divided into two main classifications:

1. Teleological (or consequentialism) and
2. Deontological (or non-consequentialism)

Within each of these groups there exist several clear-cut ethical schools of thought. Let's now consider each school and its subgroups.

### **1. Teleological ethical theory or consequentialism**

This is concerned with the result of the action. An action is considered as good if it produces good results. Hence those who subscribe to this ethical orientation are called consequentialists. Within the teleological school there are three subgroups. They are: utilitarianism, egoism and pragmatism.

**The ethical utilitarians** believe that people should act in the best interest of everyone concerned. Their catch-phrase is "the greatest good for the greatest number". Their consuming passion is the good of the majority, rather than the interest of a single individual. This may appear all right on the surface. But, according to Pasqua et. al., (1990: 259), the problem may arise as to the acceptable assessment of what constitutes the greatest number.

**The ethical egoists**, on their part, believe that people should act in their own self interest. Even among ethical egoists, there are two subgroups, the universal egoists and the personal egoists. The universal egoists simply believe that each person should act in his own best interest, while the personal egoists believe that each person should speak for himself as to what he wants.

**Ethical Pragmatism** is the third subgroup under the teleological school. It insists that that which works in real life is the right thing to do. In other words, for pragmatists, truth is what works in the real life of human behaviour. Pasqua et al (ibid: 260) describe pragmatism as the ethical theory with a pure American origin. A proponent of "pragmatism of instrumentalism", John Dewey counsels that the individual is required to tackle the problems of an ever-changing world with "an adaptable set of standards necessary to cope with changing situations". Dewey does not agree with "extreme rationalism and extreme empiricism" as the key to the solution of problems. However, journalism professor and authority on media ethics, John Merrill, warns that pragmatism should have its limits. The fact that something works does not necessarily make it good. For example, a pragmatic journalist could use dishonest

persuasion on a highly vulnerable and trusting audience, on the mere justification that the method works. But this could be dangerous.

### **SELF ASSESSMENT EXERCISE**

Discuss the disadvantages of propaganda in the light of John Merrill's warning on pragmatism.

## **3.2 Deontological Ethics or Non-Consequentialism**

This ethical school maintains that a good action should not depend on the result or consequences, but rather on its intrinsic value, hence the adherents of the theory are called non-consequentialists. Pasqua et. al (ibid) identify three variants of the deontological ethical school of thought. They are: divine command theory, Kant's duty ethics and natural law theory. Let's now consider their explanations one by one.

### **Divine Command**

This theory maintains that whatever God commands is right, since God is infinitely good and infallible. Conversely, whatever God forbids is wrong. This way of reasoning is all right with those who believe in God. Not to the unbelievers. To the unbelievers, this is a very subjective way of reasoning. And they ask the following question: is something right or wrong because it is God's command, or does God only command or forbid it because it is already right or wrong?

### **Kant's Duty Ethics**

An advocate of deontological ethics, Immanuel Kant (1724-1804), formulated the duty ethics, now named after him. He maintains that a good man is one who habitually acts rightly, and that a right action is that which is done from a sense of duty. In other words, duty ethics calls on people to act from a sense of obligation. And this obligation springs from reason rather than experience. Thus a moral principle will not depend on empirical data and will be binding on everyone. This is what Kant calls the Categorical Imperative.

A good action, according to Kant, is not good because it produces result, but rather because it is a moral action done from a sense of duty to the moral law.

### **Natural Law Theory**

Natural law ethical theory derives from the dictates of reason. Its adherents do not have to believe in God, but believers and unbelievers alike can converge on an ethical middle ground based of reason.

According to Pasqua et. al.(ibid: 261), most great national and international documents of the 20<sup>th</sup> Century, such as the United Nations charter, are based on natural law ethical theory. Also, most of the rights now enjoyed universally by individuals and the media derive from natural law. John Hospers, a contemporary philosopher divides these basic rights into six. They are:

1. Right to life
2. Right to property
3. Freedom of expression
4. Welfare rights
5. Rights of children, and
6. Rights of animals

### **SELF ASSESSMENT EXERCISE**

Discuss the position of the teachings of your own religion in the light of deontological ethics.

### **3.3 Other Ethical Theories**

Some other ethical orientations deserve mention as they fall under either the teleological or deontological theories. They include but are not limited to:

**Ethical Universalism**, which is the idea of having a common set of ethics guiding members of the same profession where ever they may be in the world. An advocate of ethical universalism, Callahan (2003) argues that, since all human beings have a common human nature always and everywhere, and share universals such as language, reason, emotions and family systems, there should be a common morality that would ensure societal continuity.

**Absolutist ethics**, which maintains that a right action is right at all times.

**Relativist ethics**, which permits that moral standards could vary according to cultures, circumstances and times.

**Objectivist ethics**, which emphasizes rationality in judging ethical conduct.

**Subjectivist ethics**, the opposite of objectivist, which allows that ethical standards could be subject to feelings and emotions of the individual making the moral decision.

**Legalistic ethics**, which takes on a rigid way of looking at things, as of law.

**Antinomian ethics**, the antithesis of legalistic ethics, which is a very liberal way of looking at ethics.

**Situational ethics**, which considers the rightness or wrongness of an action based on the particular situation or circumstance in which the doer finds himself.

## **SELF ASSESSMENT EXERCISE**

Make a case for ethical universalism in view of what is happening today around the world.

## **4.0 CONCLUSION**

When you see two otherwise respected individuals taking opposing sides in an issue such as abortion, for instance, you can now understand that their ethical orientation may be responsible for the way they think. Of course, three important factors are responsible for different people's ethical development. They are cultural background, individual differences and situational contingencies. A good understanding of these things will make for better understanding of people and their ways, and enhance peace in the world.

## **5.0 SUMMARY**

In this unit we considered the two broad divisions of ethical theories, namely, teleological and deontological. It was explained that the teleological theory considers a good action on the results it produces while the deontological theory considers a good action on its intrinsic value. The apostle of deontological ethics, Immanuel Kant maintains that it is the duty of man to do the right thing always. This is what he calls the "Categorical Imperative".

Within the teleological group, there are three main sub groups. They are the ethical utilitarians, the ethical egoists and the ethical pragmatics. All these sub groups have their different points of emphasis which make them unique.

Also within the deontological school of ethics there are different sub groups, such as the divine command adherents, Kant's duty ethics adherents and the natural law adherents. However, since the natural law position is independent of any religious orientation, it is the school of ethics adopted in the drafting of all international charters. Accordingly,

most of the universal freedoms enjoyed everywhere in the world today derive from the natural law ethics.

## **6.0 TUTOR-MARKED ASSIGNMENTS**

Articulate the fundamental differences between the opposing ethical theories. Also discuss the merits and demerits of each ethical school of thought.

## **7.0 REFERENCES/FURTHER READINGS**

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## **UNIT 4 THE REGULATION OF THE MASS MEDIA**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Why the Mass Media Must be Regulated
  - 3.2 What are Media Laws?
  - 3.3 What is Media Ethics?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit five topics will be covered:

- The compelling reasons for the universal regulation of the mass media
- Definition and explanation of media laws or press laws
- Definition and explanation of media ethics

### **2.0 OBJECTIVES**

At the end of this unit, you should be able to do the following:

- Understand why the mass media are regulated the world over
- Know what media laws are
- Understand what is media ethics

### **3.0 MAIN CONTENT**

#### **3.1 Why the Mass Media Are Regulated the World Over**

All over the world, governments regulate various fields of human endeavour. Thus, banking, education, health care delivery, hotels, etc., are regulated. This means these industries are provided with basic structures for their operation. The mass media industry is equally regulated. However, because of the peculiar nature of the mass media as vehicles for free expression, which is a fundamental human right, government is careful to regulate the media only to the extent consistent with the expectations of a democratic society. Thus, over-regulation of the media will stifle free expression and give rise to underground press and even rebellion.

Malemi (1999: 32) identifies four formal regulatory mechanisms of the mass media as follows:

- a) constitutional provisions
- b) statutes
- c) ethical guidelines
- d) informal restraints.

#### **a) Constitutional Provisions**

The 1999 Constitution of the Federal Republic of Nigeria, Section 39.

- b) Statutes** (e.g. The Official Secrets Act, Laws of Sedition, Contempt, Obscene and Harmful Publications Act, Defamation, Copyright, Advertising laws, National Broadcasting Commission (NBC) Code, Newspaper Act, Media Council Decree, which established the Nigerian Press Council (NPC), the Nigerian Television Authority (NTA) Act, the Federal Radio Corporation of Nigeria (FRCN) Act, etc.

#### **c) Ethical Guidelines**

Professional bodies provide mechanisms for the regulation of their members, each having a constitution and a code of ethics.

#### **d) Informal restraints**

Examples are beat associations and other informal arrangements which impose certain demands on members.

### **SELF ASSESSMENT EXERCISE**

List all the journalistic beat associations in the state where you reside.

## **3.2 What then are Media Laws?**

It is important to point out that some authors use media law, mass communication law and press law interchangeably. This is because the mass communication domain has been stretched in recent times to include all forms of information and communicative processes and channels.

The original mass communication domain consisted of the press (newspaper and magazine), radio, television, film, public relations and

advertising. But in recent times new forms and even old ones that were not in the original list have been included.

Some of these new forms are: drama, phonographs, the internet and even G.S.M. For this reason, some authors have defined Mass communication law to mean all the laws made to govern the activities of these wide varieties of media. For example, Malemi, (1999:3) writes:

- Mass communication, media or press law, is the law governing the receiving and dissemination of ideas and information, the Media of mass communication, the role of press and the writing public, their rights and their duties to the private individual and the state in general.

It has been pointed out above that the term Press is only a part of and not the whole of mass-communication. So, media law or mass-communication law should include all the laws governing the operation of newspaper, magazines, radio, and television broadcasting, public relations and advertising practices, internet, phonograph, satellite broadcasting and all the new information and communication technology (ICT).

However, many authors limit their discussion of mass-communication law to press law, as it was in the beginning. Why is it so? I guess it is because press law is the oldest and most often brought to the consciousness of the general public.

Indeed, there are laws governing the practice of public relations and advertising, but since the practitioners of these professions do not deal directly with general public, not much is known about the laws governing them.

Nevertheless, it should be pointed out that press law does not constitute mass-communication or media law, since the mass media or mass-communication consist of other channels in addition to the press. We shall therefore limit our discussions in this text to press law.

### **What are Press Laws?**

Press laws are legislations made by the government in power at the Federal State and Local Government levels, to control or regulate the activities of the Press in a part or all part of a given country. There is no country in the world where there are no Press laws or where the Press is not expected to operate within the ambit of the law. After all, the purpose of law is to protect the rights of citizens and ensure an orderly society.

However, given the fact that freedom of the Press is an essential requirement for democracy, the laws governing the press in the genuinely democratic countries are those which only seek to protect the fundamental rights of individuals and ensure the maintenance of peace and tranquillity. Such laws are the laws of Defamation, Libel, Slander, Sedition, Copyright and Plagiarism.

Other laws outside these basic ones are usually frowned at by the Press and Civil Society, since they are bound to constitute undue restrictions on Press and freedom, which to a large extent is an extension of individual freedom. The United States of America provides a model in this regard. The famous First Amendment to the American Constitution which was adopted in 1791, states in part that ‘...Congress shall not make any law... abridging the freedom of the Press’. This Provision of the American Constitution is the basis of the high degree of press freedom and individual freedom enjoyed by the American Press and people.

But most other countries of the world, especially in the developing world, do not enjoy a high degree of Press freedom. This is because, in addition to the laws of Defamation, Libel, Slander, Sedition, Copy right and Plagiarism which already exist in their Statutes, the ruling elite are always passing other obnoxious laws which merely seek to protect the selfish interest of those in power.

In the history of Nigeria from the colonial era to end of military rule in 1999, most Press laws were made for this purpose. These bad laws, notorious for being retroactive and precluding the jurisdiction of the civil courts, have been used to intimidate, harass, and imprison journalists, opposition politicians and Civil rights advocates. Tony Momoh (2004) gives a complete inventory of such laws.

In the following sections, we shall discuss only the laws which are universally imposed in civilised societies, that is , the laws of defamation, libel, sedition, slander, copy right and plagiarism. But before then, we need to know more about freedom of the Press, including its legal basis and constraints.

### **SELF ASSESSMENT EXERCISE**

Make an inventory of all the important press laws made by various Nigerian governments at the centre, from colonial times to the present day.

### **3.3 What is Mass Communication Ethics?**

It has been pointed out that ethics is basically self-imposed and self-enforced. Mass communication ethics is therefore the set of moral guidelines which the mass communication professionals have articulated to guide their professional conduct.

Ethics compels the professional to consider his/her basic principles and values, his/her obligations to himself/herself and to others. It compels the professional to decide how to live, how to conduct his/her professional affairs, how he/she will think, act and react to people and issues around him/her.

**Journalistic ethics** is subsumed in mass communication ethics, since journalism is only a part of mass communication. Merrill defines journalistic ethics as:

the branch of philosophy which helps journalists to determine what is right to do, by giving the journalist standards by which he can judge actions to be right or wrong, good or bad, responsible or irresponsible.

Furthermore, according to Merrill, it defines what is good or bad journalism and details the obligations of journalists to the profession, to the society and to democracy.

### **Who is a virtuous journalist?**

A virtuous journalist is the one who has respect for and tries to live by the cardinal virtues which Plato prescribes in *The Republic* (Merrill, *ibid*). The cardinal virtues which Plato prescribes in *The Republic* are: wisdom, courage, temperance and justice.

#### **1. Wisdom**

Wisdom can be defined as the correct application of knowledge. It is what gives direction to moral life and it is the rational, intellectual base for any system of ethics. Wisdom is partly natural and partly acquired. It is acquired through the following ways: maturing, life experiences, study, association, etc.

#### **2. Courage**

Courage is needed to resist the temptation to do the wrong thing, that is, deviate from the path of wisdom. In other words, it helps a person to pursue the goal which wisdom has helped set for him/her.

#### **3. Temperance**

This is the virtue which demands reasonable moderation. It helps people to avoid fanaticism in the pursuit of any objective, that is, knowing where to apply the brakes, as it were.

#### **4. Justice**

Justice is the virtue which considers a person's "deservingness". It refers more specifically to a person's social relations. All men should be treated equally, but equal treatment simply does not satisfy "deservingness". A person gets what he deserves. For example, if there is only one seat available for two persons, justice, at least in the African culture, demands that the older person should be offered the seat while the younger person stands until another seat is fetched for him. Looking at another scenario, should a young man be stoned to death for snatching a wallet at a bus stop? Does he deserve to die for that minor offence? That is jungle justice, which is no justice at all.

#### **SELF ASSESSMENT EXERCISE**

To what extent have Nigerian journalists exhibited the virtues listed by Plato? Discuss.

#### **4.0 CONCLUSION**

So you can see that the mass media are regulated by laws and a system of ethics. This is despite the fact that they are a vehicle through which people express their fundamental rights of free expression. Without some form of regulation the media could be misused by unscrupulous persons to the detriment of the society.

#### **5.0 SUMMARY**

In this unit we have looked at the compelling reasons why the mass media of all societies are regulated. Regulation means that they are checked to some extent by laws and ethics. Specifically, the regulation comes in form of constitutional provisions, statutes, ethical guidelines and informal restraints.

Mass communication law, media law and press law are used interchangeably to mean

"the law governing the receiving and dissemination of ideas and information, the media of mass communication, the role of press and the writing public, their rights and their duties to the private individual and the state in general" (Malemi, 1999: 3)

Media ethics, on the other hand, is that branch of philosophy which helps the media professionals to set standards of moral conduct. It helps those in journalism, for instance, to decide what is good journalism and what is bad journalism, what is acceptable and what is unacceptable in the performance of their duties of gathering, processing and dissemination of a wide variety of messages designed for enlightenment and entertainment.

We also asked the important question: who is a virtuous journalist? The question was answered by foremost media ethical philosopher, John Merrill, who says that a virtuous journalist is the one who has respect for and tries to live by the cardinal virtues which Plato suggested in his classical treatise, *The Republic*. The virtues are wisdom, courage, temperance and justice. We went on to explain what each virtues entails.

## **6.0 TUTOR - MARKED ASSIGNMENT**

Discuss separately the arguments of those who call for minimum control of the mass media and the arguments of those who call for maximum control of the mass media.

## **7.0 REFERENCES/FURTHER READINGS**

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## **MODULE 2      PRESS      FREEDOM      AND      THE CONSTITUTIONAL OBLIGATIONS OF THE NIGERIAN MASS MEDIA**

- Unit 1      Press Freedom: History, Definitions and Legal bases
- Unit 2      Public Officers, Public Figures, The National Interest And  
The Public Interest.
- Unit 3      Constitutional Provisions on the Obligations and  
Ownership of the Mass Media in Nigeria.

### **UNIT 1      PRESS FREEDOM: HISTORY, DEFINITIONS AND LEGAL BASES**

#### **CONTENTS**

- 1.0      Introduction
- 2.0      Objectives
- 3.0      Main Content
  - 3.1      History of Press Freedom in the Ancient World
  - 3.2      History of Press Freedom in Old England
  - 3.3      History of Press Freedom in Nigeria
  - 3.4      Definitions of Press Freedom
  - 3.5      Legal Bases of Press Freedom in Nigeria
  - 3.6      Constraints to Press Freedom in Nigeria
- 4.0      Conclusion
- 5.0      Summary
- 6.0      Tutor-Marked Assignments
- 7.0      References/Further Readings

#### **1.0      INTRODUCTION**

In this unit three things will be discussed

History of freedom of expression in the ancient world  
History of press freedom in old England  
History of press freedom in Nigeria  
Some definitions of press freedom  
Legal bases of press freedom  
Constraints to press freedom

#### **2.0      OBJECTIVES**

At the end of this unit, you should be able to:



- Know a brief history of freedom of expression in the ancient world
- Know a brief history of press freedom in old England
- Know a brief history of press freedom in Nigeria
- Define press freedom
- Know the legal bases of press freedom in Nigeria.
- Know the major constraints to press freedom in Nigeria

### **3.0 MAIN CONTENT**

#### **3.1 The Struggles for Free Expression in the Ancient World**

From time immemorial and in all climes, human beings have been struggling for more freedom to express themselves, in social life, in religion, in the arts, in political and economic activities and in even in the scientific field. In many countries of the world there is now considerable freedom for people to express themselves and pursue their legitimate undertakings. But it has not always been so. In the past, political and religious leaders were very uncomfortable with those with new ideas and indeed made life unbearable for such people.

As a result, many great minds were extinguished prematurely long before society realised its mistake. For example, the great Greek philosopher, Socrates (470 – 399 B.C.) was killed for allegedly corrupting the youths of Athens with his strange ideas; Jesus Christ was crucified for preaching a new doctrine; and Galileo Galilei (1564-1642), the Italian astronomer and physicist was killed for his scientific discoveries.

However, after many centuries of ruthless suppression of those whose ideas ran contrary to those of the rulers a little succour came the way of the Europeans in the Middle Ages, with the passage of certain great Bills of Rights which guaranteed more freedom of expression. Some of such great laws were the Magna Carta in 1215; and the English Bill of Rights in 1689.

The Magna Carta (The Great Charter) was a broad statement of legal principles which was passed by a certain King John of England on Monday June 15, 1215. The document, written in Latin comprised 61 clauses, included some civil rights which the king had undermined in the past. History records that the idea of passing the charter was to forestall revolts which had become inevitable because of the denial of people's basic rights. But the enduring importance of the Magna Carta lie in the fact that, even though it was a feudal document, it gave legal recognition to the fact that the relationship between king and vassals was based on

mutual rights and obligations. In later years the document was used to strengthen the idea that the monarch's power was limited, not absolute.

The English Bill of Rights was passed in 1688, under William and Mary as King and Queen of England, after what was referred to as "the Glorious Revolution", following disputes over succession to the throne between Catholics and Protestants.

But more importantly, the Bill of Rights was a profound statement of liberties, whereby the individual was protected against the distortion of justice in the interest of the crown.

### **The Virginia Declaration of the Rights of Man.**

Virginia, a South Atlantic state in the United States of America, became important following the introduction of tobacco farming there in 1612. This led to the bringing of slaves there, starting from 1619. Later on the state was one of the leading states in the American fight for independence and the Civil War. It was a major battlefield in the war, and Richmond, its capital city was the capital of the Confederate States.

The Bill of Rights was ratified by the American Congress in 1789, in order to allay the fears of some states that the new American Constitution did not guarantee enough freedoms. The Bill of Rights, which was actually 10 amendments to the American Constitution, then adequately guaranteed freedom of religion, speech, the press, petition and assembly. It also guaranteed the freedom to carry arms, and the right to be protected against unreasonable searches and arrests, trial by jury, due process of law, and the protection of property rights.

In other parts of the world, revolutions such as happened in old England and America, also took place before laws were passed to grant more basic freedoms to people. In fact, at the time the above upheavals were taking place in America, a very bloody revolution was taking place in France, which is now popularly referred to as the French Revolution. In France the brutality of the aristocrats towards the masses gave rise to a popular uprising which eliminated the upper class and abolished the monarchy for ever.

### **SELF ASSESSMENT EXERCISE**

Compare and contrast the French and American revolutions, especially as they affected the granting of civil rights.

### 3.2 History of Press Freedom in Old England

Press freedom became an issue in Europe with the birth of modern mass media such as books and newspapers, following the invention and spread of printing. You will recall that Johann Gutenberg of Mainz, Germany, invented movable type about 1445. Soon after, the printing of books became popular in Germany, but with the sacking of Mainz in 1462, its trained printers dispersed to other European cities and resumed their trade there. Thus, Italy embraced printing in 1462; France in 1470; Spain in 1474; and England in 1476.

Some ragtag newspapers called “Corantoës” appeared in England in 1621. But the kings of England were not receptive to the newspapers for fear that the masses would get enlightened and begin to challenge their authority. So, they placed many restrictions in the way of the journalists and printers. In fact, the restrictions were so severe that the rudimentary newspapers could not be printed in England. They had to be printed abroad and smuggled into England.

It was at this time that intellectuals like John Milton started publishing popular essays in support of freedom of expression. Milton’s argument was that falsehood and truth should be allowed to grapple and let the superior force win. His most famous essay was the *Areopagitica* (1644), which advanced formidable opposition against the existing press licensing laws of England. In 1694 the licensing was discontinued, and this new era of freedom gave birth to the first real newspaper in England, called the *Daily Courant*, in 1702.

But the obnoxious laws of England had caused many intellectuals to flee to the New World (America). Consequently, the first rudimentary newspapers in that part of the world, the *Publick Occurance*, was founded by Benjamin Harris, who had been expelled from England for operating an underground press. But the first real newspaper in America was the *Boston Newsletter*, which was founded by John Campbell and Bartholomew Green in 1704.

#### SELF ASSESSMENT EXERCISE

Find out the role played by the church in the struggle for freedom of expression in old England and America.

### 3.3 History of Press Freedom in Nigeria

The first newspaper in West Africa was the *Sierra Leone Gazette*, founded in 1801 by the “officers of the Sierra Leone Company” (Omu, 1978: 5). Subsequently, other countries in the sub region embraced the

trade: Ghana in 1822; Liberia in 1826; Nigeria in 1859 and Gambia in 1883.

The first newspaper published in Nigeria, *Iwe Irohin*, existed from 1859 to 1867. It appears that subsequently, there was an absence of newspapers for almost a decade, before a tribe of secular newspapers began to appear in the 1880s. By the early 1900s, the British Colonial masters started becoming uncomfortable with the emergent press, and began to enact harsh laws to put the press in check. According to Omu, (ibid: 174), “the heightened tone of press criticism which marked political opposition from the last days of the nineteenth century to the eve of the First World War could not but irritate the colonial administration”. Accordingly, the colonial masters enacted the first of such laws, the Newspaper Ordinance of 1903. Then came the Seditious Offences Ordinance of 1909 and subsequent ones, as the need arose and many more. A complete inventory of all the press laws from 1903 has been provided by Momoh (2004, op cit.).

So began the struggle for press freedom in Nigeria, which has continued ever since. It has been observed that most of the press laws enacted in Nigeria from colonial times were obnoxious impositions by those in power to protect themselves from the legitimate searchlight of a dutiful and patriotic press.

Incidentally, the struggle for press freedom in Nigeria was tied to the struggle for political independence. The early newspapers used their editorials and columns to crusade relentlessly for political independence. As noted by Okoye (2003:11),

- “as far back as 1881, when the Colony of Lagos was being administered from Sierra Leon, the question of independence from colonial rule had started bothering newspaper editorial writers.
- For example, consider the following excerpt from an editorial Published in the Lagos Times and Gold Coast Colony Advertiser of March 9, 1881:
- “We are not clamouring for immediate independence, but it should always be borne in mind that the present order of things will not last for ever. ...A time will come when the colonies on the West Coast will be left to regulate their own internal and external affairs”

This trend continued until independence was finally obtained in 1960. As expected there were provisions for freedom of expression in the Independence Constitution, but there was no specific provision granting freedom of the press. The struggle to have definite constitutional

provisions guaranteeing press freedom is still on. The Freedom of Information Bill currently before the National Assembly is expected to take care of that. Unfortunately, this important bill did not receive the assent of President Obasanjo.

Meanwhile, when the hard-worn independence was lost to military dictatorships in the 1990s, it was the Nigerian press and civil society that went back to the trenches to recover it.

In the history of press freedom in Nigeria, some journalists and their publications deserve mention for their courageous roles. They are:

1. John Payne Jackson and Thomas Horatio Jackson of the *Lagos Weekly Record*.
2. James Bright Davies of the *Nigerian Times*
3. Ernest Ikoli of the *African Messenger*
4. Herbert Macaulay of the *Lagos Daily News*
5. Duse Mohammed Ali of *the Comet*
6. Nnamdi Azikiwe of the *West African Pilot*
7. J.V. Clinton of the *Eastern Nigerian Mail*
8. Anthony Enahoro of *the Comet*
9. Peter Enahoro of the *Sunday Times*
10. Dele Giwa of *Newswatch* magazine
11. Tunde Thompson of *the Guardian*
12. Nduka Irabor of *the Guardian*.
13. Bayo Onanuga of *The News* magazine
14. Chris Anyanwu of *TSM* magazine
15. Niran Malaolu of *The Diet* newspaper
16. Nosa Igiabor of *Tell* magazine.

Also deserving of special mention are some social critics who have been very vocal in their advocacy for good governance and human rights. Some of them used newspapers extensively as columnists, though they were not employed full time by the newspapers. They include: Wole Soyinka, Tai Solarin, Air Iyare, Bola Ige, Agwu Okpanku, and many others.

### **SELF ASSESSMENT EXERCISE**

Mention the names of 10 additional journalists who played outstanding roles in the struggle for press freedom in Nigeria.

### 3.4 Definitions of Press Freedom

As has been noted earlier in the study, press freedom is an essential ingredients of the democratic culture. The higher the degree of press freedom allowed in any country, the greater the degree of democracy its citizens enjoy.

#### What then is Press Freedom?

Let me now examine some definitions of Press Freedom given by different authors.

**Soji Alabi (2003: 53)** writes that Press Freedom “simply means that the press should be allowed to publish without prior restraint.” This, he added, implies that the press should be free to publish or broadcast what it deems fit to the public.

**Onagoruwa (1985: 15)** defines Press Freedom as the right of the press to “publish without being subjected to intimidation, threat, molestation or blackmail.”

Another notable authority, Aiyar (1979) defines Press Freedom as follows:

... the right to report facts honestly and faithfully, even if they prove inconvenient or embarrassing to someone. It means liberty to interpret the evidence before them according to their (reporters’) independent judgement and journalist’s conscience.

Lastly, consider my own definition: Press Freedom is the liberty to gather, to hold, express and disseminate information and opinions without official or unofficial restrictions via written and unwritten laws and actions.

If we examine these definitions closely, we shall see that they are more or less, saying the same thing in different words. They are all saying that newsmen and women, individually and collectively, or mass media organisations, should enjoy the liberty to do their legitimate duties without having to obtain prior permission from any authority, and without having to bother whether what is eventually dished out to the public will suit or embarrass any public official somewhere.

Another important question is: why is there is so much concern over press freedom in the world? The simple answer is that if there is no press freedom or if press freedom is diminished at any time, it is not

only journalists that will be hurt, but the entire society will bear the brunt of it.

On the occasion of the World Press Freedom Day, May 3, 2000, the immediate past United Nations Secretary General, Kofi Annan, UNESCO Director General, Koichiro Matsuura and United Nations High Commissioner for Human Rights, Mary Robinson issued a joint statement and said:

In every society, freedom of the press is essential to transparency, accountability, good governance and the rule of law. It cannot be suppressed without dire consequences for social cohesion and stability. When it is sacrificed, whatever the reason invoked, the chances are that conflict is not far down the road.

Press freedom is therefore essential to ensure that those in authority are constantly monitored so that they do not overstep their bounds, to the detriment of the society. Indeed, there are many credible international Non-Governmental Organisations (NGOs) which dutifully monitor the degree of press freedom in each country of the world and publish reports on their findings. Freedom House is one such organisation. It measures each country's press in four aspects:

1. the degree to which laws and administrative decisions affect news content.
2. the degree of political influence or control over content.
3. the degree of economic influence on the media by governmental or private sectors, and
4. the degree of oppression, from censoring materials to killing of journalists.

According to Chang (2003), based on the above four criteria, Freedom House ranks each country on a scale from 0 to 100. The higher the score, the less free the country's press system is considered to be. Countries with a score of 0 to 30 are considered "Free", those with 31-60 "Partly Free", while those which score 61-100 are considered "Not Free".

### **SELF ASSESSMENT EXERCISE**

Look up 10 more definitions of press freedom offered by other notable authors.

### 3.5 Legal Bases of Press Freedom in Nigeria

The following are the legal bases of Press Freedom applicable in Nigeria.

1. United Nations General Assembly Resolution 59 (1) of December 14, 1946, which states Freedom of information is a fundamental human right and is the touch stone of all the freedoms to which the United Nations is consecrated. Freedom of information implies the right to gather, transmit and publish news anywhere, without fetters.
2. Article 19 of the Universal Declaration of Human Rights of December 10, 1948, which states :
  - Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference; and to seek, receive and impart information and ideas through any media regardless of frontiers.
3. Articles 19 of the International Covenant on Civil and Political Rights of December 10, 1966, which states;
  1. Everyone shall have the right to hold opinions without interference.
  2. Everyone shall have, the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kind, regardless of frontiers, either orally, in writing or imprint, in the form of art, or through any media of his choice.
  4. Article 9 of the African Charter on Human and People's Rights, which states:  
Every individual shall have the right to receive information. Every individual shall have the right to express and disseminate opinions within the law.
  5. Section 39 of the 1999 Constitution of the Federal Republic of Nigeria, which states:  
... Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

### SELF ASSESSMENT EXERCISE

Why is press freedom an essential concomitant of democratic government? Discuss.

### Constraints to Press Freedom



It has been pointed out that no where in the whole world is Press Freedom absolute. Even in the most democratic countries, there are still the laws of libel, sedition, copyright and other similar laws which seek to protect the state, individual rights and intellectual property. In addition to these universal laws, many countries have governmental agencies which regulate the activities of specific mass media examples are the Federal Communication Commission (FCC) in the United States of America, the Nigeria Press Council (NPC), the National Broadcasting Commission (NBC) and the National Film and Video Censors Board (NFVCB).

But some of the laws which serve as constraints to press freedom in Nigeria are:

3.5 Articles 19 (2) and (3) of the Universal Declaration of Human Rights (UDHR), which state.

3.5.1 In the exercise of his rights and freedom, everyone shall be subject only to such limitation as are determined by law solely for the purpose of securing due recognition; and

3.5.2 These rights and freedom may in no case be exercised contrary to the purpose and principles of the United Nations.

3.6 Articles 19 and 20 of the International Covenant on Civil and Political Right, which states;

3.6.1 The exercise of the rights provided for in paragraph 2 of this Article carries with it special duties and responsibilities, it may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputation of others.

(b) For the protection of national security or of public order, or of public health or morals.

(1.) Any propaganda for war shall be prohibited by law.

(2.) Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

(3) Article 13 (2), (3), (4) and (5) of the freedom of thought and expression, which states:

(2) The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability which shall be expressly established by law to the extent necessary in order to ensure:

(a) respect for the rights or reputation of others; or

- (b) the protection of national security public health or morale

### **SELF ASSESSMENT EXERCISE**

Why do you think people's rights ought to be protected in the exercise of press freedom?

## **4.0 CONCLUSION**

You can see that in most countries press freedom is encouraged as an essential ingredient of the democratic culture. Even though the Nigerian constitution does not expressly provide for freedom of the press, the constitution makers must have reasoned that by granting freedom of expression, that of the press had been taken care of. Despite this constitutional draw back, the Nigerian press has been virile from Colonial times to the present day. Indeed, it has been argued that freedom is never given to anyone on a platter of gold, but that those who desire freedom have to fight for it. And the Nigerian press has given a good account of itself in its struggle for more press freedom.

## **5.0 SUMMARY**

In this unit, we have surveyed the history of the struggles for free expression in various parts of the world, both in the ancient and modern times. We also looked at several definitions of press freedom given by experts. What all the definitions are saying is that press freedom is the liberty of the mass media to do their duty of informing, educating and entertaining the public without prior official censorship, or other official and unofficial activities which curtail that liberty. All over the world there are legal bases for press freedom, which may differ slightly from place to place. In Nigeria the legal bases of press freedom include: Article 19 of the Universal Declaration of Human Rights; Article 19 of the International Covenant on Civil and Political Rights; Article 9 of the African Charter on Human and People's Rights; and Section 39 of the 1999 Constitution of the Federal Republic of Nigeria.

Lastly, we also saw that press freedom is not absolute; hence there are some constraints, which were also listed and explained.

## **6.0 TUTOR-MARKED ASSIGNMENTS**

Compare and contrast the Universal Declaration of Human Rights and the African Charter on Human and People's Rights as the legal bases of press freedom.

## **7.0 REFERENCES/FURTHER READINGS**

*1999 Constitution of the Federal Republic of Nigeria*

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## **UNIT 2      PUBLIC   OFFICERS,   PUBLIC   FIGURES, NATIONAL   INTEREST   AND   PUBLIC INTEREST**

### **CONTENTS**

- 1.0    Introduction
- 2.0    Objectives
- 3.0    Main Content
  - 3.1 Public Officer and Public Figure
  - 3.2 National Interest and Public Interest
  - 3.3 Their Relationship with the Media
- 4.0    Conclusion
- 5.0    Summary
- 6.0    Tutor-Marked Assignment
- 7.0    References/Further Readings

### **1.0    INTRODUCTION**

In this unit the following questions will be answered:

- Who is a public officer and who is a public figure?
- What is National Interest?
- What is Public interest and why are the media interested in it?

### **2.0    OBJECTIVES**

At the end of this you will be able to:

- Define and know the difference between a public officer and public figure
- Define and understand what is the national interest.
- Define public interest and why the media are interested in it.

### **3.0    MAIN CONTENT**

#### **3.1    Who is a Public Officer and who is a Public Figure?**

A Public officer or Public official is the person who holds an office in trust for the public and earns his/her living from the taxes paid by the public. The 1999 Constitution of the Federal Republic of Nigeria provides an exhaustive list of all those recognised as public officers in Nigeria, for the purposes of the Code of Conduct. They are:

- i)      The President of the Federation.

- ii) The Vice President of the Federation
- iii) The President and Deputy President of the Senate; Speaker and Deputy Speaker of the House of Representatives and Speakers and Deputy Speakers of Houses of Assembly of States, and all members and staff of legislative houses.
- iv) Governors and Deputy Governors of states.
- v) Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, all other judicial offices and all staff of courts of law.
- vi) Attorney –General of the Federation and Attorney-General of each state.
- vii) Ministers of the government of the federation and commissioners of the governments of the states.
- viii) Chief of Defence Staff, Chief of Army Staff, Chief of Naval Staff, Chief of Air Staff and all members of the armed forces of the federation.
- ix) Inspector-General of Police, Deputy Inspector General of Police and all members of the Nigeria Police Force and other government security agencies established by law.
- x) Secretary to the Government of the federation, Head of the Civil Service, permanent secretaries, directors –general and other persons in the civil service of the federation or of the states.
- xi) Ambassadors, high commissioners and other officers of Nigerian missions abroad.
- xii) Chairman, members and staff of the Code of Conduct Bureau and Code of Conduct Tribunal.
- xiii) Chairman, members and staff of local government councils.
- xiv) Chairman and members of the boards or other governing bodies and staff of statutory corporations and of companies in which the federal or state government has controlling interest.
- xv) All staff of universities, colleges and institutions owned and financed by the federal or state governments or local government councils.
- xvi) Chairman, members and staff of permanent commissions or councils appointed on full time basis.

Akinfeleye (2005) adds that no matter the mode of appointment to that public office, whether by election or selection, the public officer “has lost part of his privacy, that is, the right to be left alone”.

A public figure, on the other hand, does not earn his living from the tax payers’ money, but “by his activities, pronouncements, comments on public issues within the community, which are of public interest, he has become a public figure”, (Akinfeleye, *ibid*). Thus, celebrities like popular musicians, sportsmen, successful entrepreneurs and the like, are public figures. Both the public officer and the public figure attract the

attention of the mass media, and rightly so, since what they do or say may have good or adverse consequence for the society.

### **SELF ASSESSMENT EXERCISE**

What are the other differences between a public officer and a public figure?

### **3.2 National Interest**

National Interest is one concept on which experts are not agreed. It has been defined in various conflicting ways by different experts. For example, Momoh (2004) defines the national interest as “those interest which Nigerians are brought up to regard as values to strive for, to live for, even to die for”. He explains further that these values have become so entrenched in the psyche of the Nigerian that other interests must take second place. The national interest should also override personal and group interest.

Your guess is as good as mine, that the values so close to the heart of every Nigerian are the need to live in peace, harmony, comfort and prosperity. Any thing which undermines these fundamental legitimate aspirations should therefore be considered as anti-national interest.

However, what makes the national interest problematic is the question as to who determines it. Akinfeleye argues that the national interest cannot be the legitimate aspirations of all Nigerians if is determined and articulated by a dictatorship. All the same, he agrees that in the case of Nigeria, the national interest has been adequately captured by the National Anthem, the National Pledge and the Motto.

Another expert, Areh (2005) argues that no individual or group can be in a better position to define the national interest than the government in power. He defines the national interest as “the interest of the state according to recognised organ of government and the government of the day”.

Both Momoh (2005) and Areh (ibid) agree that the 1999 Constitution adequately articulates the National Interest of the Nigerian nation. This national interest is properly spelt out in Chapter II of the Constitution, under Fundamental Objectives and Directive Principles of State Policy. This chapter outlines the following important things:

- i) The fundamental obligations of Government
- ii) The Government and the people of Nigeria
- iii) Political objectives

- iv) Economic objectives
- v) Social objectives
- vi) Educational objectives
- vii) Foreign policy objectives
- viii) Environmental objectives
- ix) Directive on Nigerian culture
- x) Obligation of the mass media
- xi) National ethics
- xii) Duties of the citizen.

Nor should National Interest be confused with national Security, which has come to be seen as the use of the instruments of coercion to contain threats to peace in every part of the nation state. This is also known as the protection of the territorial integrity.

### **SELF ASSESSMENT EXERCISE**

Comment on the saying in diplomacy that relations may change but national interests may not change.

### **3.3 Public Interest**

The public interest is any event, issue or development which in the judgement of the working press, deserves to be brought to the attention and knowledge of the media audience. Indeed, any significant thing a public officer or public figure does, or fails to do, is of public interest. The traditional journalistic maxim is that any person who accepts a public office has lost his privacy, that is, the right to be left alone (Akinfeleye, 2005). Such a person has become a “customer” of the newsmen and must be monitored and made accountable to the people.

At the same time, the monitors must ensure that whatever they report about the public officer is of public interest. This calls for integrity on the part of the monitors and strict adherence to the professional code of conduct and legal boundaries.

### **SELF ASSESSMENT EXERCISE**

Why is it necessary for the monitors of public interest to have integrity?

### **4.0 CONCLUSION**

According to Momoh (2005), “there can be no greater thing in the national interest for those who govern to do so to secure the welfare and safety of the citizens”. And how this can be done is settled in Chapter Two of the Constitution that documents the Fundamental Objectives and

Directive Principles of State Policy. Those entrusted with the duty of serving the national interest must be monitored. There is a popular saying that a gold fish has no hiding place. It is for this reason that those in the public limelight, either as public officers or public figures are constantly being monitored by the mass media of every society. Indeed, what such people do or fail to do, have serious implications for the society.

## **5.0 SUMMARY**

In this unit, we focussed on public officers, defined who a public officer is, and presented a comprehensive list of all those recognized as public officers in the Federation of Nigeria. The list may differ for other societies, but the common idea is that public officers are paid by the tax payers to perform specific duties for the state. Public figures may not be paid by the state as such, but they are in the public consciousness always because they are celebrities. Many are role models whose actions or inactions may have serious implications for the society.

We also discussed what the national interest is. It is the aspirations and goals of the nation, as articulated by the government at any time. In fact, governments exist to pursue the national interest. Such national goals are usually captured in the nation's constitution, national anthem, and pledge, and publicized so that the nationals will know them and work towards achieving them.

Furthermore, in this unit, we saw what the public interest is, and why the mass media are always interested in them. In fact, the public interest is the driving force of news. It is what the media conceive as the public interest that they report as news.

## **6.0 TUTOR – MARKED ASSIGNMENTS**

We learn from history that sometimes the government's conception of the national interest is at variance with those of other important stakeholders such as the press and civil society. Prescribe what should be done at such times.

## **7.0 REFERENCES/FURTHER READINGS**

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## **UNIT 3      CONSTITUTIONAL PROVISIONS ON THE OBLIGATIONS AND OWNERSHIP OF THE MASS MEDIA IN NIGERIA**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is the Media's Relevance to the Political, Cultural and Economic Realm?
  - 3.2 What Role does the Nigerian Constitution Assign to the Media?
  - 3.3 In what Practical ways can the Media Perform this Role?
  - 3.4 What does the Nigerian Constitution say in Respect of Ownership of the Mass Media?
  - 3.5 Why is a Special Licence Required for Broadcast Ownership?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit, we shall be looking at five things:

- The media's relevance in the political, cultural and economic realm
- The Constitutional role of the media in Nigeria
- The practical way the media perform that role
- Constitutional provision in respect of media ownership
- Why a special licence is required for broadcast media ownership.

### **2.0 OBJECTIVES**

At the end of this unit, you should understand clearly the following:

- Why the media are important to the political, cultural and economic realm
- The Constitutional duties of the Nigerian media
- The practical ways in which the media perform their Constitutional duties
- What the Nigerian Constitution says about media ownership

- Why a special licence is required for the establishment of broadcast media.

### **3.0 MAIN CONTENT**

#### **3.1 What is the Media's Relevance to the Political, Cultural and Economic Realm?**

In the so-called liberal democracies, where the free-market economy obtains, and government is of the people, by the people and for the people, the mass media play essentially the same roles. Such roles can be broken down into political, cultural, economic, and what have you. A few examples will suffice here.

McQuail (2000) identifies the media's relevance to the political realm as follows:

- a) They have become an essential element in the process of democratic politics by providing an arena and channel for wide debate, for making candidates for office widely known and for distributing diverse information and opinion.
- b) They are now a means of exercising power by virtue of the relatively privileged access that politicians and agents of government generally claim from the media as a legitimate right.

Culturally, the media are relevant in the following ways:

- a) They constitute a primary source of definitions and images of social reality and the most ubiquitous expression of shared identity.
- b) They are the largest focus of leisure time and interest, providing the shared cultural environment for most people and more so than any other single institution.

At the economic level, the media are relevant for the following reasons.

- a) Traditionally they have been a means whereby people with goods and services to sell can advertise their wares.
- b) They are also growing as business enterprises, as media industries are growing, diversifying and consolidating their power in the market.

### **3.2 What is the Constitutional Duty of the Nigerian Media?**

It is in recognition of these important roles of the media that the Nigerian Constitution assigns them definite roles, the only non-governmental institution to be so recognized. Hence, the 1999 Constitution of the Federal Republic of Nigeria, in Chapter 2, under the Fundamental Objectives and Principles of State Policy directs that: “the State shall abolish all corrupt practices and abuse of power”. Then, Section 22 of the same Chapter assigns duties to the mass media, that is, newspapers, magazines, radio, television etc, to monitor government and make government accountable to the Nigerian people and uphold the objectives of the state.

It states: “The Press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in Chapter two and uphold the responsibility and accountability of the government to the people.”

The fundamental objectives of the Nigerian state, as contained in the above-mentioned section of the Constitution, have been listed in this study.

By this constitutional provision, Akinfeleye (2005) explains that the press is not given the power to try public officers on the pages of the newspapers and magazines, or on radio and television, but rather, that of monitoring and making the public officers accountable to the people.

### **3.3 In what Specific Ways Can The Press Perform This Constitutional Duty?**

Traditionally, the press performs the function in the following ways:

1. Reporting what goes on routinely in government circles, with a view to alerting the citizens when something goes wrong. This is called the surveillance or watch dog function.
2. Commenting on the significant issues and developments with a view to explaining, analysing or criticising them. In this way bad policies and undesirable developments are nipped in the bud.
3. Exposing wrong doings in government circles through investigative and special reporting, features and opinion articles.
4. Interviews and discussion programmes in the print and electronic media, whereby knowledgeable personalities and advocates of desirable ideas and programmes can express their views and canvass support.

5. Providing the avenues whereby people can send feedback to government, through letters to the editor, and interactive programmes on radio and television.

### **SELF ASSESSMENT EXERCISE**

Identify other practical ways in which the media can perform their Constitutional duty of monitoring government and making it accountable to the Nigerian people.

### **3.4 Constitutional Provision in Respect of Ownership of the Mass Media in Nigeria**

While Section 39 (1) of the 1999 constitution provides for freedom of expression, as we have already seen, subsection (2) grants the freedom to own, establish and operate any mass media. However, the same subsection 2 states that ownership of the electronic media, that is radio, and television shall be by a special licence from the president.

This means that while you can establish a print medium, that is newspaper or magazine, without any special presidential permit, such a permit is required for the establishment of radio and television stations.

The question then is: why does one require a special licence to own and operate radio and television stations but none to own and publish newspaper and magazines?.

### **3.5 Why is Special Licensing Required for Broadcasting?**

The following factors may be responsible for why special licence is required to own and operate the electronic media:

1. The broadcast spectrum belongs to all Nigerians. To operate a radio or television station one requires to be allocated frequencies. Government controls and allocates frequencies on behalf of all Nigerians. If frequencies are not controlled and allocated by central authority, there will be confusion in the atmosphere.
2. Governments the world over earn revenue from the allocation of broadcast frequencies and the frequencies used by other wireless technologies. such as GSM Government needs these revenues for the provision of social services.
3. Government regulates public broadcasting to ensure that it is used responsibly in the interest of the people. In the absence of regulation, some unscrupulous persons may misuse the media and endanger the public good.

4. Government regulates broadcasting, also to ensure that the media conform to the fundamental objectives of the state. In Chapter Two of the Nigerian Constitution under the Fundamental Objectives and Directive Principles of State Policy, the objectives of the Nigerian nation are articulated. These are the guiding principles of the Nigerian State which every government must endeavour to achieve. Since broadcasting is a very powerful tool, it stands to reason that if proper care is not taken to regulate broadcasting, these lofty ideals of the state may be undermined.

But does it mean that the print media operate without any controls whatsoever? Not exactly. All mass media operate within the laws which government makes to ensure orderliness in the society. As has been pointed out many times before, such laws include libel, defamation, sedition, copyright, plagiarism, contempt of court and others.

### **SELF ASSESSMENT EXERCISE**

Find out and discuss how broadcasting is regulated in any of the advanced countries such as Britain and the United States.

## **4.0 CONCLUSION**

You can see that the Nigerian Constitution recognizes the important roles the mass media can play in the society and accordingly assigns them special duties. The media are the only institution outside the three arms of government that is so recognized by the Constitution. Therefore, to whom much is given much is expected. It behoves media professionals to live up to the high responsibility expected of them. They can do this by, first of all, knowing these Constitutional duties, and then, adhering strictly to the ethics of their profession in the performance of their duties.

## **5.0 SUMMARY**

In this unit, we have looked at the media's relevance to the political, cultural and economic realm, as identified by McQuail (2000). Even more importantly, we looked at the duties assigned to the media by the Nigerian Constitution (1999). We discussed the practical ways in which the media have been performing this Constitutional duty.

Furthermore, we looked at the Constitutional provisions in respect of ownership of the broadcast media. Lastly, we pointed out why a special licence is required for the establishment of the broadcast media but not for the other media.

## **6.0 TUTOR- MARKED ASSIGNMENTS**

Discuss the problems which usually face the Nigerian media in the performance of their Constitutional obligations, and suggest how these obstacles can be overcome, for the benefit of the society.

## **7.0 REFERENCES/FURTHER READINGS**

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## **MODULE 3      THE UNIVERSAL PRESS LAWS**

Unit 1	Defamation and its essentials
Unit 2	Classes of Defamation: Slander and Libel
Unit 3	Defences to Defamation
Unit 4	Sedition

### **UNIT 1      DEFAMATION AND ITS ESSENTIALS**

#### **CONTENTS**

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	What is Defamation
3.2	What is Criminal Defamation?
3.3	What is the Purpose of the Law of Defamation?
3.4	Who are “Right-thinking Members of Society?”
3.2	What are the Essentials of Defamation?
4.0	Conclusion
5.0	Summary
6.0	Tutor - Marked Assignments
7.0	References/Further Readings

#### **1.0      INTRODUCTION**

In this unit, four things will be focused upon:

- The meanings of Defamation
- The essentials of Defamation
- The meaning of Criminal Defamation
- The purpose of the law of Defamation
- What is meant by “Right-thinking members of the society”

#### **2.0      OBJECTIVES**

At the end of this unit, you should be able to:

- Know what is defamation
- Define what Criminal Defamation means
- Understand the purpose of the law of Defamation
- Understand what is meant by “Right –thinking members of society.”
- Know the essentials of Defamation



### **3.0 MAIN CONTENT**

#### **3.1 What is Defamation?**

Defamation can be defined as the transmission to a third party, either orally or in writing, of information which tends to damage the reputation of another person. It is the publication of a statement, which exposes a person to hatred, ridicule, contempt and/or causes him to be shunned or avoided by right thinking members of society.

Experts (e.g Ewelukwa, 2004: 209; Malemi 1999:74, etc) are all agreed that for a statement to be defamatory of a person, that statement must be false and calculated to:

- (a) Lower him in the estimation of right-thinking men; or
- (b) Cause him to be shunned or avoided, or
- (c) Expose him to hatred, contempt or ridicule, or
- (d) Conveys an imputation on him disparaging or injurious to him in his office, profession, calling, trade or business.
- (e) Injures his financial credit

Similarly, the Penal Code states in Section 391, under Defamation, as follows:

Whoever by words either spoken or reproduced by mechanical means or intended to be read or signs or by representations, makes or publishes any imputation concerning any person, intending to harm the reputation of such person, is said ... to defame that person.

#### **3.2 What is Criminal Defamation?**

Defamation can be at once a civil as well as a criminal act. Indeed both the Criminal and Penal Codes have provisions on defamation. Section 373 of the Criminal Code defines Defamatory matter as matter likely to injure the reputation of any person in his profession or trade. Even a dead person can be defamed, according to both codes.

Section 375 of the Criminal code stipulates that any person who publishes any defamatory matter is guilty of a misdemeanor and is liable on conviction to imprisonment, fore knowledge that the offending matter is false attracts imprisonment for two years.

Section 376 states:

Any person who publishes, or threatens to publish, or offers to abstain from publishing, or offers to prevent the publication of defamatory

matter, with intent to extort money or other property or with intent to induce any person to give, confer, procure or attempt to procure, to upon, or for any person, any property or benefit of any.

Similarly, the Penal Code stipulates in Section 392, that “Whoever defames another shall be punished with imprisonment for a term, which may extend to two years or with fine or with both”

### **3.3 What is the Purpose of the Law of Defamation?**

The purpose of the law of defamation is to protect the reputation of people resulting from injurious statements, or acts by others. It is concerned with safeguarding the plaintiff’s interest in the good opinion which other people hold of him. For this reason, both the Criminal and Penal Codes emphasizes that the offending publication must not be false. (In due course, we shall see that truth is a strong defence to defamation). And should any injury be established in the person’s reputation, office, trade or profession, such injury must be compensated.

However, if the plaintiff has no reputation in respect of what is said, then the law cannot protect him and he will not be entitled to any redress. For example, if the person has been expelled from school for certificate forgery, it will not be defamatory to call him a “bloody liar” or “rogue”.

### **3.4 Who Are “Right – thinking Members of Society?”**

Of course, an important condition for the establishment of defamation is that the statement should be such that lowers the plaintiff in the estimation of right – thinking members of the society generally. This means that if a member of the plaintiff’s social club testifies that the plaintiff’s estimation has been reduced in his own estimation or that of their club member, it is not enough to establish defamation. Thus, a section of the community does not amount to the general public. According to Malemi (1999:76), the Supreme Court had ruled in *Egbuna V Amalgamated Press of Nigeria Ltd*, that in finding out the standard of the right – thinking members of society the court usually does not include:

- on the one hand, persons who are so lax or so cynical that they would think none the worse of a man whatever was imputed to him, and on the other hand, those who are censorious as to regard even trivial accusations (if they were true) as lowering another’s reputation, or who are so hasty as to infer the worst meaning from any ambiguous statement.... The ordinary citizen ... is neither usually suspicious or usually naïve, and he does not

always interpret the meaning of words as would a lawyer, for he is not inhibited by a knowledge of the rules of construction.

By excluding the two extremes of the naïve and those who may be too sensitive, the Supreme Court seems to have arrived at the general public as constituting right – thinking members of society.

### **3.5 What are the Essentials of Defamation?**

The following points must be proved for an action of defamation to succeed in court.

#### **1. Publication**

The offending statement must have been published. Publication means that the statement was communicated to a third party, other than the plaintiff.

The writing of a libelous matter or the speaking of a slanderous matter to only the plaintiff does not amount to publication. For example, if you receive a letter from a jilted lover in which she thoroughly abused you, but there is no proof that she copied the letter to any other person, you cannot sustain an action of defamation against her. However, the plaintiff must give the name of that third party in court as evidence that the offending matter was actually published.

Furthermore, communication of defamatory matter by husband to wife and vice versa, does not amount to publication since they are regarded as one person, for that practical purpose.

#### **2. Malice**

Another essential ingredient of defamation is that the offending statement must have a malicious intent. Malice is evil motive or spite. If the plaintiff can prove the existence of a malicious intention, the defence of fair comment by the defendant will be defeated.

#### **3. Damage**

Damage is quantifiable loss as a result of the defamation. In a situation where the defamatory statement is not actionable per se on mere publication, the plaintiff must prove some special or actual damage to succeed in his claim.

#### **4. Repetition**

Though it is not an essential condition for defamation, every repetition of a defamatory statement in writing, orally or in any other form, amounts to a fresh publication. And this may create a fresh cause of legal action.

Repetition and dissemination of defamatory matter may necessitate the suing of the printer, publisher, author and vendor news agent, in the case of books, newspapers and magazines.

This is as far as the theory goes. But in practice, vendors are rarely joined in any action of defamation, as the law views their involvement leniently, regarding them as innocent disseminators. However, should a vendor be joined in an action, he can easily be let off the hook if he can show that he did not know that the matter he is circulating is libelous and that his ignorance is not due to negligence on his part.

#### **3.3 What is Innuendo?**

Innuendo is where defamation occurs, not by the natural meanings of the words used, but by some kind of inference or connotation. If a plaintiff alleges innuendo, then he must establish that the particular meaning of the word used refers to him and can be understood as such.

There are two kinds of innuendo: true (legal) innuendo and false (popular) innuendo. It is a mere academic exercise trying to distinguish between true and false innuendo, since in either case the court would require the plaintiff to prove that the matter complained about was to his discredit. (Ewelukwa, 2004:218).

#### **3.4 What is Unintentional Defamation?**

A person who suffers defamation through any publication can sue and collect whether or not the offensive matter as intended to ridicule him. If an author creates a fictitious character in a fictional book or film and it defames a real person whom the author never knew existed, the real person can bring an action.

According to Ewelukwa (Ibid), it is to forestall this kind of situation, which could cause hardship for writers and publishers of fiction, that the law of defamation has been amended in many countries, including Nigeria. The change allows for the publication of a reasonable correction and apology in the case of unintentional defamation. This is to forestall litigation and the eventual award of damages.

## **Assent to Publication**

If a person assents to a publication either expressly or impliedly, then he has no case if some people now interpret that publication to be negative of him. It is more so if the ordinary meaning of the published matter is not derogatory.

## **SELF ASSESSMENT EXERCISE**

Why is the protection of one's reputation so important in a free society?

## **4.0 CONCLUSION**

You can see why it is essential for journalists to understand the essence of the law of defamation, and be properly guided in their day to day official activities and even in their private lives. Ignorance of the law has never been and can never be a defence. In the Colonial era many well meaning but ignorant nationalist-journalists were jailed because they were ignorant of the law of defamation and how to escape it. The law of Defamation is to protect the reputation of persons from undue injury.

You can also see that it is not sufficient to institute an action of defamation.; the plaintiff must prove the essentials of defamation discussed in the unit for the action to succeed.

## **5.0 SUMMARY**

In this unit, we have defined and explained what defamation means in law. We have seen the explanation of criminal defamation as well as the purpose of the law of defamation itself. We have also looked at the essentials of defamation. They include publication, malice, damage and repetition. Any of these can sustain a case of defamation. They are all explained in the unit. We also saw the definition and explanation of innuendo. We also we defined and explained what constitutes unintentional defamation.

Lastly, we have also seen that an indispensable condition for the establishment of defamation is that the statement should be such that lowers the plaintiff in the estimation of right thinking members of the society. We then saw the definition of the expression "right thinking members of the society," from a Supreme Court pronouncement.

## **6.0 TUTOR MARKED ASSIGNMENTS**

1. Find out from your own village what constituted the law of defamation before the advent of English law to Nigeria.

2. Find out from the editor of a newspaper and the news editor of a radio or television stations how they have handled any cases of unintentional defamation in the past.

## **7.0 REFERENCE/FURTHER READINGS**

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## **UNIT 2 CLASSES OF DEFAMATION: LIBEL AND SLANDER**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Libel?
  - 3.2 What is Slander?
  - 3.3 What is Vulgar Abuse?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit, three things will be covered:

- The definition of Libel
- The definition of Slander
- The definition of Vulgar abuse

### **2.0 OBJECTIVES**

At the end of this unit, you should be able to :

- Demonstrate what libel means
- Explain meaning and instances of slander
- Define and explain what vulgar abuse means

### **3.0 MAIN CONTENT**

#### **3.1 What is Libel?**

Much as the 1999 Constitution provides for freedom of expression in Section 39 (1) and the freedom to own the media for the expression of ideas in 39 (ii), it also provides for the protection of the right of the individual and national security. In section 45, the constitution provides:

Nothing in section 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 defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights and freedom of other persons.

Momoh (2004: 116) identifies a person's reputation as one of the protections he enjoys as per the above constitutional provision. Any attempt to reduce a person's reputation in the eyes of those who know him is a violation of his right to his good name. If the offending statement is in a permanent form, he is said to have been libeled.

### **Definition of Libel**

Thus, Ewelukwa (2004:212) defines libel as defamation by means of writing or by any other permanent form such as video tapes, pictures, was work, effigy etc.

Malemi (1999:77) also defines libel as a defamatory statement made in a visible or permanent form such as written or printed statements as in books, newspapers, notes, circular, letter, or by way of effigy, caricature, painting, photograph, film, radio, and television broadcasts, any recorded audio – visual material and so forth.

Furthermore, citing the case of *Union Bank of Nigeria V R.Oreden & Anor*, Ewelukwa identifies the following as the conditions for libel.

- (a) The publication must be in writing
- (b) The publication must be false
- (c) The publication must be published to some other person aside from the plaintiff and the defendant.
- (d) The publication must refer to the plaintiff and must be defamatory of him.
- (e) The publication must be by the defendant.

### **3.2 What is Slander?**

Slander is defamation through the spoken word or gesture. It is not generally actionable upon mere publication. However, there are instances where slander could be actionable per se, that is, without proof of special damage.

They include:



1. Allegation of a criminal offence punishable with imprisonment, such as theft, rape etc.
2. Imputation or allegation of a contagious disease which may necessitate the exclusion of the suffer from other members of society e.g. AIDS, leprosy etc.
3. Allegation of unchastely against a young woman.
4. Imputation of incompetence or unfitness against a workman, which can injure him in his trade, office, trade or profession.

### **3.3 What is Vulgar Abuse?**

It has been pointed out by lawyers that many otherwise slanderous statements may be dismissed by the court as mere vulgar abuse. If there is a hot exchange of abusive words between two persons, as is often the case in the Lagos traffic, can an aggrieved party sue and claim damages slander?

Experts say that the court will examine the particular circumstances under which the offensive words were spoken. The court will not dismiss the offence as mere vulgar abuse where the words spoken alleges specific acts of wrong doing or a crime which will lead to the person being shunned by the public or being arrested by the law enforcement agents. For example, if a person is falsely accused of being a cocaine pusher which leads to his being arrested and detained by the police, it will not be dismissed as mere vulgar abuse.

### **SELF ASSESSMENT EXERCISE**

Go to the archives, find and summarize three celebrated libel cases involving Nigerian newspapers.

### **4.0 CONCLUSION**

You can see that the freedom of expression which is a fundamental human right, and expressly guaranteed by the constitutions of free societies, is by no means an absolute privilege. The law of libel imposes one notable limitation to unbridled freedom of expression, aimed at protecting the reputation of persons.

You can also see that many of those abuses traded in the street may pass as vulgar abuse, while others indeed are quite capable of attracting actions of slander. A wise man should therefore exercise restraint when he talks no matter the degree of provocation.

## **5.0 SUMMARY**

In this unit, we have looked at the classes of defamation, that is, libel and slander. The difference between libel and slander is basically that, while libel is in a permanent form, slander is not. We looked the definitions and conditions for the occurrence of both libel and slander. Lastly, we saw what constitutes mere vulgar abuse and who determines whether a particular case can pass as mere vulgar abuse or can be considered as slander.

## **6.0 TUTOR – MARKED ASSIGNMENTS**

Interview an experienced legal practitioner and ask him to comment on the particular challenges of establishing a case of libel in court.

## **7.0 REFERENCES/FURTHER READINGS**

Ewelukwa, B.N. (2004). *Introduction to Nigerian Press Law*, Onitsha: Maranatha Press Ltd

Malemi, E. (1999). *Mass Media Law: Cases and Materials*, Lagos: Grace Publishers Inc.

## **UNIT 3      DEFENCES TO DEFAMATION**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What are the Defences to Defamation?
  - 3.2 What are the Remedies for Defamation?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor -Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit, two things will be focused upon:

- The Defences to Defamation
- The Remedies for Defamation

### **2.0 OBJECTIVES**

At the end of this unit, you should be able to know:

- The Defences to Defamation
- The Remedies for Defamation

### **3.0 MAIN CONTENT**

#### **3.1 What are the Defences to Defamation?**

We shall now consider eight defences to defamation open to journalists, authors, publicists, publishers, etc.

They are:

1. Justification or truth
2. Fair comment
3. Privilege
4. Consent to Publication
5. Death of the Plaintiff
6. *Res Judicata*
7. Accord and satisfaction
8. Innocent dissemination

### **1. Justification or truth**

If the publication complained about is true, entirely or even substantially, it can form a solid defence to defamation. But the onus is on the defendant who pleads justification to prove that the publication is true.

### **2. Fair Comment**

It is also a defence against defamation if the defendant can prove that the publication complained about is a fair comment made in the interest of the public. Indeed, since the constitution charges the press to make government accountable and uphold the fundamental objectives of the Nigerian state, it follows that fair comment made in respect of any public officer or public figure on any matter of public interest can form a defence against an action for defamation.

Ewelukwa (2004:224) insists that for a comment to be “fair comment” it must satisfy the following conditions.

1. The matter commented on must be of public interest.
2. The matter commented on must be an expression of opinion by the defendant and not an assertion of fact by him.
3. The comment on the plaintiff must be fair.

Indeed, the beauty of fair comment is that if a commentator expresses an honest opinion on a matter of public interest, it does not even matter if the opinion is wrong in that it will bring the subject of the comment to public ridicule, it is still a solid defence against an action of defamation.

### **3. Privilege**

Privilege means a benefit or immunity enjoyed by someone or a class of people which does not apply to the general public. In communication, privilege is the freedom enjoyed in certain circumstances whereby statements can be made without the bogey of an action of defamation. As a defence against defamation privilege is in two kinds: absolute and qualified privilege.

#### **(a) Absolute Privilege**

Absolute privilege is the unhindered liberty to make statements orally or in written form to the extent that anyone who feels that he has been defamed by the statement cannot seek redress in a law court, nor can the court entertain such an action. This is regardless of whether the statement is false and/or malicious.

Those who enjoy absolute privilege in the courts of their official duties include the Head of State, governors, High Court judges, magistrates, even lawyers and witnesses, legislators. Thus no action can be brought against any of the above mentioned if they defame any one in the course of their official duties. Also, communication between husband and wife enjoys absolute privilege.

(b) Qualified Privilege

There is qualified privilege to make defamatory statements when the person who makes it has a duty, legal, social or moral, to make it and the person to whom it is made has a duty, legal, social or moral, to receive it. However, the statement must have been made honestly and without malice. For, malice defeats privilege.

**Qualified Privileges of Newspapers**

Ewelukwa (2004:228) writes that in the defamation laws of many states in Nigeria newspaper reports enjoy qualified privilege if they satisfy the following criteria.

- (a) They are fair and accurate reports of legislative proceedings.
- (b) They are fair and accurate reports of the public proceedings of the conference of an international organization of which Nigeria or any of its states is a member.
- (c) They are fair and accurate reports of any public proceedings of an international court.
- (d) They are fair and accurate reports of any proceedings in public of a body or person appointed to hold a public enquiry by the government or legislature of any part of the Commonwealth outside Nigeria.
- (e) They are fair accurate reports of any reports of any proceedings before a court exercising jurisdiction throughout any part of the Commonwealth outside Nigeria under the Nigerian Army Act 1990 or the Nigerian Navy Act, 1990.
- (f) They are fair and accurate copies or extracts from any register kept in pursuance of any law or Act which is open to inspection by the public or any other document which is required by any law or Act to be open to inspection by the public.

- (g) Notice of advertisement published by or on the authority of a court within Nigeria or office of such court.

#### **4. Consent to Publication**

If a person willingly invites the press to cover his function or he grants an interview on his own volition, then the press can plead consent if the person turns round to bring an action of defamation. However, if the publication goes beyond the limit of the initial approval, there may be grounds for an action.

#### **5. Death of the Plaintiff**

If the person allegedly defamed is dead, it will be difficult to sustain the action because reputation is a personal possession and only the owner of the reputation can sue for it.

#### **6. *Res Judicata***

If a case of defamation has been tried, lost and won, it will be a waste of time to file a fresh action on the same matter. *Res judicata* is to say that the case has come to a logical end and had died a natural death.

#### **7. Accord and Satisfaction**

It shall be a defence to defamation if there is a mutual settlement between the two parties to the satisfaction of both of them.

#### **8. Innocent Dissemination**

The person circulating the offensive matter can plead that he is ignorant of what he is disseminating and should therefore be excluded from any legal action. The plaintiff and the court usually exonerates this category of persons especially in view of the fact that they cannot pay any damages should the case be awarded against them.

### **3.2 Remedies for Defamation**

If a case of defamation has been established and accepted by the court, then the plaintiff is entitled to one or a combination of the following remedies.

- (a) Damages
- (b) Injunction, which may be interim, interlocutory or perpetual.
- (c) Publication of retraction or correction
- (d) Publication of apology and offer of amends.

## 4.0 CONCLUSION

Without these defences against defamation the task of journalists and other public affairs commentators would have been a very dangerous one indeed. But the law has provided adequate defences to protect all those with honest and genuine intentions in the discharge of their duties. It behooves the responsible journalist to carefully consider the defences available in each case before making an incisive commentary of public interest.

## 5.0 SUMMARY

In this unit, we have looked at the eight defences against defamation. They are: justification, fair comment, privilege, consent, and death of plaintiff. Others are *Res judicata*, accord and innocent dissemination.

We also considered the remedies for defamation, which include damages, injunction, retraction and apology.

## 6.0 TUTOR – MARKED ASSIGNMENTS

Interview an experienced newspaper editor for his/her comments on how his/her newspaper has ever applied any of the defences to defamation to its advantage.

## 7.0 REFERENCES/FURTHER READINGS

Ewelukwa, B.N. (2004). *Introduction to Nigerian Press Law*, Onitsha: Maranatha Press Ltd

## **UNIT 4     SEDITION**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Sedition?
  - 3.2 What are the Important Aspects of Sedition?
  - 3.3 Is the Law of Sedition Still Relevant?
  - 3.4 What is the Constitutional Basis of the Law of Sedition?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit, three things will be looked into:

- The definitions of Sedition
- The important things to know about Sedition
- The Constitutional basis of the law of Sedition

### **2.0 OBJECTIVES**

At the end of this unit, you should be able to:

- Define and explain what Sedition is
- Know the important aspects of Sedition
- Understand the Constitutional basis of the law of Sedition

### **3.0 MAIN CONTENT**

#### **3.1 What is Sedition?**

One of the first laws the British Colonial Administration enacted to check the rising wave of criticism at that time was the Seditious Offences Ordinance of 1909. When the Criminal Code was adopted in 1916, Sedition occupied a prominent place in it and has ever since been part of our statutes (Momoh, 2004:17).

Accordingly, Section 50 (1) of the Criminal Code (applicable to Southern Nigeria) defines a seditious publication as a publication having



a seditious intention. And Section 50 (2) defines seditious intention as an intention

- (a) To bring into hatred or contempt or to excite disaffection against the person of the Head of the Federal Government, the Governor of a state or the government or constitutions of Nigeria or a state as by law established or against the administration of justice in Nigeria; or
- (b) To excite Nigerians to attempt to procure the alteration, otherwise than by lawful means, or any other matter in Nigeria as by law established; or
- (c) To raise discontent or disaffection among the inhabitants of Nigeria; or
- (d) To promote feelings or ill-will and hostility between different classes of the population of Nigeria.

### **Sedition Defined**

From the above statutory provisions, sedition can be defined as any statement or representation which has the intention to stir up treason, defame the person of the head of state or governor of a state or incite one section of the population against another.

## **3.2 Important Aspects of the Law of Sedition**

The student must understand the following aspects of the law of sedition, outlined by Malemi (1999:59)

- (a) Seditious Conspiracy
- (b) Seditious Libel
- (c) Seditious Speech
- (d) Who may be convicted for sedition?
- (e) Is the law of sedition still relevant?
- (f) Constitutional basis of the law of sedition.

### **(a) Seditious Conspiracy**

This is the agreement or plan by two or more persons to overthrow or put down by unlawful means or to destroy by force the government of the country or state.

### **(b) Seditious Libel**

This is any communication in written or any other permanent form, which has the intention to incite people to change the government by unlawful means or which advocates the overthrow of the government by force or which advocates the destruction of the state.

**(c) Seditious Speech**

This is any speech which advocates the overthrow of the government or its destruction by force.

**(d) Who may be convicted for Sedition?**

Section 51 of the Criminal Code makes the following persons liable for sedition:

Anyone who does a seditious act or takes part in the preparation or conspires with others to commit sedition or utters seditious words. Also liable are printers, publishers, distributors, vendors, reproducers and importers of seditious publications.

**(e) Is the Law of Sedition still relevant in the Present Democratic Dispensation?**

It has been noted that the law of sedition was one of the first press laws enacted by the British Colonial administration in the Protectorate of Southern Nigeria to check rising press criticism. Many journalists and nationalists of that era were, as a result, jailed and newspapers heavily fined. On the attainment of independence, therefore, the nationalists had expected that such obnoxious laws would be expunged from the statutes.

Indeed, some progressive judges had ruled that such laws had no place in an independent Nigeria. But 46 years after, the law still occupies a prominent place in the statutes.

Those against the retention of the law of sedition point out that it denies people their fundamental human rights of free expression, vitiates the right to criticize government and denies the people their right to self determination. They argue further that the law of sedition could be misused by a dictator to overreach himself, thereby retarding the growth of democracy and development.

But those who support the retention of the law of sedition present a counter argument. They argue that the law of sedition is aimed

at protecting the government and its institutions which are established by law to serve the Nigerian people. Without such a law, acts of treason, such as incitement to riots, destruction of public property and entronement of anarchy could be perpetrated by lawless people to the detriment of the state. While arguing that the right to free expression is not absolute, they insist that such rights impose a corresponding duty on the citizens to respect constituted authority and stay within the provisions of the law.

An attempt to balance the two arguments brings one to a middle of the road conclusion, namely, that I will not be in the interest of the state to abolish altogether the law of sedition. However, government must exercise utmost restraint in the enforcement of such laws in order to accommodate the genuine desire of the people for good government and self-determination.

### **3.3 Constitutional Basis of the Law of Sedition**

The Constitutional basis for the law of sedition in Nigeria is section 4 of the 1999 constitution which states:

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 defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights and freedom of other persons.

This shows that the intention of the law of Sedition is to preserve public order and to protect the citizens of Nigeria against the result of riots, disorder and other consequences of a violent overthrow of the government.

### **4.0 CONCLUSION**

In the past Nigerian journalists, public commentators and human rights activists paid a huge price going in and out of detention, under the law of Sedition. Perhaps, that was the price that had to be paid for a free society. Indeed, the lesson from all societies of the world throughout the ages is that no price is too much to be paid for liberty.

Nevertheless, it pays to understand the law of the land so as to avoid costly and unnecessary altercations with the powers that be. That is why journalists and other public affairs commentators should know the nuances of the law of Sedition in order to perform their duties more safely.

## **5.0 SUMMARY**

In this unit, we have looked at the law of Sedition and the important aspects of Sedition itself. We also discussed the relevance of such a law in the current democratic dispensation and reviewed the arguments for and against retaining the law in a democracy. Lastly, we also looked at the Constitutional bases of the law of Sedition.

## **6.0 TUTOR – MARKED ASSIGNMENTS**

Compare and contrast the enforcement of the law of Sedition during the military era and during a democratic era in Nigeria.

## **7.0 REFERENCES/FURTHER READINGS**

1999 Constitution of the Federal Republic of Nigeria

The Criminal Code (Laws of Southern Nigeria)

Malemi, E, (1999). *Mass Media Law: Cases and Materials*, Lagos: Grace Publishers Inc.

Momoh, T, (2002). *Nigerian Media Law and Ethics*, Lagos: Efua Media Associates.

## **MODULE 4      COPYRIGHT, CONTEMPT AND THE ISSUE OF NATIONAL SECURITY**

Unit 1	Copyright: Piracy and Plagiarism
Unit 2	Contempt of Court and Contempt of Parliament
Unit 3	National Security and the Nigerian media
Unit 4	The Official Secrets Act

### **UNIT 1      COPYRIGHT: PIRACY AND PLAGIARISM**

#### **CONTENTS**

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	What is Copyright?
3.2	What Works are Eligible for Copyright?
3.3	What is the Duration of Copyright?
3.4	What are the Remedies for Copyright Violation?
3.5	What is Piracy?
3.6	What is Plagiarism?
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignments
7.0	References/Further Readings

#### **1.0      INTRODUCTION**

In this unit four things will be focused upon:

- The meaning and purpose of the law of Copyright
- Works eligible for Copyright
- The duration of Copyright
- The remedies for Copyright
- The meaning of Piracy
- The meaning of Plagiarism

#### **2.0      OBJECTIVES**

At the end of this unit, you should be able to:

- Define and explain what Copyright is all about
- Know the kind of works eligible for Copyright violation
- Know the duration of Copyright and what is “fair use”
- Know the remedies for Copyright

- Know the meaning of Piracy
- Know the meaning of Plagiarism

### 3.0 MAIN CONTENT

#### 3.1 What is Copyright?

Copyright is the right which the law gives an author or other originator of an intellectual production whereby he is invested with the sole and exclusive privilege of reproducing and selling copies of his work. It is usually expressed in warnings like the example below in books and phonographic recordings:

*All rights reserved. No part of this work may be reproduced in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the publisher/author.*

The essence of the law of Copyright is to protect intellectual property from being reproduced and sold by unauthorized persons, so that the owner of the work can enjoy the fruit of his labour. But the advance in technology is making it increasingly difficult to enforce copyright laws. This is because hundreds of thousands of copies of books and phonographic materials of all kinds can now be easily reproduced by pirates, thanks to the ubiquitous photocopying machines and audio/visual recorders.

Piracy has assumed a worrisome dimension in the developing countries where poverty and the get-rich –quick syndrome, coupled with poor law enforcement, have combined to provide fertile ground for such vices. In schools and universities indigent students photocopy whole books for their use, even where such materials are available and affordable. Also, at the ubiquitous road side markets in the cities it is common to find poor quality reproductions of recommended text books on sale at rock bottom prices – the fruit of piracy.

In Nigeria the widespread violation of copyright, especially in the music industry, led to the enactment of the Copyright Act of 1990. This was to strengthen the existing Copyright Act of 1970. Section 14 (1) of the 1990 Copyright Act states as follows:

Copyright is infringed by any person who, without the licence or authorization of the owner of the copyright:

- a) Does or causes any other person to do an act, the doing of which is controlled by copyright.
- b) imports into Nigeria, otherwise for his private or domestic use, any article in respect of which copyright is infringed under paragraph (a) of this subsection;
- c) exhibits in public any article in respect of which copyright is infringed under paragraph (a) of this subsection.
- d) Distributes by way of trade, offers for sale, hires or otherwise or for any purpose prejudicial to the owner of the copyright. Any article in respect of which copyright is infringed under paragraph (a) of the section;
- e) Makes or has in his possession, plates, master-tapes, machines, equipment or contrivances used for the purpose of making infringed copies of the work;
- f) Permits a place of public entertainment or of business to be used for a performance in the public of the work, where the performance constitutes an infringement of copyright in the work, unless the person permitting the place to be so used was not aware, and had no reasonable ground for suspecting that the performance would be an infringement of the copyright;
- g) Performs or causes to be performed for the purposes of trade or business or as supporting facility to a trade or business, any work in which copyright subsists.

### 3.2 Works Eligible for Copyright in Nigeria

Malemi (1999: 136) lists the following works as those eligible for copyright violation in Nigeria:

- a) Literary works
- b) Musical works
- c) Artistic works
- d) Cinematographic works
- e) Sound recording
- f) Broadcast

#### a) **Literary works**

They include writings such as novels, stories, poetry, plays, film, broadcasts and teleplays, text books, biographies, essays, articles, etc

#### b) **Musical works**

Included here are all kinds of musical works, whether accompanied by lyrics or instrumental.

**c) Artistic works**

Such as paintings, drawings, etchings, lithographs, woodcuts, engravings, prints, maps, plans, diagrams, sculptures, photographs, etc.

**d) Cinematograph films**

Films of all sorts, whether or not they can be shown as moving pictures.

**e) Sound recording**

Any sound recording that can be perceived aurally.

**f) Broadcast**

All broadcasts via radio, television, satellite, cable, or rebroadcasts.

However, some kinds of works do not enjoy copyright. They include but are not limited to: letters to the editor, advertisements and titles. Also, according to Malemi, “copyright protection does not exist in respect of any idea, thought, fact, concept, principle, discovery, process, procedure, system or method of operation, no matter the form in which it is expressed, illustrated or embodied in a work.”

### **3.3 Duration of Copyright and Fair Usage**

The Copyright Act stipulates that the duration of copyright depends on the nature of the work in question. For literary, musical and artistic works, the copyright lasts for the lifetime of the author, plus 70 years after his death. However, for cinematograph films, photographs, sound recordings and broadcasts, the copyright lasts for 50 years from the end of the calendar year in which the work was first published or broadcast.

“Fair usage” or “fair dealing” is an exception to copyright control, whereby the work is not reproduced for commercial purposes but a few copies are made for private use, study or research.

### **3.4 The Remedies for Copyright**

The remedies for copyright violation as contained in the Copyright Act are:



- a) Damages
  - b) Injunction
  - c) Accounts
  - d) Delivery up
- a) **Damages** are the compensation which may be recovered in the courts by any person who has suffered loss or damage.
- b) **Injunction** is a court order requiring a party to a dispute to do or refrain from doing something. In the case of copyright violation, it is handed down to the pirate to stop further selling or using of the work in question.
- c) **Account** in this sense is the assessment of the gains which accrued to the violator of copyright from the work.
- d) **Delivery up** means that the court orders the copyright infringer to give up all the pirated work still in his possession

### SELF ASSESSMENT EXERCISE

Find out from the officials of Performing Musicians Association of Nigeria (PMAN) about the efforts the association has made so far to curb piracy of their members' works and the difficulties they are facing in combating piracy in the West African sub region.

### 3.5 What is Plagiarism?

Plagiarism is the unethical practice of lifting information (news, statistics, ideas, passages, etc.) from existing materials and presenting it as if it originated from the writer.. The chief plagiarizers are students at all levels. Frequently they “dub” copiously from books, journals, newspapers and magazines without attributing their sources. Plagiarism is a very serious offence in the academia, punishable by removal from the job whenever proved beyond reasonable doubt.

Newsmen and women also commit plagiarism when they lift ideas from books and other media without attribution. But it is in the best interest of journalists and their mass media to acknowledge their sources, because if the story lifted turns out to be false, the blame will first go to the original source. Besides, since the game of the media is to be the first to come out with the news, those who go to great extents to achieve that feat should be accorded their deserved credit, in the interest of fairness.

Therefore, when reporters obtain statistics from documents to beef up their reports, it is only proper that they should indicate the source.

Hence, Article 13 of the 1998 Code of Ethics for Nigerian Journalists, under Plagiarism, states: “A journalist should not copy, wholesale or in part, other people’s work without attribution and/or consent”

### **SELF ASSESSMENT EXERCISE**

Why is plagiarism considered a serious offence in the academia? Discuss.

### **3.6 What is Piracy?**

Piracy is the illegal reprinting or reproduction of another person’s work which is under copyright. Both plagiarism and piracy are subsumed under copyright, but differ in the sense that, by common application, piracy refers to the large scale reproduction of the material for commercial purposes, while plagiarism is lifting another person’s ideas without attribution, and purporting same to have originated from you. (See “Fair usage” under 3.3 above)

### **4.0 CONCLUSION**

You can see that every successful author and every originator of a successful musical production in Nigeria would have been much happier than they are, but for the nefarious activities of copyright violators whose stock in trade is to continue reaping where they did not sow. You can also see that the law has provided adequate safeguards against copyright. Alas, if only the law can be adequately enforced! So copyright infringement goes on, and the owners of intellectual property continue to lose. When will it end?

### **5.0 SUMMARY**

In this unit, we have looked at the meaning of copyright and the havoc copyright violations wreak on intellectual proprietary. We also discussed the kinds of works that can be copyrighted, including books, art works, photographs, films, architectural drawings, etc.

We also discussed the duration of copyright and what can be considered as fair usage of another person’s work. Lastly, we also saw the remedies for copyright, which include damages, injunction, account and delivery up.

## 6.0 TUTOR – MARKED ASSIGNMENTS

Compare and contrast the copyright laws on Nigeria and that of the United States of America.

## 7.0 REFERENCES/FURTHER READINGS

Copyright Act, 1990

Ewelukwa, B.N. (2004). *Introduction to Nigerian Press Law*, Onitsha: Maranatha Press Ltd

Malemi, E. (1999). *Mass Media Law: Cases and Materials*, Lagos: Grace Publishers Inc.

## **UNIT 2      CONTEMPT OF COURT AND CONTEMPT OF PARLIAMENT**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Contempt of Court?
  - 3.2 Contempt of Court and the Media
  - 3.3 Celebrated Case of Contempt of Court
  - 3.4 What is Contempt of Parliament?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit, three things will be focused upon:

- The meaning of contempt of court
- Ways in which journalists commit contempt
- Celebrated case of contempt of court
- The meaning of contempt of parliament
- Ways in which a journalist can commit contempt of parliament
- Whether parliament like the courts can jail a journalist.

### **2.0 OBJECTIVES**

At the end of this unit, you should be able to:

- Explain what contempt of court means
- Know the practical ways in which contempt of court can occur
- Be acquainted with one of the most celebrated cases of contempt in Nigerian journalism
- Explain what contempt of parliament means
- Know the ways in which a journalist can commit contempt of parliament
- Know why parliament cannot commit a journalist to prison

### **3.0 MAIN CONTENT**

### 3.1 What is Contempt of Court?

The law of contempt is predicated on the absolute necessity to provide an enabling environment for the courts and the legislature to perform their constitutional duties without hindrance. In Nigeria the laws that pertain to contempt of court are the Criminal Code Act, the Penal Code Act and the Constitution itself.

Section 133 of the Criminal Code states that any person who:

1. Within the premises in which any judicial proceeding is being heard or taken within the precincts of the same, shows disrespect in speech or manner, to or with reference to such proceedings, or any person before whom such proceeding is being heard or taken; or
2. Having been called upon to give evidence in a judicial proceeding, fails to attend or, having attended refused within lawful excuse to answer a question or produce a document or prevaricates, or remains in the room in which such proceeding is being heard or taken after the witnesses have been ordered to leave such room; or
3. Causes an obstruction or disturbance in the course of a judicial proceeding; or
4. While a judicial proceeding is pending makes use of any speech or writing misrepresenting such proceeding, or capable of prejudicing any person in favour of or against any party to such proceeding, or calculated to lower the authority of any person before whom such proceeding is being heard or taken; or
5. Publishes a report of the evidence taken in any judicial proceeding which has been directed to be held in private; or
6. Attempts wrongfully to interfere with or influence a witness in a judicial proceeding either before or after he has given evidence in connection with such evidence; or
7. Dismisses a servant because he has given evidence on behalf of a certain party to a judicial proceeding; or
8. Retakes possession of land from any person who has recently obtained possession by a writ of court; or

9. Commits any act of intentional disrespect to any judicial proceeding, or any person before whom such proceeding is being had or taken,

*Is guilty of a simple offence, and liable to imprisonment for three months.*

Section 6 of the Criminal Code further states:

- Nothing in this act or code shall affect the authority of courts of record to punish a person summarily for the offence commonly known as contempt of court, provided that a person is not punished for the same both under the inherent powers of the court and under the provisions of Section 133 of the Criminal Code.

Similarly, Section 155 of the Penal Code provides thus:

- Whoever intentionally offers any insult or causes any interruption to any public servant while such a servant is sitting at any stage of a judicial proceedings shall be punished with imprisonment for a term which may extend to six months or with a fine which may extend to 20 pounds or both.

The 1999 Constitution also provides for contempt of court in Section 39 (3) where it states:

- Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society: (a) for... maintaining the authority and independence of courts...

### **Definition of Contempt**

From all the foregoing, contempt of court can be defined as: any act which is calculated to embarrass, hinder or obstruct court administration of justice, or which is calculated to lessen its authority or its dignity, committed by a person who does an act in wilful contravention of its authority or dignity, or tending to impede or frustrate the administration of justice or by one who, being under the court's authority as a party to a proceeding wilfully disobeys its lawful orders or fails to comply with an understanding which he has given.

Contempt of court can be in two ways:

- a) Contempt in the face of the court (*facia curia*) otherwise known as direct contempt; and

- b) Indirect contempt or *ex facia curia*. This is contempt committed outside the court, so to say.

### **3.2 Ways in which Contempt of Court Can be Committed by the Journalist**

As law-abiding and responsible citizens, journalists are expected to respect the courts in the course of their official duties. However, in the past there have been altercations between journalists on the one hand and judges and magistrates on the other over contempt, occasioned by the following infringements:

- a. Trial by the media, whereby a suspect in a criminal offence is deemed already guilty by the media even before the trial is over. This annoys judges and magistrates and often causes them to invite the journalists involved for tongue lashing and possible committal to prison if they do not show sufficient remorse.
- b. Commenting on a case before the court in a manner that suggests that those involved will not obtain justice.
- c. Showing disrespect to the magistrate or judge right in the court (*in facia curia*) , such as making a noise when the court is sitting, taking photographs in the open court, etc.

### **3.3 A Celebrated Case of Contempt of Court**

A case of contempt of court which readily comes to mind is the celebrated case of Onagoruwa Vs the State, in which Dr. Olu Onagoruwa , a columnist with the *Daily Times* allegedly prejudged a case before the Anambra State High Court in 1979. The State Chief Judge trying the case ordered that Onagoruwa be detained in prison until he purged himself of contempt.

Onagoruwa appealed on the ground that the order for his detention was unlawful, and that the alleged contempt was *ex facia curia*, not *in facia curia* as argued by the opposing side.

The appeal court ruled that the detention of Dr Onagoruwa for contempt was indeed improper, as he was not given a fair hearing. More so, the contempt in question was not in the face of the court but outside the court. The appeal court upheld the argument that the alleged contempt was not the publication of the initial article, but rather the refusal of the appellant to comply with the order of the court that he should make amends for his initial contempt.

The court further made the following landmark statement about contempt in general:

- Contempt committed *ex facia curia* being words spoken or acts done outside court which are intended or likely to interfere with or obstruct the fair administration of justice, a newspaper article apparently prejudging a trial could clearly be *prima facie* contemptuous, but in deciding whether it actually offends the law, the court should act with caution and restraint and consider whether the hearing will in fact be grossly affected, particularly, where the issue concerned is a civil one to be heard without a jury, but solely by a judge, trained to assess the evidence fairly and to arrive at conclusion based on that alone. (Ewelukwa, 2004:151)

### **Lessons from the Appeal Court's Ruling**

From the Appeal court's ruling on the Onagoruwa case, one can understand a few things about contempt of court as it applies to newspapers:

- i) If the newspaper commentary prejudices a case under trial, it will be *prima facie* contemptuous of the court.
- ii) However, judges are expected to apply that law with caution, since the newspaper article on its own is not enough to sway the learned trial judge to depart from the path of justice, especially when he has before him evidence to consider in deciding the case. What is more, the judge has received adequate training to enable him to weigh the evidence before him.
- iii) This serves as a lesson to both journalists and judges on the contentious issue of contempt of court. Some judges seem to be too sensitive on such matters, to the ridiculous extent that undermines freedom of expression. Indeed, the old notion that a case in court cannot be commented upon is a fallacy.

### **3.4 What is Contempt of Parliament?**

Contempt of parliament is any action or word which tends to intimidate or obstruct members of parliament from performing their lawful duties. Parliament in present day Nigeria would mean the National Assembly or the House of Assembly of a State.

The 1999 Constitution accordingly gives the National Assembly and the State Houses of Assembly the powers to make laws. For example, Chapter 1, Part II, Sections 4 (i) and (2) state as follows:



- (1) The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the federation which shall consist of a senate and a House of Representatives.
- (2) The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part 1 of the Second Schedule of this Constitution

Furthermore, Section 4 (7) states:

The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof.

Accordingly, the legislature has the power under the Legislative Houses Powers and Privileges Act, 1990 to punish any one or institution, including the media, whose actions or utterances are deemed to be contemptuous of that legislature. (The Legislative Houses and Privileges Act defines the powers, privileges and immunities of parliament.)

### **3.5 In What Ways can a Journalist Show Disrespect To Parliament?**

The mass media as responsible institutions of the society are therefore expected to respect the immunities, integrity, privileges and rights of the assembly members. But sometimes conflicts arise. In what instances can the action of a journalist be deemed to be disrespectful to a legislative house? Disrespect to parliament can be in the following ways:

- a) Misrepresentation of parliamentary proceedings
- b) Scandalous publications about parliamentarians
- c) Refusal to honour the invitation of the parliament
- d) Refusal to correct misrepresentation about parliament or its leaders, etc.

### **3.6 Can Parliament Commit a Journalist to Prison?**

Is it possible for parliament to commit a journalist to prison, like the courts? The answer is of course no, and it has never happened (in Nigeria, at least). Whenever parliament feels aggrieved over adverse press reports, it usually reacts in form of reprimand, objections, warnings and caution. It does not have the power to jail journalists since it is not a court of law. Moreover, it would not be a judge and prosecutor in its own case. The theory of separation of powers gives parliament the role of making laws but leaves the interpretation for the judiciary. Therefore it would be unconstitutional for parliament to prosecute and jail a journalist, or any one.

However, parliament can, and indeed, has issued warrants for the arrest of persons who were summoned by parliament but failed or refused to show up. Parliament can also withdraw the accreditation of any journalist who disrespects it. But it has been the custom of parliament to exercise utmost caution in such matters so as to avoid unnecessary altercations with the media, since both institutions are partners in progress.

### **SELF ASSESSMENT EXERCISE**

Find out and summarize another case of contempt of court involving the Nigerian press.

### **4.0 CONCLUSION**

Contempt of court is aimed at maintaining the sanctity of courts so that they can adequately discharge their constitutional duty of dispensing justice. Every responsible citizen is duty bound to respect the courts. Journalists as responsible citizens cannot do less. You have also seen that the laws of the land adequately seeks to prevent contempt of parliament so that the legislative houses can perform their constitutional obligations without interference. It behoves every journalist as a responsible citizen to accord parliament its due respect.

### **5.0 SUMMARY**

In this unit, we have looked at the bases of the law of contempt of court from the Criminal Code, the Penal Code and the Constitution. We also defined and explained what contempt of court means.

In the unit, it was also pointed out the practical ways a journalist can violate contempt off court. A celebrated case of contempt was cited as an example and some lessons were drawn from it.

In this unit, we also looked at what constitutes contempt of parliament and the practical ways in which it can occur. We also answered the question whether parliament can prosecute and jail a journalist. The question was answered in the negative.

## **6.0 TUTOR - MARKED ASSIGNMENTS**

Compare and contrast contempt of parliament with contempt of court. Discuss.

## **7.0 REFERENCES/FURTHER READINGS**

Constitution of the Federal Republic of Nigeria, 1999

Legislative Houses and Privileges Act, 1990

The Criminal Code (Laws of Southern Nigeria)

The Penal Code (Laws of Northern Nigeria)

1999 Constitution of the Federal Republic of Nigeria

Ewelukwa, B.N. (2004). *Introduction to Nigerian Press Law*, Onitsha: Maranatha Press Ltd

## **UNIT 3      NATIONAL SECURITY AND THE MEDIA**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is National Security?
  - 3.2 What are the Traditional Roles of the Media which Seem to Undermine National Security?
  - 3.3 What are the Actions of Government which Undermine National Security?
  - 3.4 What Government must do to Protect National Security?
  - 3.5 What the Media must do to Protect National Security
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor - Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit we shall look at five things:

- The meaning of National Security
- The traditional roles of the media which seem to undermine National Security
- The actions of the Government which undermine National Security
- What Government must do to protect National Security
- What the Media must do to protect National Security

### **2.0 OBJECTIVES**

At the end of the unit, you should be able to do the following:

- Understand the meaning of National Security.
- Know the traditional roles of the mass media which seem to undermine National Security.
- Know the excesses of Government which may undermine National Security.
- Know what Government should do to protect National Security.
- Know what the Media should do to protect National Security.

### **3.0 MAIN CONTENT**

### 3.1 What is National Security?

Imobighe (2001) identifies three models for defining national security. The first is the narrow military conception, which implies the assemblage of “a formidable military defence to protect the territorial integrity of the state from both internal and external violations”. The second model sees national security as “protection not only from military threats but also from economic vulnerability, ecological threats and natural disasters”. The third model for defining national security, which he terms “a new thinking” among African scholars, considers national security as:

- Freedom from, or elimination of threats not only to the physical existence of the state, but also to its ability for self – protection and development, and the enhancement of the general well-being of all the people.

According to Imobighe (ibid) this is the kind of security which provides all the inheritance with the “right atmosphere for self-improvement and actualization”.

In examining the three models of security suggested by Imobighe, one can easily see that the first model, which is the dominant paradigm, is the type practiced in most of the African states from pre-colonial times, but was perfected by the military. The second model is gaining more and more acceptance, while the third model, at best, is only an ideal existing in the heads of Africans but as yet, the governments are only paying lip service to it.

The most ardent proponents of the traditional model of security are the apologists of military rule. For example, Nigeria’s former Inspector – General of Police (IGP), Mohammed Gambo (1988 : 102) defines national security simply as :

- Protection of the lives and property of people of various forms of threat be it internal or external. It is the decision – making process concerned with the identification of potential and actual threats, and the mobilization of resources in frame that promptly ensures the safety and stability of the nation state, while simultaneously enhancing the promotion of national development.

Even at that, what obtains in most African states, which attained perfection during the dark days of military rule is a distorted version of the traditional model, whereby those in power substitute their individual security for national security and, consider any challenge to their

tenacious grip on power as a threat to national security. Since national security should occupy the 'highest priority', is "non- negotiable" and does not permit "undue compromise" (Gambo *ibid*) any individual or group which poses the slightest threat to the selfish interest of those in power, is visited with the full might of state coercion. Incidentally, it is the media and those who use them to vent dissenting views that are always at the receiving end of this coercion. The history of Nigeria from the dawn of colonialism to date but especially in the military era, is replete with instances of such rifts between the media and government over national security.

### **3.2 Traditional Roles of the Media which Seem to Undermine National Security**

The following theoretical cum traditional functions and characteristics of the mass media make them particularly vulnerable to accusations of national security breaches.

Harold Lasswell (1948) identified three major functions of the media as surveillance of the environment, correlation of the parts of the society in responding to the environment and the transmission of social heritage from one generation to the next. A fourth function, entertainment was added to this list (Wright, 1986). In performance of these functions the mass media in Nigeria, like their counterparts in other places, inevitably step on powerful toes. However, since, as we have pointed out earlier, the authorities of Nigeria usually equate their personal preservation with the security of the nation, and there are no special statutory provisions to protect the media, it is hardly surprising that the media are constantly being accused of undermining national security.

Another characteristic of the mass media which seems to undermine national security is the ability of foreign radio, television and of late, the internet, to cut across national boundaries. Information which the government would rather prefer the citizens to be ignorant about, is made available to the general public via those media. Akpan (1988:14) points out that such split- over signals "can easily threaten a nation's culture, integrity or even security".

Thirdly, commercials brought to the notice of Nigerians by media such as books, newspapers, magazines, satellite television and the internet are capable of creating a desire for foreign goods and services, thereby providing uneven competition to locally produced goods and services. An avalanche of imported consumer goods into the Nigerian economy has over the years caused the closure of many local factories, increasing unemployment and economic crimes. Similarly, according to Akpan (*ibid*) the desire for the consumer goods of other countries, can lead to

the disruption of national plans for “orderly social and economic development”.

On the other hand, if the goods and services advertised are desired but cannot be afforded by the local folks, it may result in what Schramm referred to as “rising expectations and rising frustration”. Frustration breeds restiveness in the policy, which often finds expression in economic crimes sabotage, looting and vandalization of public property at the least provocation, communal and sectarian clashes and numerous other negative tendencies which undermine national cohesion and security

### **3.3 Government Activities which May Undermine National Security**

In the course of running the affairs of the state, successive Nigerian governments are guilty of a number of excesses which are hardly compatible with civilized, let alone, democratic norms. These excesses of government equally undermine national security, and not even the most docile press in the world can condone them. They include, but are not limited to the following which do not require further elaboration here:

- i) Government’s failure to deliver on the social contract.
- ii) Deportation of “trouble-makers” and
- iii) The usual crude repression of the press and popular dissent.

### **3.4 What Government must do to Protect National Security**

In the first place, government must realize that it is no longer tenable to interpret national security solely in terms of the preservation or the perpetuation of the ruling elite. There is a need to redefine national security in line with overall national interest. The withholding of certain kinds of information from public knowledge should clearly be seen to be for the preservation of the nation state, rather than the protection of those in power.

Moreover, government must realize that official secrecy and censorship belong to the ages. Modern information and communication technology (ICT) has rendered them obsolete. Many things government wants to keep away from the citizens still get to the public through other sources, such as the internet and satellite television. It is therefore safer for government to give out correct information about itself to its citizens rather than allow the foreign media and mischief makers to publish the distorted versions. A well-informed citizenry will contribute more positively to democracy and national development than an ill-informed

one. Government should therefore cultivate the policy of openness. In this regard, the Freedom of Information Bill (FOI) currently before the national assembly should be passed into law to afford the press and the generality of the citizenry access to official information. This will serve as a bulwark against ignorance and rumor mongering.

In addition, secrecy or even the best public relations cannot substitute for good governance. Those in power must deliver on the social contract, through prudent management of the nation's resources and provision of basic amenities to the people. National security is seriously undermined if the majority of the population are left to wallow in the Hobessian state of nature, while constantly being shown the good life being enjoyed by the people in other parts of the world by the foreign media.

The government should also cultivate the policy of dragging to the press council or the courts, journalists whose activities are inimical to national security. This should replace the old practice whereby over-zealous officials meted out summary punishments to those journalists, thereby acting as prosecutor and judge in their own case.

### **3.5 What the Press Should do to Protect National Security**

For many reasons, journalists should contribute to and protect national security. The first reason is that Nigerian journalists, as citizens, owe an obligation to ensure the nation's well-being and development. Another reason is the prominent position of journalism as the Fourth Estate of the Realm, constitutionally recognized alongside the Executive, the Legislature and the Judiciary. It stands to reason that journalist should work conscientiously to preserve the nation at all cost. Indeed, in the one-and-a-half centuries history of Nigerian journalism, its professionals have given a good account of themselves as patriotic and socially responsible, perhaps even more so than the members of the executive, the legislature and the judiciary.

Yet, objective analyses of the press performance over the years, particularly in times of national crises, have found the Nigerian press guilty of "undue misrepresentations and overt partisanship" (Ibelema : 2003 :197). And this is the excuse autocratic leaders have cited for press repression. Ibelema (ibid) gives the following account:

- After accusing "some section of our press" of disseminating a "great deal of misinformation", Abacha asserted that "government would not shirk her responsibility to protect "the rights of her citizens".



Ibelema is also right in pointing out that by citing “the right of the citizens” Abacha was only speaking tongue in cheek, being concerned rather with his own self-preservation. But the press had fetched the ant-infested faggots that invited the lizards, to use an Achebe idiom.

Against the above background, the first advice one can give the Nigerian press on the protection of national security is therefore that they should come to equity with clean hands, being faithful to their code of ethics. Truth, as a cardinal journalistic principle, should be preserved at all costs. Press partisanship should also be eschewed in the spirit of social responsibility. Journalists should rise above primordial sentiments such as ethnic emotionalism, religious bigotry and selfish interest in the handling of public affairs especially when the security of the country is involved. It is usually assumed that the average Nigerian journalist is well grounded in the relevant laws and ethical codes governing his profession.

But at a national workshop on curriculum development held in Abeokuta, Ogun State in November, 2003, it was generally observed that many Nigerian journalists are ignorant of the laws and ethics of their profession. Accordingly, the Workshop recommended that appropriate steps be taken in the training institutions to ensure that the students know and apply the necessary laws and ethics.

Journalists must offer constructive criticism at all times and avoid undue sensationalism especially on matters of national security. Moreover, media professionals should aim at the production of high quality media content as a bulwark against the invasion of foreign media content with their adverse consequences for the nation’s culture industries and security.

## **SELF ASSESSMENT EXERCISE**

Cite and discuss<sup>10</sup> historical instances of Government – Media altercations over National Security in Nigeria since Independence.

## **4.0 CONCLUSION**

National Security is of utmost importance to every country and no responsible government can afford to be negligent about it and watch the security of its nation being trifled with. At the same time, it must be stressed that it is the duty of all patriotic citizens and institutions to partner with the government in the protection of national security. The mass media as a patriotic institution must join hands with government to protect national security for the benefit of all the citizens, including even those who are yet unborn.

Therefore, as partners in progress, the Nigerian government and the media must conform to certain acceptable universal practices, such as taking one another into confidence at all times, and resisting the temptation to act as prosecutor and judge in their own court when issues of national security concern arise from time to time.

## **5.0 SUMMARY**

In this unit we have looked at three definitions of national security offered by an expert.

But the definition that best captures the legitimate aspirations of most modern nation states is the third definition which defines national security as: “Freedom from, or elimination of threats, not only to the physical existence of the state, but also to its ability for self-protection and development, and the enhancement of the general well-being of all the people.”

We also looked at the traditional functions of the mass media which seem to undermine national security. We then saw some excesses of government which also undermine national security. Lastly, we discussed the measures which government and the media must adopt as partners in progress, for the protection of national security.

## **6.0 TUTOR- MARKED ASSIGNMENTS**

Interview a senior police or military officer for his/her views on why government is often impatient with the media over national security.

## **7.0 REFERENCES/FURTHER READINGS**

Akpan, E. (1988). “Television and National Security” in R. Akinfeleye (ed) *Contemporary Issues in Mass Media for Development and National Security*, Lagos: Unimedia Publications Ltd.

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## **UNIT 4 THE OFFICIAL SECRETS ACT**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is the Official Secrets Act?
  - 3.2 What Other Laws Seek to Protect Government Secrets?
  - 3.3 What is the Relationship Between the Official Secrets Act and the Freedom of Information Bill?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor - Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit, we shall be looking at three things:

- The essence and purpose of the Official Secrets Act of 1962
- Other laws which seek to protect government secrets
- The relationship between the Official Secrets Act and the Freedom of Information Bill

### **2.0 OBJECTIVES**

On successful completion of this unit, you should be able to:

- Know the essence and purpose of the Official Secrets Act
- Know the other laws which seek to protect government secrets
- Understand the relationship between the Official Secrets Act and the Freedom of Information Bill

### **3.0 MAIN CONTENT**

#### **3.1 What is the Essence and Purpose of the Official Secrets Act?**

The Official Secrets Act, which was enacted in Nigeria in 1962, seeks to prevent the disclosure to the public of any material which government considers as classified matter. The Act defines classified matter as:

- Any information or any thing which under any system of security classification, from time to time in use by any branch

of the government, is not to be disclosed to the public, and of which the disclosure to the public would be prejudicial to the security of Nigeria

From the above, it can be seen that the essence of the Official Secrets Act is to protect national security. For, indeed, given the volatile nature of the Nigerian polity, trouble can easily start if certain kinds of information are freely released to the general public. Public officers are by the Official Secrets Act barred from disclosing such sensitive material to the general public.

The Act accordingly defines a public officer as “a person who exercises or formerly exercised for the purpose of the government the functions of any office or employment under the state.” Thus, all public officers, including those in the pure civil service and those in other government agencies such as the military, police, judiciary, legislature, universities, etc, are barred from disclosing classified matter, whether they are still in service or have disengaged from service in whatever manner.

The Official Secrets Act also criminalizes spying, espionage and sabotage of the nation’s strategic military and other security installations.

### **3.2 What other Laws Seek to Protect Government Secrets?**

Apart from the Official Secrets Act, there are other laws in Nigeria which seek to protect government secrets for security reasons. They include: the Criminal Code Act; the Penal Code Act; The Evidence Act and the Constitution itself. For example, the Criminal Code Act provides in Section 97 (1) that:

- Any person who being employed in the public service, communicates fact which comes to his knowledge by virtue of his office, and which is his duty to keep secret or by any document which comes to his possession, except to some person to whom he is bound to publish or communicate, is guilty of a misdemeanor and is liable to imprisonment for two years.

Also the 1999 Constitution states in Section 39 (3) that:

- 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 Nigerian Police Force or other Government security services or agencies established by law.

### **3.3 The Official Secrets Act and the Freedom of Information Bill**

On Wednesday November 15, 2006 the Senate of the Federal Republic of Nigeria finally passed the Freedom of Information Bill and forwarded to the President for his assent, which would make the bill a law. As at the time of writing this material, it is legally not a law until the President signs it. This was a whole year after the House of Representatives had passed the bill. Before its historic passage, the bill was in the National Assembly for more than six years

The title of the bill, though quite lengthy, deserves spelling out in full, as it explains everything that the bill seeks to achieve. The title is:

- A Bill for an Act to make public records and information more freely available, provide for public access to public records and information, project public records and information to the extent consistent with public interest and the protection of personal privacy, protect serving public officers from adverse consequences of disclosing certain kinds of official information without authorization and establish procedures for the achievement of these purposes and related purposes thereof, 2006

Consequently, Section 1 of the Freedom of Information Bill states:

- Subject to the provisions of this Act, but notwithstanding anything contained in any other act, law or regulation, every citizen of the Federal Republic of Nigeria, has a legally enforceable right to , and shall, on application be given access to any record under the control of a government or public institution.

From the above, we can say that the Freedom of Information Bill has the following merits:

- i) It will provide access to public information or records kept by government, public institutions and even private organizations carrying out public functions for Nigerians and even non-Nigerians resident in the country.

- ii) With more information available to the citizens, they can participate more meaningfully in the governance of the country, in the making of laws and formulation of government policies.
- iii) It will promote greater accountability on the part of public officers. This is probably the most important benefit of the bill given the penchant of public officers to be secretive with information. Hitherto such secretiveness had encouraged corruption and the looting of public funds without detection.
- iv) What is more, the bill provides that public officers who destroy information in their custody will be imprisoned.

From all indications therefore, the Freedom of Information Bill if+ finally given the assent by the President will have amended the Official Secrets Act of 1962 and 1970, thereby making information more easily available while still protecting information whose disclosure will jeopardize national security. By this bill Nigeria has made a significant progress in the march to an enduring democracy and sustainable development.

### **SELF ASSESSMENT EXERCISE**

Compare and contrast the Freedom of Information Bill being proposed for Nigeria and that of the United States of America.

## **4.0 CONCLUSION**

It is expected that when the Freedom of Information Bill finally becomes law that journalism practice will be less problematic and safer in Nigeria. But the greatest beneficiaries will be the Nigerian people who can now be better informed about the activities of government.

## **5.0 SUMMARY**

In this unit, we have looked at the essence and purpose of the Official Secrets Act of 1962 and 1990. We have also seen the other laws which seek to protect government secrets. Lastly, we discussed the relationship between the Official Secrets Act and the Freedom of Information Bill which was passed by the House of Representatives and the Senate, but as at the end of April 2007 was still awaiting Presidential assent to become law.

## **6.0 TUTOR - MARKED ASSIGNMENTS**

Discuss in detail the importance of free access to information in a democracy.

## **7.0 REFERENCES/FURTHER READINGS**

The Official Secrets Act of 1962

The Official Secrets Act of 1990

The Constitution of the Federal Republic of Nigeria, 1999

The Criminal Code Act

The Penal Code Act

## **MODULE 5 THE CANONS OF JOURNALISM**



Unit 1	Truth and Fairness
Unit 2	Objectivity and Integrity
Unit 3	Other Canons: Independence, Responsibility, and Accuracy

## **UNIT 1     TRUTH AND FAIRNESS**

### **CONTENTS**

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	What do we Mean by Canons of Journalism?
3.2	What is Truth?
3.3	Publishable and Un-publishable Truths
3.4	What is Fairness?
3.5	What are the Practical Ways of Achieving Fairness
4.0	Conclusion
5.0	Summary
6.0	Tutor Marked Assignments
7.0	References/Further Readings

### **1.0     INTRODUCTION**

In this unit, we are looking at Truth as a cardinal journalistic principle, or canon of journalism. We shall also see the kinds of truths that are publishable and those that are not normally published in the mass media. But before we set out to do that, it is necessary to understand what we mean by canons of journalism.

### **2.0     OBJECTIVES**

On successful completion of this unit, you should be able to:

- Understand what journalistic canons mean.
- Define and explain the philosophical concept of truth.
- Know the publishable and un-publishable truths.
- Define and explain fairness
- Know the practical ways of ensuring fairness

### **3.0     MAIN CONTENT**

### **3.1 What Are the Canons of Journalism?**

By canons of journalism we mean the fundamental principles on which journalism is built. They are the ethical lights which guide the journalistic enterprise. Those entering the profession are advised to be committed to these principles and observe them religiously at all times. In fact, a good journalist is judged by the extent of his commitment to these ideals. And it is for this reason that all journalistic codes are based on them. They are Truth, Objectivity, Fairness, Accuracy, Independence, Responsibility etc.

### **3.2 What is Truth?**

Truth is a philosophical concept which has been defined in many ways. A well-known definition of truth is that it is the objective reality which corresponds with that reality. (The New Caxton Encyclopedia, Vol. 18, 1969: 5764). However, this definition may be faulted by arguing that objective reality itself is elusive.

Another definition of truth is that it is a network of coherent statements. Thus, a statement is considered as true if it coherent with true statements (Ibid). Again, this approach may be faulted on the ground that there are different kinds of truth and different systems of coherent statements, which may not be consistent with one another.

The third approach to the definition of truth is the pragmatic model, which sees truth as “what works”. But, again, the problem with this approach is that what works in one situation may not work in another.

Even in the absence of any water-tight definition of truth, yet there is a general understanding of what truth means. You can call it the common sense approach. The ordinary meaning of truth is the absence of falsehood or lies. A lie on its part, is the deliberate misrepresentation of reality in order to deceive. Truth abhors misrepresentations. A half-truth is a lie, for all practical purposes.

A journalist is committed to telling the truth. But, how can he achieve this? Okunna (1995: 41) explains that this has to do with the publication of factual information. At best, this is just one way of ensuring truth. However, we know from practical journalistic experience that factual information may not necessarily be the truth. Let us illustrate as follows. Suppose that as a reporter you obtain a scoop that there was a fire at a factory. But before you got there some of the damaged items have been evacuated from the building. You are not allowed into the building to see the extent of damage. The Public Relations Officer of the company addresses a press conference later to admit that, indeed, there was a fire

but not much damage was done. But an inside anonymous source informs the reporter that much damage had actually been done by the fire, and that indeed, lives were lost.

If the reporter goes ahead and writes what the P.R.O told him, he would be reporting the fact. But is that the truth? In this case, the fact as given by the P.R.O is only a tip of the iceberg. The truth is the entire iceberg.

Indeed, the fact as handed out to the media is often not the truth. Only independent and free inquiry can produce the truth. But then, not all truths can be published. This leads us to the next section on publishable and un-publishable truths.

### **3.3 Publishable and Un-publishable Truths**

#### **3.3.1 Publishable Truths**

It has been pointed out above that not all truths are publishable. The truth to publish must be “fit to print”, as it were. In other words, it must satisfy the following conditions:

- (i) It must be of public interest. In module 2 we defined public interest as any event, issue or development which, in the judgment of the working press, deserves to be brought to the knowledge of the mass audience.
- (ii) It must not undermine national security. A good journalist must be patriotic enough to protect the security, unity and progress of this nation.
- (iii) It must not offend good taste and public morality.

It must be added here that the decision as to what satisfies the above considerations may differ from editor to editor. But it is the thrust of the social responsibility theory of the press that truth at all cost will not augur well for any society, but that the mass media must render certain obligations to the society.

#### **3.3.2 Un-publishable Truths**

On the other hand, un-publishable truths are truths that are not of public interest. For example, the fact that this writer ate bread with sardine this morning is his private affair and not of public interest. If the writer is a newsman, he would not have to “inflict” the information on the readers since it is of no use to them.

Another example of un-publishable truth is truth that undermines national security, or national cohesion or truth that may be considered blasphemous by any religious group

Much has already been said about national security. Regarding blasphemy, we know that people generally get emotional about their religion and many riots have been caused by religious groups who claimed that their religions had been blasphemed by the mass media. Traditional journalism counsels that newsman should exercise utmost caution when writing about the 3Rs, to wit, Race, Religion and Region.

Of course, texts and images that are vulgar or obscene should not be published even if they are true. These are just a few of un-publishable truths. Otherwise, the truths to be published and those not to be published are generally dictated by the conventions of each mass medium, and journalists become acquainted with them as they make progress in the profession.

### **SELF ASSESSMENT EXERCISE**

Interview the editor of two Nigerian newspapers and ask them to comment on instances when they restrained themselves from publishing what they know was the truth, for whatever reason.

### **3.4. What is Fairness?**

In the ordinary sense, fairness means treating all persons or sides equally and according to the rules and law. In this course text, we have already discussed fair comment in the unit on the Defences to Defamation. Since the mass media are powerful tools of public information and enlightenment, those who operate them must exercise utmost caution to ensure that all persons or sides are treated equally and according to the acceptable standards.

Journalists should present the news fairly and impartially, placing value on significance and relevance. In fact, it is for this reason that there was a fairness doctrine in the broadcast industry in the United States of America, which has now been abolished.

In Nigeria, the National Broadcasting Code (1993) equally provides in 2:2.3, under Accuracy, Objectivity and Fairness, that:

- (a) All sides to any issue of public interest shall be adequately presented to ensure fairness.
- (b) The right of any reply shall be guaranteed to any claim to misrepresentation.

### 3.4 Practical Ways of Ensuring Fairness

Fairness can be ensured in the following practical ways.

- (a) The mass media should not publish unofficial charges affecting reputation or moral character without an opportunity given to the accused to be heard.
- (b) The media should make prompt and complete correction of their own mistakes of facts or opinion, whatever their origin.  
The Radio-TV News Directors Association of the United States of America has the following practical guidelines:

The media must treat all subjects of news coverage with respect and show particular compassion to victims of crime and tragedy.

The media must exercise care when children are involved in a story and give children greater privacy than adults.

The media must seek to understand the diversity of the community and inform the public without bias or stereotype.

Present a diversity of expressions, opinions, and ideas in context.

The media should present analytical reporting based on professional perspective, not personal bias.

The media must respect the right to a fair trial.

- (c) We can also borrow a leaf or two from the Washington Post's Code of Ethics as it concerns fairness.
  - No story is fair if it omits facts of major importance or significance. Fairness includes completeness.
  - No story is fair if it includes essentially irrelevant information at the expense of significant facts. Fairness includes relevance.
  - No story is fair if it consciously or unconsciously misleads or even deceives the reader. Fairness includes honesty-leveling with the reader.
  - No story is fair if reporters hide their biases or emotions behind such subtly pejorative words as "refused", "despite", "quietly", "admit", and "massive". Fairness requires straightforwardness.

## **SELF ASSESSMENT EXERCISE**

Take any edition of any Nigerian daily newspaper and discuss the issue of fairness with reference to the treatment of stories in that edition.

### **4.0 CONCLUSION**

The need to seek truth in all fields of human endeavour was the thrust of the Libertarian movement which took place in the 18<sup>th</sup> century. In journalism no one can forget the contributions of philosophers like John Milton in this regard. But with time it was realized that publishing truth at all cost would be to the detriment of the society. In other words, freedom to seek and publish the truth must be accompanied by responsibility to know where to apply the brake. It is for that reason that there are publishable and un-publishable truths.

It behooves the responsible journalist to know what to do at any time, bearing in mind the need to give the best to society. Moreover, concerning fairness, a Nigerian adage says “if a child is treated the way other children are treated, he will feel good”. And the popular English adage says that what is sauce for the goose is also sauce for the gander. These proverbs underline the importance of fairness and balance in different cultures. In journalism, which seeks to serve the general public interest, the need for fairness cannot be over emphasized. It is even more so when you consider the fact that the media are powerful tools which can do a lot of damage if directed unfairly at a person or group.

Journalists are therefore enjoined to follow the practical ways of ensuring fairness which the news media from time to time prescribe for their operatives

### **5.0 SUMMARY**

In this unit so far, you have learnt that:

- Canons of Journalism are the fundamental principles on which journalism practice is built.
- That truth is a cardinal journalistic principle.
- That the ordinary meaning of truth is the total absence of falsehood or lies.
- That a journalist should be committed to telling the truth always.
- That there are publishable and unpublishable truths.
- That fairness is also a cardinal principle of journalism.
- Lastly, we saw the practical ways of ensuring fairness adapted from several codes of professionals ethics.

## 6.0 TUTOR - MARKED ASSIGNMENTS

1. Write an essay on the philosophical concept of truth and discuss its relevance to journalism.
2. Discuss the importance of fairness as a journalistic canon and assess the extent the Nigerian media ensure fairness in the daily operations.

## 7.0 REFERENCES/FURTHER READINGS

Code of Ethics and Professional Conduct of the Radio-Television News Director Association:  
[wysiwyg://82/http://www.rtnda.org/ethics/coe.shtml](http://www.rtnda.org/ethics/coe.shtml).

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The New Caxton Encyclopedia, p 5764

## **UNIT 2      OBJECTIVITY AND INTEGRITY**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Objectivity?
  - 3.2 Can Objectivity be Achieved?
  - 3.3 What are the Obstacles to Objectivity?
  - 3.4 What is Integrity?
  - 3.5 How Can Integrity be Maintained?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor - marked assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit, we are looking at objectivity as a canon of journalism. We shall also discuss the factors that may constitute stumbling blocks in the way of objectivity, that is, after we have answered the question whether objectivity can be achieved.

### **2.0 OBJECTIVES**

On successful completion of this unit, you are expected to do the following:

- Define objectivity in journalism.
- Know the obstacles to objectivity which you must endeavour to overcome.
- Know what journalistic integrity means
- Understand how integrity can be maintained

### **3.0 MAIN CONTENT**

#### **3.1 Objectivity: What it Means**

Objectivity is the state of being objective. To be objective means not influenced by personal feelings or opinions, that is to say, fair.

In the original journalistic sense objectivity required that the journalist kept himself out of his report by not injecting his emotion, personal opinion and bias into the news report. But this is very difficult, if not



impossible. Since journalists may be required to offer interpretation and explanation of the issues they write about, they may consciously or unconsciously inject their own personal opinions and understanding of the issue. In fact, if the mass media should pursue objectivity at all cost, the media audience will be short- changed.

In the current practical sense, therefore, objectivity means presenting all sides of an issue fairly, honestly and impartially, and allowing the audience to judge. This is easier said than done.

### **3.2 Can Objectivity be Achieved?**

Objectivity is the spirit of scientific inquiry. Thus those in the physical sciences say that the object of scientific inquiry is the “external objective reality” and not subjective beliefs and values. Objectivity to the scientist means that knowledge is obtained through a rigorous observation of events or phenomena, from an external objective reality.

But to what extent can objectivity be achieved when the subject of analysis is human beings and human affairs, even journalism? In other words, is objectivity possible in journalism? Donald McDonald, a journalism professor and former editor illuminates the discussion with the following long statement:

- When the reporter moves from relatively uncomplicated, concret, even physical phenomena into the realm of the abstract and the complex, - i.e., studies, conferences, programmes, policies on urban affairs, race and ethnic relations, foreign and military affairs, economic and fiscal conditions, the administration of criminal justice, cultural ferment, youth unrest, population problems, environmental issues, politics and government, - the value judgments he must take at every critical stage in his investigation of the facts must reflect the values he already holds. Again, these values flow from his personal history. They are the products of his education, his religious experience, his childhood, family life, social and economic background, friendships and associations, national ties and culture, as well as his emotional life and experiences and his reason.

The question then arises:

Can journalists rise above natural allegiance to their nation, to their race, to their region, to their religion, to their beliefs, and report the realities unescorted by partisan euphemism? Your guess is as good as mine. We shall next see the traditional obstacles to objectivity in journalism.

### **3.3 Obstacles to Objectivity**

Journalistic objectivity can be hindered by any of the following factors:

- (i) Limited space
- (ii) Laziness on the part of the reporter
- (iii) Lack of openness on the part of one party to a controversy.
- (iv) Conflict of interest
- (v) Advertiser pressure
- (vi) Government pressure

We shall now discuss these factors one by one.

#### **i) Limited space**

In all mass media, reporters and editors do not have the space to include all the materials they would want to include always. This is particularly so in newspapers where limited space often results in the abridging of stories during make up. On radio and television also, the anchor must abridge a statement as soon as he receives the signal that the programme must come to an end.

So, the abrupt end of a story or a narration for space constraints may result in the inability to present all sides of an issue fairly and equally, thus undermining objectivity.

#### **(ii) Laziness of the reporter**

If a reporter is not resourceful enough, he may not take enough pain to obtain all the sides of a controversy. Objectivity suffers thereby.

#### **(iii) Lack of openness of the news source**

Some news sources would not open up to the reporter for one reason or the other. A lady in a divorce suit, a jilted lover, a fired employee, or the victim of an ugly incident such as robbery, fraud, rape etc. may find it difficult to talk to the press. And this robs the reporter of the ability to present the facts objectively.

Lack of openness can also be in the form of secrecy on the part of government officials or the management of corporate bodies who want to hide something from the press. Suppose there is a trade dispute, you hear the view of the workers but management refuses to open up. How can you ensure objectivity in the presentation of the facts?

**(iv) Conflict of interest**

Conflict of interest ranges from accepting gifts and travel junkets to political involvement and all forms of divided loyalty. If a journalist's conscience has been compromised in any way, it is impossible for him to maintain objectivity either as a reporter, editor, or programme presenter on radio and television, or as a producer or even a contributor.

**(v) Editorial control**

Editorial policy is what a medium decides to publish and how it publishes it. Aspects of policy may be written down but most aspects are not written. In that case, matters are treated as they arise, but the final say rests with the publisher. If the owner of the medium has a vested interest in an issue, it is difficult for that medium to be objective when it concerns that issue. The popular saying is that he who pays the piper calls the tune.

Every working journalist knows that editorial control is an inevitable evil that he has to put up with. The advice of the veterans is to resist it subtly, but quit if it becomes unbearable.

**(vi) Advertiser control**

Since a substantial amount of media revenue comes from advertising it follows that pressure from advertisers is also a fact of life. There is no doubt that such pressures affect the effort of the media to present all sides of an issue fairly and balanced.

**(vii) Government pressure**

Pressure from government can come in form of written and unwritten laws. National security must be protected at all cost and government policies sold to the citizens. For this reason government is usually inpatient with the media when they do not show sufficient understanding and sympathy with government position. But the argument of the media is that if they should become too understanding of government position, they would abdicate their responsibility to the people.

For the media to discharge their constitutional obligation to monitor government and make it accountable to the people, they must resist all attempts to make the media the lapdogs of the government. The media must maintain objectivity by presenting all sides of an issue fairly and equitably.

## **SELF ASSESSMENT EXERCISE**

Compare and contrast NTA news and Channels TV news in terms of objectivity. What is responsible for each organization's objectivity rating?

### **3.4 What is Journalistic Integrity?**

Integrity means being in a state of wholeness, uprightness, honesty or purity. The age-long saying that "Integrity maketh a man" must have been coined to underscore the importance of that virtue in the life of every individual. What then is professional integrity? Akinfeleye (2005) explains that to be upright in one's profession "is to be truthful and never careless or reckless in the discharge of one's duties"

Integrity naturally earns societal respect while the opposite of it would attract disrespect and scorn from those with whom one interacts. Akinfeleye (ibid) argues that every worthwhile profession must have integrity to maintain its relevance to the society it serves, adding that professional integrity is derived from the philosophical foundation of the professional code of ethics for and by the profession itself. Consequently, Akinfeleye concludes that journalistic integrity is a derivation of the journalistic code of ethics.

Without integrity Nigerian journalists cannot effectively discharge their constitutional duty of monitoring government, making it accountable to the people and upholding the fundamental objectives of the Nigerian state. What then are the practical ways of ensuring integrity?

### **3.5 Guidelines for Maintaining Journalistic Integrity**

Rich (1999) suggests that journalistic integrity should start by satisfactorily answering the following questions:

- i) Does the journalist understand the nature, value and the changing concept of news?
- ii) Does he know how to obtain story ideas, collect information, write and present the news?
- iii) Does he understand story structures, style and the use of language?
- iv) Does he understand media issues such as accuracy, conciseness, coherence, clarity and simplicity?
- v) Does he know media ethics?
- vi) Does he avoid misinformation, disinformation, half-truths, falsehood and deception?

- vii) How would he feel if the story or photo were about him or any member of his family?
- viii) What are the key issues in the story?
- ix) Has he demonstrated positive social responsibility in the story?
- x) What are the likely positive or negative consequences of the publication on our politics and economy?
- xi) Are there alternatives? Has the journalist put enough concepts of objectivity, fairness, accuracy and balance into the story?
- xii) Will the journalist be able to clearly and honestly explain his new peg and decision to anyone upon publication of the story?
- xiii) Do the news values conflict with monetary benefits?
- xiv) Is the entire story in line with the journalist's professional code of ethics?
- xv) Are the gender differences being explained without bias?

Furthermore, the Code of Ethics and Professional Conduct of the Radio-Television News Directors Association of the United States of America provides the following guide to journalistic integrity: Professional electronic journalists should:

- Identify sources whenever possible. Confidential sources should be used only when it is clearly in the public interest to gather or convey important information or when a person providing information might be harmed. Journalists should keep all commitments to protect a confidential source.
- Clearly label opinion and commentary
- Guard against extended coverage of events or individuals that fail to significantly advance a story, place the event in context, or add to the public knowledge.
- Refrain from contacting participants in violent situations while the situation is in progress.
- Use technological tools with skill and thoroughness, avoid techniques that skew facts, distort reality, or sensationalize events.
- Use surreptitious newsgathering techniques, including hidden cameras or microphones, only if there is no other way to obtain stories of significant public importance and only if the technique is explained to the audience.
- Disseminate the private transmission of other news organizations only with permission.

Professional electronic journalists should not:

- Pay news sources who have a vested interest in a story
- Accept gifts, favours, or compensation from those who might seek to influence coverage.

- Engage in activities that may compromise their integrity or independence.

### **SELF ASSESSMENT EXERCISE**

Compare Nigerian journalists with other professionals, say accountants, or lawyers, on the virtue of integrity. Discuss.

## **4.0 CONCLUSION**

Objectivity is easier said than achieved. But one good thing about journalism is that the media are constantly under the appraisal of a watchful public. Objectivity in journalism pays the medium which religiously observes it. But if a medium is in the habit of presenting one-sided reports, then the citizens must look elsewhere for objective reports at critical moments when the correct position of things must be known.

It is not for nothing that many Nigerians cannot do without listening to the BBC, VOA, CNN, and other reputable foreign media. These media have over the years earned a reputation for presenting facts accurately and objectively. At the same time, government media such as NTA and FRCN suffer credibility problem whenever they try to present news which is not favourable to the government of the day. In such situations their lack of objectivity affects their credibility.

It is therefore in the interest of both the individual journalist and his organization that news should be presented as objectively as possible.

Furthermore, integrity maketh a man. Children are trained from the cradle to be people of integrity. This is to forestall the ugly consequences of growing up into men and women without integrity. Jesus specifically admonished his followers: "Let your yes be yes and your no be no." There are similar moral admonitions in all the other religions. For a profession like journalism which seeks to be the conscience of the society the question of integrity is even more crucial. Those aspiring to become journalists should therefore address the issue of integrity seriously.

## **5.0 SUMMARY**

In this unit we explained the meaning of objectivity in journalism parlance. In practical terms objectivity requires that all sides of an issue are presented fairly, honestly, and impartially. We also saw McDonald's discourse as to whether objectivity can be achieved.

Then we listed and explained seven common obstacles to objectivity.

In this unit we also looked at the ordinary meaning of integrity and then what is journalistic integrity. We then listed the questions which Carole Rich suggests must be answered by prospective journalists as a guide.

## 6.0 TUTOR - MARKED ASSIGNMENTS

1. Expand McDonald's argument on whether objectivity can be achieved, using the Nigerian experience.
2. Why should a journalist be of high integrity? Discuss

## 7.0 REFERENCES/FURTHER READINGS

Akinfeleye, R.A.(2005). "Journalistic Integrity in Political and Economic Reporting", A paper presented at the Nigerian Press Council National Workshop on "Reporting Politics and the Economy – the Responsibility of the Mass Media", at The Peninsula Resort, Km. 25, Lagos – Epe Express way, Aja, Lagos State, from October 18 – 21, 2005.

Code of Ethics and Professional Conduct , Radio-Television News Directors Association of the United States of America:  
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## **UNIT 3      OTHER              JOURNALISTIC              CANONS: INDEPENDENCE,      RESPONSIBILITY      AND ACCURACY**

### **CONTENTS**

- 1.0    Introduction
- 2.0    Objectives
- 3.0    Main Content
  - 3.1    What is Journalistic Independence?
  - 3.2    What is Responsibility in Journalism?
  - 3.3    What does Accuracy Entail?
- 4.0    Conclusion
- 5.0    Summary
- 6.0    Tutor-Marked Assignments
- 7.0    References/Further Readings

### **1.0    INTRODUCTION**

In this unit, we shall be looking at the other journalistic canons, to wit, independence, responsibility and accuracy. We shall explain what they mean, why they are important and practical ways of achieving them.

### **2.0    OBJECTIVES**

On successful completion of this unit, you should be able to:

- Define and explain what journalistic independence means
- Define and explain what is journalistic responsibility
- Know what accuracy entails.

### **3.0    MAIN CONTENT**

#### **3.1    What is Journalistic Independence?**

Independence in journalism means freedom from all obligations that might interfere with the fidelity to the public interest. An honest journalist must not promote any private interest contrary to the general welfare.

Partisanship in editorial comment which knowingly departs from the truth is also not the spirit of good journalism.

Even more importantly, all decisions on news coverage, news content, slant and depth should be taken by the editorial team rather than being



imposed by outsiders. This is to ensure that journalists are not used to serve ends other than the general welfare. Indeed, professionalism is undermined if the outsiders control editorial content thereby reducing the professionals to mere errand boys.

The following is a classical case of government interference in the editorial independence of a highly rated magazine. A best-seller book by former CIA agent in DR-Congo, Larry Devlin, published in 2007, and reviewed for *New African* magazine by Osie Boateng, gives the account of how a former American ambassador to Congo, Timberlake, and the American ambassador to Belgium, William Burden, were able to convince *Time* magazine owner, Henry Luce, to change the magazine's cover story on Patrice Lumumba during the Congo crisis of the 1960s.

The CIA and the ambassadors, working hand in gloves to protect American interest in the Congo at all costs, had reasoned that a cover story on Lumumba would create a favourable image for the embattled Congolese Prime Minister in the eyes of the American public. That would not be in the best interest of the American Government which had already concluded plans to kill the patriotic Lumumba for his romance with the Soviet Union. They succeeded in changing the cover story of *Time* magazine even after the press had gone to bed! That this could happen to such a highly-rated magazine reputed for its editorial independence, goes to show how government pressure can compromise not only editorial independence but also objectivity. If gold can rust, what will iron do?

Editorial independence is the first article of the 1998 Code of the Ethics for Nigerian Journalists. The practitioners no doubt were informed by past experiences in the media whereby unholy intrusions were made into editorial content of the media, leading to serious altercations between journalists and the intruders. Unfortunately, the 1998 code does not give details of what it means by editorial independence. But if the truth must be told, editorial independence would mean the following measures, which may be a tall order for many Nigerian journalists:

- (1) Journalists should declare if an actual conflict exists in their efforts to be truly independent.
- (2) Journalists should not take up publicity in public relations responsibility in outside organisations which expect them to use their positions as journalists to obtain publicity for those organisations.
- (3) A journalist should not be the one covering an event or any organisations which they or their immediate family members belong to. This may lead to biased reporting.

- (4) Journalists should not belong to political parties or other partisan groups.
- (5) Journalists should be wary of friendships with news sources especially public figures, politicians etc
- (6) Journalists should not use their positions as journalists to get benefits or advantages in commercial transactions or personal business for themselves, their families or friends.
- (7) They should not use the company name, reputation, letter-head or branded car to imply threat of retaliation or pressure, to curry favour or to seek personal gain.
- (8) Journalists should not take another job which interferes with or compromises their primary duty.
- (9) Newsmen should not accept awards from partisan groups or causes, or from organisations or special-interest groups that they may normally cover, which may thereby create conflict of interest or raise doubts about the ability of the newsmen to report fairly on that group or organisation
- (10) As much as possible journalists should pay for their meals at functions and not sit around waiting for free food. This is to avoid being influenced by those offering the free food.
- (11) Newsmen should pay their way to places of news coverage rather than expect any free ticket from news sources.
- (12) Newsmen should not be the ones writing news about themselves, their blood relations and close friends.

These are some of the measures which need to be taken to ensure editorial independence. Can we take them? Why not? These are standard journalistic practices in other climes.

### **3.2 What is Journalistic Responsibility?**

Journalistic responsibility means that a medium must be concerned with the welfare of its audience and gain them goodwill and patronage.

A journalist must not use his power or that of his organization for selfish or unworthy purposes. Ax-grinding, that is, using the medium to settle scores, is irresponsible journalism. It has been pointed out above that since the media are powerful tools, their misuse could spell doom for the society. Therefore those working in the media must exercise caution to ensure that they do not use the medium to further interests other than the public good.

### **3.3 What does Accuracy Entail?**

It is a mark of good journalism to guard against inaccuracies, carelessness, bias or distortion through emphasis, omission or

technological manipulation. News media should also acknowledge substantive errors and correct them promptly and prominently.

The Dallas Morning News in the United States of America, has the following statement concerning corrections and clarifications.

- These will be published promptly after accuracy is determined. Memos from appropriate staffers will explain how error occurred. Every staffer is an ombudsman in that sense, and we pursue each complaint vigorously. Every complaining party must get a response, regardless of whether we publish a correction or clarification. The explanatory memo is not punitive, but seeks to ensure we do not repeat errors and to determine how they happened.

You can see that this newspaper goes to great length to ensure accuracy. This is how it should be.

Accuracy also means that the titles and names of persons and places mentioned in the news must be properly spelt. Grammatical errors or errors of facts are taboo in the mass media. In the electronic media of radio, television and film, words must be pronounced correctly. Figures must be accurate too. If the exact figures cannot be obtained, the media should say so instead of giving fictitious figures that will later be found to be far off the mark. This is what accuracy means.

You will find that accuracy determines the credibility rating of the media. The media which have established a reputation for giving accurate information are the most patronized. Have you asked yourself why most Nigerians would rather tune to BBC even for news about Nigeria? It has to do with accuracy. The BBC has a long history of accurate reporting of events. It should be the goal of every medium to build up its reputation in accuracy.

#### **4.0 CONCLUSION**

You can see that independence, responsibility and accuracy are indispensable virtues in journalism. Without them the other canons are incomplete.

#### **5.0 SUMMARY**

In this unit, we have looked at three important canons of journalism. We have seen that journalistic independence means that the journalist should not be encumbered with any extraneous commitments which can interfere

with his fidelity to the public interest. We also saw the practical ways to ensure this.

In the unit we also discussed journalistic responsibility, which is another way of intensifying that singular commitment to serving the public interest. Lastly, we also saw what accuracy means and how it is related with the credibility of the particular mass medium.

## **6.0 TUTOR - MARKED ASSIGNMENTS**

Find out from two Nigerian mass media, that is, one print and one electronic, if they have any statements or guidelines on how to realize these virtues. Summarize the statements in each case.

## **7.0 REFERENCE/ FURTHER READINGS**

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*Code of Ethics for Nigerian Journalists*, (1998)

The Dallas Morning News, News Department Guidelines:  
[http://www.asne.org/ideas/codes/dallas\\_morning\\_news.htm](http://www.asne.org/ideas/codes/dallas_morning_news.htm)

## **MODULE 6      ETHICAL PROBLEMS, ETHICAL MECHANISMS AND ETHICAL CASE STUDIES IN NIGERIAN JOURNALISM**

- Unit 1      Ethical problems in Nigeria Journalism
- Unit 2      Purpose and kinds of Ethics mechanisms
- Unit 3      Regulatory mechanisms and Ethical case studies

### **UNIT 1      ETHICAL PROBLEMS IN NIGERIAN JOURNALISM**

#### **CONTENTS**

- 1.0      Introduction
- 2.0      Objectives
- 3.0      Main Content
  - 3.1      Freebies, Brown Envelope and Conflict of Interest
  - 3.2      Other Ethical Problems; Misrepresentation and Cartel Journalism.
- 4.0      Conclusion
- 5.0      Summary
- 6.0      Tutor-Marked Assignments
- 7.0      References/Further Readings

#### **1.0      INTRODUCTION**

In this unit, we shall be looking at some ethical problems in Nigerian journalism, what they mean and the various ways in which they are committed. They include freebies, brown envelope syndrome, conflict of interests, misrepresentation, cartel journalism, sycophancy etc.

#### **2.0      OBJECTIVES**

On successful completion of this unit, you should be able to understand why the following practices are considered as unethical and undesirable in journalism practice: freebies, brown envelope syndrome, conflict of interests, misrepresentation, cartel journalism, sycophancy and others.

#### **3.0      MAIN CONTENT**

##### **3.1      Ethical Problems in Nigerian Journalism**

It is true that journalists in Nigeria are now being registered, on attainment of the minimum educational qualification. But they are still

unlike the doctors, lawyers and accountants in that they do not have to pass licensing exams. What keeps the journalist moving are his professional code of ethics, and his conscience. To what extent can a Nigerian journalist keep to his professional code of ethics, and what happens to those who violate the code? And talking about conscience, does the Bible not say that some consciences have been “Seared with a hot iron?” (I Tim: 4:2).

The following are some of the glaring ethical problems in Nigerian journalism: freebies, conflict of interest, misrepresentation, brown envelope syndrome and cartel journalism.

### **Freebies**

These are sundry gifts which are offered to influence journalists. But the question arises: is there any thing wrong with accepting Christmas or Sallah gifts from politicians and political office holders? Many top editors say a capital “Yes”. Perhaps the editors are saying so from their own experiences. They know that journalists can be influenced by these gifts to kill stories or put up news pages for sale.

### **Brown Envelope**

It is not only reporters who take money from news sources. Sometimes news sources receive money from the news media to give out exclusives. But there is no doubt that money distorts both the news and the news judgment of reporters and editors. If you interview a politician and he gives you money, can you still maintain objectivity and be fair to his adversaries?

### **Conflict of Interest**

Conflict of interest appears in many forms. Newspapers depend on advertising for their survival. Struggling newspapers may place their advertisers ahead of the integrity of their news columns, and their reporters cannot do anything about it. Reporters who are on the pay roll of politicians will also have their own conflict of interest when the chips are down. If the situation is serious enough, something must give.

### **Misrepresentation**

Is it right to obtain political news in disguise? The rule is that a reporter should always introduce himself before he begins an interview. But are there special occasions when he can break the rule? Many editors think if the story is important to the public, the reporter can obtain facts under cover.

But it does not end there. What of those who may lose their jobs for their innocent mistakes of talking to a reporter when they thought they were only discussing with a co-worker or person in need? As a rule people deserve to know if their opinions will be published. Obtaining news under cover is certainly one issue that requires more discussion in today's journalism.

### **Cartel Journalism**

Cartel journalism is the formation of beat associations for the purpose of protecting mutual interests. It is unethical insofar as it leads to the suppression and distortion of information. In fact, it is censorship, which is an impediment to press freedom. But there is hardly any beat where reporters have not formed such associations in Nigeria. Wise counsel is that they can remain as welfare associations, not professional associations. Some other ethical problems in Nigeria journalism include sycophancy, ethnicity, character assassination and so on.

**Sycophancy** is the same thing as praise singing. Incidents of praise singing abound in the Nigerian media, and this is a spill-over from the larger society where affluent people are adored regardless of how they made their money. There is also the unfortunate tendency of journalists to betray ethnic biases on sensitive national issues where objectivity is required. Furthermore, the media are often accused of lending themselves to be used for character assassination by various interest groups.

## **4.0 CONCLUSION**

Unfortunately, Nigerians are not reputed to be highly ethical and this has rubbed off on all facets of life in the country. Journalists are dealing with best and worst Nigerians. It is unreasonable to expect the journalists to be without blemish in an ocean of corruption. But journalists are agents of change. They cannot be part of the problem. Those who want to make ill-gotten wealth should not have chosen journalism as a career. All over the world, journalists are not the richest set of citizens. But there is a place of honour for those who do public service conscientiously. Our politics may be dirty, but it can be made better. Journalists have a big role to play in that regard. That is the challenge before us.

## **5.0 SUMMARY**

In this unit, we have looked at the major ethical problems of Nigerian journalism. They are freebies, brown envelope syndrome, conflict of interest, misrepresentation, cartel journalism, sycophancy and others.

## **6.0 TUTOR - MARKED ASSIGNMENTS**

Interview two newspaper editors for their views on how they handle cases of ethical violations their organizations.

## **7.0 REFERENCES AND FURTHER READINGS**

Okoye, I. (2000). *Newspaper Editing and Production in the Computer Age*, Lagos: Mbeyi and associates

Okunna, C.S. (1995). *Ethics of Mass Communication*, Enugu: New Generation Books

Lanson, G and M. Stephens (1994). *Writing and Reporting the News* (Second Edition) New York: Oxford University Press.



## **UNIT 2 PURPOSE AND KINDS OF ETHICAL MECHANISMS IN JOURNALISM**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Purpose of Ethical Mechanisms
  - 3.2 Kinds of Ethical Mechanisms
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor- Marked Assignments
- 7.0 References/Further Readings

### **1.0 INTRODUCTION**

In this unit, we are looking at the purpose and kinds of ethical mechanism used in the practice of journalism in the world over.

### **2.0 OBJECTIVES**

On successful completion of this unit, you should be able to:

- understand the purpose of ethical mechanism in journalistic practice
- understand the kinds of ethical mechanism used in journalism

### **3.0 MAIN CONTENT**

#### **3.1 What is the Purpose of Ethical Mechanisms in Journalism?**

Because of the increasingly important roles the mass media play in modern societies, and the fact that media are very powerful tools, the abuse of which can spell doom for the societies, there is the need for effective mechanisms to ensure their continuous conformity to acceptable ethical standards. Thus, as M'bayo (2006) puts it, "the ethics of mass communication is everybody's business and not just those who practice the profession of journalism, and this is so because what media practitioners do has implications for the society as a whole."

Such ethics, according to Kasoma (1994:7), deals with making sound moral decisions in journalistic performance which assures the presence

of societal morality that guides generally acceptable human values and responsibilities.

M'bayo even says that journalists are probably monitored more than any other profession. And this monitoring is done not only by journalistic bodies but also by outsiders. In fact, there are more outside regulators than inside ones.

### **3.2 Kinds of Regulatory Bodies**

There are two broad classifications of regulatory bodies for journalism practice in contemporary societies.

- (i) Self regulatory bodies
- (ii) Regulation by outsiders.

#### **(i) Self regulatory bodies/mechanisms**

These are regulatory bodies or mechanisms imposed and run by the journalists themselves. They include:

- (a) Codes of journalistic practice
- (b) Media Council
- (c) Ombudsman
- (d) Peer group activities

The principle of a self regulatory mechanism is that, since ethics is basically self-imposed and self-enforced, the ethic mechanisms articulated by members of a profession themselves will be more effective and more respected by the members than those imposed by the larger society. It is the same principle that guides other professional bodies such as medical doctors, lawyers, accountants and even the military, in the formulation and enforcement of their own ethical regulatory mechanisms.

#### **(ii) Regulation by outsiders**

The essence of regulation by outsiders is that journalistic business does not have implications for journalists only, but also for the whole society. Hence if a journalist commits a criminal offence, he will be charged to court and prosecuted accordingly, regardless of how the self-regulatory bodies for journalists looks at the offence. Also civil society groups which monitor all aspects of society life, also monitor journalists for civil rights violations.

The following are the regulatory mechanisms or bodies imposed by outsiders in the practice of journalism;

- (a) civil society organisations, such as media alert, media forum, media watch, media ombudsman, etc (M'bayo, 2006)
- (b) public reactions to media performance
- (c) Legal regulations
- (d) Good conditions of service for journalists

We shall elaborate on these in subsequent units.

#### **4.0 CONCLUSION**

The work that journalists do does not concern journalists alone but has implications for the entire society. For this reason there are both internal and external mechanisms for the regulation of journalistic practices

#### **5.0 SUMMARY**

In this unit, we have looked at the philosophy behind ethical mechanisms for journalism practice. We have also seen two broad classifications of ethical regulatory mechanisms, ie, internal and external. In the unit, we also saw examples of each group

#### **6.0 TUTOR - MARKED ASSIGNMENTS**

Make a comprehensive list of all the external journalistic ethical regulatory bodies in operation in Nigeria, giving brief information about them.

#### **7.0 REFERENCES/ FURTHER READINGS**

- Kasoma F. (1994). "The need for journalism ethics in Africa" in F. Kasoma (ed) journalism ethics in Africa Nairobi: ACCE, 3-21
- M'bayo R. (2006). "Tolerance, Freedom and truth: The bedrock of the ethics of mass communication" A paper presented at the Times Journalism Institute media conference Lagos, Nigeria, June 15, 2006.

## **UNIT 3      REGULATORY MECHANISMS AND ETHICAL CASE STUDIES**

### **CONTENTS**

- 1.0      Introduction
- 2.0      Objectives
- 3.0      Main Content
  - 3.1      Professional Codes of Ethics: Their Nature and Functions
    - 3.1.1      Tiers of Journalistic Codes
    - 3.1.2      National Codes
    - 3.1.3      History of Journalism Codes in Nigeria
  - 3.2      Press Councils
    - 3.2.1      Brief History of the Nigerian Press Council (NPC)
  - 3.3      Journalistic Peer Groups
  - 3.4      What is Ethical Regulation by Outsiders?
    - 3.4.1      How do letters to the editor serve as ethical mechanism?
    - 3.4.2      What are media monitors?
    - 3.4.3      How do adequate Training and Remuneration for Journalists Serve as Ethical Mechanism.
    - 3.4.4      What are Legal Regulations as Ethical Mechanism?
  - 3.5      Ethical Case Studies
    - 3.5.1      Case Study 1: Fairness and Balance
    - 3.5.2      Case Study 2: Right to Reply/Correction
    - 3.5.3      Case Study 3: Invasion of Privacy
    - 3.5.4      Case Study 4: Malice
    - 3.5.5      Case Study 5: Bribery
- 4.0      Conclusion
- 5.0      Summary
- 6.0      Tutor-Marked Assignments
- 7.0      References/ Further Readings

### **1.0 INTRODUCTION**

In this unit, we shall be looking at four self-regulatory mechanisms in journalism professional codes, press council, ombudsperson and peer groups.

### **2.0 OBJECTIVES**

On successful completion of this unit, you should be able to understand the nature and functions of the following as ethical mechanisms in journalism practice.

- Professional codes
- Press council
- Ombudsperson
- Peer groups
- The ethical mechanisms imposed by outsiders
- How letters to the editors serve as ethical mechanism.
- How spontaneous public reactions serve as ethical mechanism
- The nature and purpose of media monitors.
- How adequate training and remunerations for journalists can serve as ethical mechanism
- Legal regulations as ethical mechanism.

At the end of this unit, you should also understand how the Nigerian Press Council adjudicated cases which breached the following ethical principles: Fairness; Right of Reply; Invasion of Privacy and Malice. In addition, you will also see a practical case of bribery of journalists, which is universally condemned.

### **3.0 MAIN CONTENT**

#### **3.1 Professional Codes of Ethics: their Nature and Functions**

According to Momoh (2003) if you want to give legal backing to a profession, there are four areas to be covered. They are:

- (i) A system of accreditation of members
- (ii) A register of members
- (iii) A code of conduct: and
- (iv) A body to enforce the code.

A code of conduct for journalism practice is a set of moral principles articulated and adopted by the practitioners themselves to guide their practice. The important thing about professional codes is that they are articulated by the members of the profession themselves, not imposed by outsiders or the larger society.

##### **3.1.1 Tiers of Journalistic Codes**

Journalistic codes are in three tiers

- National codes
- Regional codes
- International codes.

### 3.1.2 National Codes

At the national level there are numerous codes. There are general codes and those for practitioners in different media, e.g. Print journalism, Radio and Television, Cinema etc. The oldest national code for journalists is that of the American Society of Newspaper Editors, which has been in existence since 1923. In Nigeria, there is an umbrella code of the Nigerian Press Organisation (NPO), made up of the Nigerian Union of Journalists (NUJ), Nigerian Guild of Editors (NGE) and the Newspapers Proprietors Association of Nigeria (NPAN) codes.

### 3.1.3 History of Journalism Codes in Nigeria

The need for a code of conduct for Nigerian Journalists was appreciated as far back as the 1950s when the NUJ was formed (Momoh, 2003). By 1979 both the NUJ and NGE had their different codes. But in 1979, the three bodies, the NUJ, NGE, and NPAN adopted one code.

The coming together of the three bodies was occasioned by the promulgation of Decree 31 of 1978 which established the Nigerian Press Council (NPC). Journalists saw the setting up of the Press Council as a threat because it had a preponderance of government appointees. So the NUJ, NGE and NPAN quickly came together and adopted the NPO code, which it presented to the NPC board as the operative code for media professionals. However, along the line problems arose.

Momoh (2003) identified the following problems which created the need to revise the 1979 code

- (i) The NUJ as trade union and editors were not to hold offices in the NUJ even though they pay their check off dues to it
- (ii) The NUJ could not enforce its code, not being a statutory body
- (iii) The owner of a mass medium has the right to hire and fire. The constitution provides for ownership of media and the right to hire and fire.
- (iv) The NPAN has never accepted collective bargaining and the minimum wage for journalists.
- (v) Government did not have confidence in the ability of the press to put their house in order. This was demonstrated by the numerous obnoxious laws and actions which sought to check the press. They include :

Decree 4 of 1984

Newspaper Decree 43 of 1993

Newspaper (proscription and prohibition from circulation) Decree 48 of 1993.

National mass media commission in the 1995 Draft constitution.  
 Threat of a press court  
 Arrest and detention of journalists  
 Threat to set up a newspaper registration board in Decree 43 of 1993.

All these culminated in the need to revise the existing code, which was done in 1998 at a workshop organized by the Nigerian Press council. The 1998 code had the following principles.

1. Editorial independence
2. Accuracy and fairness.
3. Privacy
4. Privilege/ Non-disclosure
5. Decency
6. Discrimination
7. Reward and Gratification
8. Violence
9. Children and minor
10. Access to information
11. National interest
12. Social responsibility
13. Plagiarism
14. Copyright
15. Press freedom and responsibility.

### **Regional Codes**

These are codes guiding practice in different regions of the world. Okunna (1995) lists some of them are:

- (i) The inter-American Press Association adopted in 1926
- (ii) The declaration of duties and rights for journalists, adopted by six journalists' unions of the European community in 1971
- (iii) The code of Arab Journalists prepared under the auspices of the Arab league
- (iv) The Charter of the West African Journalists Association (WAJA) which was adopted in 1986.

### **The International Journalistic Code**

The International principles of professional ethics in journalism came into being in 1983 under the auspices of UNESCO. The signatories include the following regional bodies.

- (i) International Federation of Journalists (IFJ)

- (ii) International Catholic Union of the Press (ICUP)
- (iii) Latin American Federation of Journalists (FELAP)
- (iv) Latin American Federation of Press Workers (FELATRAP)
- (v) Federation of Arab Journalists (FAJ)
- (vi) Union of African Journalists (UAJ)
- (vii) Confederation of Asian Journalists (CAJ)

### **3.2 Press Councils**

Press councils are self-regulatory bodies for journalism practice, as the initiatives for setting them up must come from the professionals or media themselves. Ideally, press councils should be run entirely by the practitioners, but there are those established by the government, like the Nigerian Press Council (NPC). But the essence of a press council is to handle extra-legal matters involving individual journalists and the media.

#### **3.2.1 Brief History of the Nigerian Press Council (NPC)**

By the early 1970s, well meaning Nigerians had started advocating for a press council to handle extra-legal complaints against the press. So in 1978 the military government under General Olusegun Obasanjo promulgated a Press Council Decree, which was outrightly rejected by the press, because of preponderance of government appointees.

Ten years later, the Babangida administration received the decree and renamed it the Nigerian Media Council Decree. This was also rejected by the press. But the then Federal Minister of Information, Prince Tony Momoh, himself a veteran journalist, desirous to give the Nigerian press an enduring legacy, held wide consultations with the stakeholders, which led to the promulgation of the Nigerian Press Council decree in 1992.

According to a publication of the Nigerian Press Council (1998) the new decree was designed to:

- Regulate the press, to guard against abuses not covered by the existing press laws such as inaccuracy in media reports, distortion or intrusion into citizens' privacy for no valid reason, false emphasis, reversal of facts and the treatment of crime and sex.

In other words, the NPC is a public complaint commission for journalists where aggrieved members of the public can file complaints against the journalists and their media organizations. But it not only handles complaints against the media, but also addresses conducts of any persons and organization against the press.



## SELF ASSESSMENT EXERCISE

Discuss the challenges facing the Nigerian Press Council as an ethical mechanism

### 3.3 Journalistic Peer Groups

Traditionally, journalists the world over have assessed the performance of fellow journalists in the newsroom and at the press clubs and other relaxation centres. This informal peer review mechanism, though not limited to ethical conduct, has assisted newsmen in their general duties.

More formal peer review mechanisms include publications such as the famous *American Editor and Publisher* which has been published for many decades. In Nigeria, the *Media Review* published by Lanre Idowu, has been doing a good job of critiquing ethical conducts in the media. For example in 2006, the issue of “wrap around” adverts, whereby some newspapers devoted four cover pages for adverts for mouth-watering fees, was exhaustively addressed by *Media Review*, with the verdict that such a practice was unethical. Unfortunately, the practice still goes on.

Another example of peer review mechanism in the media is the long-rested boo-boo programme on NTA, which pointed out, though in an impolite manner, mistakes made by the print media.

There are also newspaper columnists who try to correct grammar usage in the newspapers and magazines, the most visible of whom is Bayo Oguntuashe, who writes for *Sun* on Thursdays. But the time has now come for publications devoted solely for peer review of ethical conduct in the Nigerian Press, like the practice in other parts of the world.

Below are some peer review cases from different parts of the unit published by the World Press Institute (<http://www.macalester.edu/wpi/ethics0202.htm>, 2003)

- (i) Writing in a recent U.S journalism trade magazine, columnist Allan Wolper asserts that, “It is an open secret that many journalists in Pakistan hold down side jobs with government including the ISI (Pakistan secret service)
- (ii) A reporter at the Times-Picayune in News Orleans, Louisiana (US) questions the credibility of a local television broadcaster who is on camera in some of her husband’s television ads promoting him for public office
- (iii) A Time magazine article delves into the ethically questionable relationship between fashion editors and designers. The Article

reports that many fashion journalists receive thousands of dollars worth of free clothing and other perks.

- (iv) An associated press correspondent in Bolivia resigns after a web site reports he has a conflict of interest. The reporter made a speech in Las Pas in favour of a water project that could benefit a children's foundation he had set up.
- (v) A columnist writing for the *Moscow Times.com* reports that a journalist with children, an unemployed husband and a monthly salary of \$30 (U.S) complains that she could never get by in legitimate journalism without free-lancing "stories to order" on the side, either at the request of her boss or on her own. Made to order stories look to readers like legitimate stories, but they are paid for by the company featured.

Source: *Ethics in the media*, A presentation by the public affairs section

### SELF ASSESSMENT EXERCISE

Assess the role of beat associations in Nigerian journalism.

### 3.4 What is Ethical Regulation by Outsiders?

Ethical regulatory mechanisms imposed by outsiders are those which are articulated and imposed by outsiders, as opposed to those imposed by media professionals themselves.

Since what journalists do or fail to do have serious implications for the society, various groups have seen the need for monitoring mechanisms which seek to ensure that journalists and the media live up to certain expectations.

Seib et. al (1999) capture it beautifully like this:

Almost everyone has something to say about journalism ethics. Those people who are the subjects of news stories often complain that journalists work in ethical void, trampling on privacy, sensationalizing, playing fast and loose with the truth..... News consumers – the public – rely on journalists for information, but are skeptical about the profession's commitment to behaving ethically.

Ethical mechanism imposed by outsiders include but are not limited to the following:

- Letters to the Editor
- General public reactions to media performance
- Media monitors and critics

- Legal restrictions
- Regular opinion surveys
- Adequate training and retraining of journalists.

### 3.4.1 How do Letters to the Editor Serve as an Ethical Mechanism?

Letters have been regular features of newspapers and magazines from the earliest times. Usually brief and straight to the point they are either readers' reactions to things published in earlier editions, or they may just be the opinion of readers to societal issues they feel strongly about, which were not specifically mentioned by the publication's earlier editions.

As they concern professional ethics, letters to the editor are often used by readers to explain about unethical conducts such as biased reporting, lack of fairness in news presentation and things like that.

How do spontaneous public reactions serve as an ethical mechanism? Extreme cases of public protest against media content abound in the history of Nigerian journalism. Two notorious examples will suffice:

#### Example 1

In 2002 there were public reactions in some parts of northern Nigeria over a feature article in *ThisDay* Newspaper, on the hosting of Miss World Beauty Pageant in Abuja. The article published a few days to the event had the following excerpts, which the Muslim faithful considered offensive.

*....As the idea became a reality, it also arouses dissent from many groups of people. The Muslims thought it was immoral to bring 92 women to Nigeria and ask them to revel in vanity. What would Mohammed think?*

*In all honesty, he would probably have chosen a wife from one of them. The irony is that Algeria, an Islamic country, is one of the countries participating in the contest.*

The reaction of the Muslim faithful was swift. At the last count more than 100 people had been killed and property worth millions of naira destroyed. Commenting on the incident, eminent journalism teacher, Ralph Akinfeleye (2003) blamed both the writer of the article and the unruly faithful for not showing any kind of social responsibility.

## **Example 2**

In 2005 a cartoon published by the Scandinavian country of Denmark and reproduced by some Western European newspapers, sparked off riots in some parts of northern Nigeria. The so-called cartoon riots, which resulted in the killing of hundreds of Southern Christians attracted reprisal killing of northerners in the predominantly Christian south eastern cities of Onitsha and Aba.

### **3.4.2 What are Media Monitors?**

Media monitors are civil society groups and organizations which are established for the sole purpose of monitoring or, as M'bayo (2006) put it, "watching the watch dogs of society". They are concerned mainly with the ethical and unethical practices in journalistic performance, thereby constituting what M'bayo calls the "fifth Estate of the realm".

Some prominent media monitors are:

- Media watch
- Media alert
- Media forum
- Media ombudsman

Others include:

- Centre for Media and Public Affairs
- Columbia Journalism Review
- Project for Excellence in Journalism
- Media Channel.Org
- Media Tenor
- Media Centre Research Centre
- News Watch Centre for Integration and Improvement
- Slip Up.Com
- The Tyndall Report

### **3.4.3 How Do Adequate Training And Remuneration For Journalist Serve As Ethical Mechanism?**

Adequate training for journalists has long been identified as an effective mechanism for ensuring and maintaining ethical standards. Journalism has come a long way from the days when all the skill needed to practise it was picked up on the job. It took the academic world a long time to accept journalism as a discipline to be studied in the university.

Woo (2003) tells the story of how the initial offer by Joseph Pulitzer to fund a department of journalism at Columbia University was rejected. Woo writes:

- Why, people wondered, would any University want to train journalists? They were mere ink-stained wretches who practiced what at best was a craft, learned on the job. The idea that journalists belonged in a community of humanists and scientists seemed laughable. Pulitzer's idea seemed far fetched.

With time however, the need for adequate formal training was appreciated by the academia and wider society. And so began the war against unethical behaviour by journalists. Formal training enables the journalist to acquire the skills as well as the legal and ethical preparation for the job. And anyone who has had a stint in journalism practice in Nigeria at least, must have noticed the correlation between high ethical conduct and education.

Similarly, it is also believed that the poor conditions under which many Nigerian journalists operate partly account for the unethical behaviour of some bad eggs. Consequently, it has been recommended at every conference and workshop for practicing journalists that employers of journalists in the country should improve their working conditions as a way of curbing misconduct.

### **3.4.4 What are Legal Regulations as Ethical Mechanism?**

As was pointed out in Module One, laws are regulations imposed by the larger society with formal institutions for their enactment and enforcement. The legal instruments which regulate media conduct include the universal press laws such as defamation, sedition, contempt, copyright etc. We have discussed all these in detail in the earlier modules, so they do not need any repetition here.

Journalists are expected to operate within the confines of the laws of the land in order to avoid litigation and prosecution. Ignorance of the law led to the imprisonment of many journalists in the colonial era. The journalists of the new dispensation are much better educated and therefore better equipped to steer clear of trouble.

### 3.5 Ethical Case Studies

#### 3.5.1 Case Study 1: Fairness and Balance

(The following is one of the complaints adjudicated by the Nigerian Press Council)

##### **NPC/COM/13/93: AYODELE KUPOLUYI Vs DAILY TIMES**

The (Nigerian Press) Council reviewed the complaint of Mr. Ayodele Kupoluyi against the *Daily Times* for wrongly publishing an article, titled, “Why crucify IBB”, and published in the newspaper on August 12, 1993 with a different title, “lets join hands with IBB”.

The complainant alleges:

- a. That the article was sent in December 1992 and published in August 1993 and between the time lapse, significant political developments had taken place in the country which made nonsense of the original aim of the article.
- b. That the publication of the said article, “Lets join hands with IBB” on August 12, 1993, page 11 in the forum column of the *Daily Times* was to achieve the papers political ends, thereby portraying the writer as a member of the Association for a Better Nigeria – (ABN).
- c. That the article had not only embarrassed the writer, but had brought him to contempt and ridiculed among his friends and relatives, and subsequently led to the loss of his job in *TELL Magazine*.
- d. That the said article was deftly edited such that the writer’s words which read “remaining few months” were changed to “remaining period” when it was only 14 days for IBB to quit office.

The council examined the submissions of the *Daily Times* through a letter signed by its legal officer, Mr. T. Tamunekenbia. The content is hereby summarized as follows :-

- a. That Mr. Ayodele Kupoluyi had complained to the *Daily Times* sometime last year about the article he sent and was published by the paper.
- b. That the *Daily Times* in reply to the complaint had written the complaint solicitors, Messrs. Onabanjo and associates of 23, Alabi street, Gbagada estate in which it averred, among others, that,
  - (i) That article subject of your clients complaints bore no date and there was no specific request or instruction from your client as to the specific time within which the article

should be published. Therefore, your client's claim that he sent it in December 1992 becomes irrelevant.

- (ii) We suppose you know and your client too knows that an editor has an unqualified privilege to publish any article sent in by any contributor at a time he deems fit. He also has the sole privilege of casting a head line he deems fit for such articles.
- (iii) The headline of the article was from the first sentence of the last paragraph in your client's article.
- (iv) That the *Daily Times* had infact offered in his letter to the complainants solicitors to publish an apology if he says that he was sorry for the words and belief he held as at the time he authorized it to publish his article.
- (v) That the *Daily Times* maintained that its choice of date in publishing Mr. Kupoluyi's article was not actuated by malice, bad faith or ill motive, as the complainant was not known to us in person.
- (vi) That it was not within the paper's knowledge that Mr. Kupoluyi was a reporter with *Tell* magazine.

## ADJUDICATION

Having scrutinized the submissions of both Mr. Kupoluyi and the *Daily Times*, Council observed that the article was sent to the *Daily Times* with a covering letter dated December 13, 1992. A photocopy of the covering letter accompanied the letter of the complaint sent to the Nigerian Press Council by Mr. Kupoluyi. This contradicts the claim of the *Daily Times* that the article bore no date.

The council is of the view that an article received in December ought not to have been published eight months later particularly when the editor knew that within that period, significant political developments had taken place in the country to probably warrant the writer to have a change of views.

The council is of the view that the action of the *Daily Times* in publishing the material eight months after it was sent to it, knowing fully well that political events in the country during that period did not tally with the spirit of the article, is unethical and blame worthy. The council recommends that the *Daily Times* should apologize to the complainant in such a way as to reflect that the paper meant no harm in publishing the opinion at the time it did.

However, a few assertive statements were made in reply of the legal officer of the daily times and it is necessary to comment on them for the guidance of the professionals:

**a. Time to publish a contribution.**

A contribution to a paper is meant to be published to reflect the opinion of the contributor at a time the issue being discussed is still in focus or current. Like in a court proceeding, the publication should be contemporaneous to the subject matter of comment. Every editor knows that contributions sent to them are meant to address issues that are current either by way of news published or an on-going discussion of public interest. Once the matter is out of focus, it is said to be stale.

**b. Editor's right to publish.**

The right of an editor to publish any contribution is affected by the right of the contributor not to be misrepresented through editing the contribution out of context or publishing the contribution at a time when the contribution will no longer be contemporaneous with the events that gave rise to it.

**c. The headline cast for a story must reflect the content and import of the story and should not be meant to over-dramatize a point a contributor intend to make.**

Council does not agree that it is "unethical" to apologize for publishing what a contributor sent if such a publication was made eight months after it was sent and the time lag was such as would have made the contributor believe that the contribution was not going to be published the time he expected.

**SELF ASSESSMENT EXERCISE**

Find out from the Nigerian Press Council's records another case study which has to with fairness and balance. Summarize it.

**3.5.2 Case Study 2: Right to Reply/Correction**

(This is another complaint adjudicated by the Nigerian Press Council)

**NPC/COM/12/93: ALHAJI (DR) GARBA HAMZA Vs FAME MAGAZINE**

Alhaji (Dr.) Garba Hamza complained against the *Fame* magazine in a letter to the council on October 2, 1993, over alleged defamatory and untrue reports in the magazine's March 2 – March 8, 1993 edition, titled, "G. N. Hamza in Visa scandal" and September 28 – October 4, 1993. The two reports complained against had said, among others:-



## 1. March 2-8, 1993 Edition

- a. That G. N. Hamza procures visas for desperate Nigerians wishing to travel abroad for a fee of between N15, 000 and N 50, 000.
- b. That the visa racket operated at Hamza Holdings was run at two fronts: one by Alhaji Hamza himself and the other one by one prince Bade Tijani of the Nigerian Tourist Defence Corps
- c. That Alhaji (Dr) Garba Hamza was paying more attention to the visa racketeering because of his recent financial problem which necessitated the auctioning of the property by John Knight Finance Limited, Ikoyi, Lagos.
- d. That those visa seekers who could not pay for the quick service are referred to Prince Tijani who charges about N15, 000. That Prince Tijani who calls himself commander-general, spoke to the *Fame* correspondent who posed as a client and emphasized that if the visa was not granted, the part payment would be refunded.

## 2. September 28- October 4, 1993 Edition

- a. That the hush-hush romance between Alhaji (Dr) Garba Hamza and a youngster had blown open, with the girl's parents shouting blue murder; and
- b. That the girl's mother is threatening to deal with Alhaji Hamza.

In accordance with the laid –down procedure for investigating complaints, the secretariat of the council acknowledged receipt of the complaint and advised the complainant to give the magazine enough time to react. The complainant was also advised that if the response from the magazine was unsatisfactory, he could then request the Council to go ahead.

On November 29, 1993, the council received a letter from Dr. Hamza urging it to proceed with its investigation.

On December 6, *Fame* magazine was put on notice to respond to the complaint. On January 12, 1994, council sent a reminder to fame.

## ADJUDICATION

The council noted the refusal of fame magazine to respond to its inquiries and resolved to go on with the adjudication in accordance with section 9 (1)(c) and (d) of its enabling law which empowers it to consider and deal with any matter referred to it in the absence of any party who has been duly summoned to appear before it.

Having reviewed the complaint, the council:

- a. Views as reprehensive the refusal of *fame* magazine to respond to its letter and reminder requesting the magazine's reaction to the complaint of Alhaji (Dr.) Garba Hamza over two publications namely: "G. N. Hamza in visa scandal", of September 28 – October 4, 1993 edition respectively;
- b. Notes that the refusal of the magazine to respond to council's inquiries could leave the innocent bystander with no choice than to conclude that the magazine has something to hide or is clearly in the wrong.
- c. Stresses that the code of conduct of the Nigerian Union of Journalists emphatically states that it is the duty of every journalist to correct any published information found to be incorrect;
- d. Invites the magazine's attention to the fact that failure to respect this ethical imperative could open the profession to ridicule and dash the hope of those who look up to the press as a credible source of information through which public officials can be held accountable for their actions; and
- e. Re-emphasizes that there is nothing wrong or harmful for the press to open up or make restitution if its reports turn out to be incorrect.

In conclusion, council's view is that failure on the part of any publication complained against to react to its inquiries in the bid to adjudicate on the matter is not just a slight on the council but a disservice to the profession of journalism and may well undermine the present attempt for discipline to be maintained through moral suasion. Council therefore condemns in the strongest terms, the negligent attitude of *Fame* and directs that in the absence of any facts to the contrary, a retraction of the publication as requested by the complainant be made within one month of the release of this decision.

### SELF ASSESSMENT EXERCISE

Write a brief essay about *Fame Magazine*, tracing its history and the kind of stories it reports.

### 3.5.3 Case Study 3: Invasion Of Privacy

(This complaint was also adjudicated by the Nigerian Press Council)  
**NPC/COM/48/95: MRS. TAIWO OBASANJO Vs FAME**

The council on November 15, 1995 received a complaint from Mrs. Taiwo Obasanjo against *Fame* over publications entitled, "Taiwo Obasanjo Battered and humiliated" (date of edition not included) and

“Taiwo Obasanjo falls in Love again” (October 31, - November 6, 1995 edition). She also said that *Fame* had been involved in a deliberate, premeditated and orchestrated smear campaign of calumny against her person.

Mrs. Obasanjo said that the falsehood published about her was titled “Taiwo Obasanjo Battered, Disgraced and Humiliated”, In this story, it was alleged that she went to Ota to pick up her children after General Obasanjo was arrested in June and that the three wives of General Obasanjo beat her up and threw her out of the farm, while she abused and threw stones at them. She urged the council to conduct an independent investigation, adding that it would find out that General Obasanjo never kept two women under the same roof and there was no wife living in Ota where her children were in boarding school.

The complainant stated that the second misinformation published about her was titled “Taiwo Obasanjo falls in love again”, she said that in the story, *Fame* alleged that she was seriously in love with one Mr. Odiakose”.

Mrs. Obasanjo denied knowing any man with such a name, adding that it was further alleged that she attended her church activities with the “unknown Mr. Odiakose” and she broke up the relationship “between Mr. Odiakose and his pregnant journalist woman”.

The council acknowledged her complaint on November 17, 1995 and notified *Fame* of Mrs. Obasanjo’s complaint requesting it to state its side of the matter.

On November 24, 1995, council received *Fame*’s letter dated November 22, acknowledging receipt of the complaint. The editor, Mr. Remi Akintunde-Johnson said that in spite of the fact that “we are ready to comply with your instructions, we want to notify the press council that the complainant, Mrs. Obasanjo, has gone contrary to the council’s handbook of instruction which provides for complaining ‘only when you are satisfied that you have invited the attention of the medium concerned to what you deem objectionable; and you are not satisfied with the way the matter was handled by the medium’.

The magazine stated that the only letter received from Mrs. Obasanjo was a copy of the letter addressed to the Executive Secretary of NPC dated November 3, 1995, which it received on Wednesday November 15, 1995. It said that a day after, it received a strongly worded notice (on Thursday November 16) from the chambers of Adesuyi Olateru-Olagbegi & co. lawyers to Mrs. Obasanjo. The notice, *Fame* averred advised it to publish an apology on or before November 27, 1995 as well

as pay the sum of one million naira to be dispersed to charity homes. The magazine also claimed that the legal firm said that a libel suit of 5 million naira would be instituted against it if it failed to carry out the request.

Mr. Akintunde-Johnson urged the council to note that *Fame* next date of publication was November 27. The editor concluded that from the foregoing and in consonance with the council's established patterns of adjudication, the magazine was not in the position to adequately respond to the notice. The council wrote a letter to the complainant requesting to know in writing if she had decided to handle the matter simultaneously in court. Her attention was invited to the fact that council's procedure precluded it from handling any matter before the court or from entertaining legal representation.

On December 18, council received a letter from solicitors to Mrs. Obasanjo informing it of their client's decision to stay further legal action. Thus, Council was requested to proceed with the matter.

The editor explained that the magazine's February 21, 1995 edition "catalogued unabashed romantic notes between her and her lovers". He said that the complainant opened the can of worms through a 28-page documentary she sent to *Today's choice* magazine detailing several escapades and preferences of controversial publisher, Dr. Daboh. Mr. Akintunde-Johnson said that the story in *Today's choice* was one-sided and thus approached Daboh, who readily presented countless letters, love-notes, cards and assorted materials lovers to the magazine. Furthermore, he said Dr. Daboh's two page exposure in *Fame's* February 21, 1995 edition was entitled, "it's true, is it a crime to be in love?"

*Fame*, the editor maintains, stands by its story that "Taiwo Obasanjo was battered" contrary to the position of the complainant that it was false. He explained that the Obasanjo family had been scandalized since the escapades of Taiwo were published, adding that they (Obasanjo family) had an opportunity to deal with her when she came to Ota. "There is absolutely no doubt that Mrs. Taiwo Obasanjo was forcibly stopped from seeing her children", he maintained. He said that "complainant had once shown us the General's angry letter of instructions forbidding her from moving near her kids, Bunmi and Junwo".

On the latest story: "Taiwo Obasanjo falls in love again" (October 31, 1995), the editor said that the magazine had suspected that Mrs. Obasanjo and Ben had more than a casual relationship since August 1994. He said the paper's society reporter once wrote a short one-paragraph story in its famous people's page of August 30, 1994, "I

wonder what sort of stunt Mrs. Taiwo Obasanjo was trying to perform a few weeks back. Mrs. Obasanjo, a born again Christian, was in the car when his driver sped at top speed near her Ikeja home. That was not the story, however. The car stopped suddenly at a side street near German Friendship specialist klinik, reversed a few meters and before you can say Oba.. A man wearing an agbada had jumped into back seat and the car sped off”.

The reporter, Mr. Akintunde-Johnson said, could only recognize the lady, but on September 27, 1994 after some investigation he revealed in follow-up: “Remember the gist about Mrs. Taiwo Obasanjo, wife of former head of state, General Olusegun Obasanjo, one Chief Ben, a Delta state indigene. He is actually a class mate of the born-again lady. In fact, he’s regular at her Ikeja (lagos) home”. The editor further explained that their source informed them about a “new affair” between Mrs. Obasanjo and another man, they only took a fleeting interest. But after studying the story outline, they decided to work on it because the source was very reliable.

## DECISION

Council after deliberating on Mrs. Obasanjo’s complaints and *Fame’s* response:

- a. Notes that the weekly has pleaded justification by citing the widely published liaison between the complainant and Mr. Godwin Daboh Adzuana which it believed had downgraded her reputation.
- b. Believes that by pleading justification in view of the much publicized affair between the complainant and Mr. Daboh and the arguments canvassed by its editor in his letter to council, the magazine is, in effect adopting the trite legal dictum that a person cannot defend a reputation which he does not possess in the first place
- c. Notes that because the press had a right to comment freely, fairly and honestly on any matter of public interest, it is the exercise of this right that press councils safeguard when dealing with complaints of unfair reporting.
- d. Invites attention to the fact that freedom of speech, whether it be spoken, the written or the printed word in freedom under the law. The law balances the right of the individual to his reputation against the equally important right of the individual to his

reputation against the equally important right to express views honestly and fearlessly on matters of public interest.

Council reminds journalists, be they reporters or editors, that a private individual has the right to be left alone, and that invasion of privacy is journalistically defensible only in special circumstances.

That journalists should bear in mind that in considering whether a report should be published or not, it is important to remember that, in the event of legal proceedings, a plea of justification means in effect, a further and more detailed repetition of the report that is the subject of the complaint, and if it is unsuccessful or is withdrawn at any point the damages will, in all probability be considerably aggravated by the fact that the respondent has persisted in his charges till the very last moment.

Council also notes that in a letter dated March 13, 1997, *Fame* was requested to narrow its defence to the substantive issue raised in the complaint, which is that the complainant was battered and humiliated and that she had fallen in love again. It however decided to proceed with the matter when it did not receive *Fame's* response.

Council therefore holds that the report was a clear case of Journalistic hounding.

*Fame* is blameworthy and should apologize to the complainant.

#### **3.5.4 Case Study 4: Malice**

(This is yet another complaint adjudicated by the NPC)

#### **NPC/ABJ/COM/1/10/99: GOVERNMENT OF IMO STATE VS THE EXAMINER NEWSPAPER**

The Nigerian Press Council received a complaint from the Imo State Government in respect of a publication in the publication in the Examiner Newspaper of September 20-25, 1999. The publication titled, "Governor, wife spends N100 million on overseas trips- legislator alleges", was a report of an interview given to the newspaper by a Member of the Imo State House of Assembly. The publication said, amongst others, that the governor bought two houses on the visit to the United States and returned to the country without signing one agreement with any prospective investor. The legislator who is from the same party and senatorial district as the Governor, did not make the allegation in the State House of Assembly. He is reported as having received the information of the governor's alleged purchase of buildings from the legislator's brother in the United States.

In a complaint by an officer of the Imo State Government, the allegation was not only denied, but a claim was made that the Examiner must have published the story because the state government would not meet the demands of Editor-in-chief for patronage.

The Editor was in no doubt that all that was necessary to be done before the story could be published had been done.

The council made some observations on both the allegations by the government of Imo State and the reaction of the editor of the Examiner Newspaper.

On the allegation that the Examiner's publication was malicious because the government had denied patronage to the paper, Council said it was unable to establish the malice. It noted that the patronage sought was not unusual in media establishment and operation. The request of the Editor-in-chief to the Imo State Government that his newspaper be listed for advertising and subscription was, in the view of council, a legitimate business request. Council noted that the newspaper published not only a reaction to the story complained of but an interview with the Government which was favorable.

On the defense by the Editor that the story was fit for publication, council disagreed. A story of that seriousness would be fit for publication only if all the verifiable had been verified or if the occasion of the making of the allegation was privileged. There was no proof that the newspaper had facts to prove that the Governor and his wife collected N100million and spent it in buying two houses in the United States of America. The story was even more suspect when the legislator interviewed by the newspaper claimed that the allegations he made were based on the information his bother in the United States gave him.

The degree of proof acceptable in journalism is that which would show proof of the expenditure as the courts of law would accept. The absence of such effort in establishing the truth of the serious allegations against the governor of Imo States and his family was unprofessional and blameworthy.

Council also commented on the status of interviews granted by legislators and how much protection they have under the code of conduct for journalists. Council noted that statements of legislators are only protected when made in the House. *The Examiner* would rightly have claimed that its publication was professional because it would have enjoyed the immunity which the House in session confers. But the legislator's allegations in this case have no such protection.

Council blamed the evident lack of exhibition of professionalism in the collection of information that resulted in the publication and defective judgment of the editor in publishing the story.

Council decided that the *Examiners* newspaper should publish a retraction of the story and apologies to the Governor for the embarrassment.

### **SELF ASSESSMENT EXERCISE**

Write a brief history of the defunct *The Examiner* newspaper.

#### **3.5.5 Case Study 5: Bribery**

(This is a critical article about bribery in the Nigerian Press culled from *Ethics in the Media*, a publication of the Public Affairs Section, U.S. Consulate General, Lagos)

### **THE NIGERIAN HONORARIUM**

**By Kehinde Bamigbetan**  
**Editor, *The country***  
**Nigeria**

Should foreign journalists receive honoraria for attending a news conference called by a government? Should news sources offer to reimburse reporters' expenses? Should a foreign reporter publicly deny that he accepted such an offer if it might jeopardize his ability to work in a foreign country? How can a foreign reporter protect himself from a government uncomfortable with his reports?

The above issues have remained on the front burner of discourse on journalistic ethics in Nigeria since Stephen Farris, a TIME journalist, visited the country earlier in 2002 and reported on corruption in the media. In the article, "The whole Truth." (TIME, *International edition*, April 14, 2002), Farris cited an incident where the federal government bribed foreign journalists to influence their coverage.

The background: In January, 2002, CNN reporter Jeff Koinange aired a report on an inter-ethnic clash in Lagos. A few residents said a military government would have done a better job of stopping the fighting. The federal government was unhappy with this report because it gave the impression that military dictatorship was still popular among Nigerians. It responded by visiting European countries to assure the world the



democratic movement was on course, and by meeting with foreign correspondents currently based in Lagos.

Farris reported that the Federal Ministry of Information invited foreign journalists to a press conference in the capital, Abuja, at the end of the session, each correspondent was given press packs in which “nestled” an envelope containing 400 dollars.

The report embarrassed the government that took off in May 1999 by declaring war on corruption and public officials who are guilty of graft. President Obasanjo set up a committee headed by the Attorney General and Minister of Justice, Mr. Kanu Agabi, to probe Farris’ allegation.

While some sections of the media berated the Minister for bribing foreign journalists, others thought the gesture was a defensible public relation initiative. Here is how one journalist, Waziri Adio, columnist for the *Thisday* Newspaper put it: “This is where the real danger lies. We have come to the day that too many journalists see nothing untoward in the action of the government...That is the real insult and embarrassment, not Mr. Farris’ report. “The journalists did not receive an “honorarium”, because an honorarium is for a service rendered. Any respectable news organization should pay for gathering news.

Moreover, the fact that it is a common practice does not make it right, and the intention of the giver is not the issue. What matters is that journalists follow a code of ethics. Finally, the fact that it is done openly does not make it right. It only shows how large the problem has become. The panel’s report exonerated the Information Minister and tried to weaken the credibility of Farris’ report. It said the ministry had informed each invited journalist that it would re-imburse their expenses. The payments were to honor this pledge. It claimed that this was the practice all over the world by international agencies such as the UN and the United States Information Service (USIS). The panel accused Farris of coming to Nigeria to engage in the defamation of Public officials, and noted, “it is a criminal offence to publish such malicious falsehoods.”

The report claimed that only two reporters declined the money on the grounds that they were in Abuja for another assignment, and only one reporter returned the money later. It also claimed that Jeff Koinange collected the honorarium and “there is no evidence that he returned the money.” Neither Koinange nor CNN publicly refuted the claim at that time. But, in response to my inquiry, Koinange told me that he had returned the money and described the report as an attempt to scapegoat him. A CNN public relations spokesman categorically denied the accusation. In addition to CNN only two foreign media, Reuters and AP,

announced that they had rejected the money. That leaves quite a crowd of sinners.

### **SELF ASSESSMENT EXERCISE**

Would you consider this article too critical of the Nigerian Government even though it is written by a Nigerian? Discuss.

## **4.0 CONCLUSION**

You can see that the essence of self-regulatory mechanisms is for journalistic insiders, as it were, to handle issues which arise from time to time in the media, without the interference of outsiders. All over the world, the other professions have similar arrangements for regulating the ethical conduct of their members. This is to ensure that they continue to serve the best interest of the society and that bad eggs among them will not drag the name of the profession in the mud.

However, journalistic ethical conduct cannot be left to the journalists alone. So the larger society imposes its own mechanisms for regulating media performance. Journalists and mass media which fall short of societal expectations are sanctioned accordingly. It therefore believes the responsible journalist to be guided by his professional code of ethics in the performance of his duty to the society. By so doing he will earn societal respect and be free from trouble.

You can also see how ethical complaints against the press are adjudicated by the Nigerian Press Council (NPC). Although the aggrieved persons could have gone to court, they chose to complain to the NPC so that the matter would be painstakingly investigated and in-house cautioning of the offenders could be done, if they were found culpable. This is the essence of the ethical mechanisms imposed and enforced by the professionals themselves. How do you see adjudication in each case?

## **5.0 SUMMARY**

In this unit, we have looked at some self-regulatory ethical mechanisms in journalism. They include professional codes of ethics, press councils, journalistic ombudsman, and peer groups.

In this unit, we also identified the ethical mechanisms imposed by outsiders. We then discussed letters to the editors as an ethical mechanism. Next, we explained how spontaneous public reactions to media performance can serve as an ethical mechanism. We also explained what media monitors do and listed some of them. We also

looked at adequate training and remuneration for journalists as ethical mechanisms. We also discussed legal restrictions as ethical mechanisms imposed by outsiders.

Lastly, in this unit, we have also reviewed four ethical case studies and one critical essay on bribery in the Nigerian press. The purpose of this review is for the student to understand how ethical issues are handled by a regulatory body such as the Press Council.

## 6.0 TUTOR-MARKED ASSIGNMENTS

1. Compare the Code of Ethics for Nigerian journalists with another national code in the West African sub region
2. List and explain other ethical mechanisms imposed by outsiders, which were not mentioned in this unit.
3. Go to the archives of the Nigerian Press Council (NPC), study and summarize four ethical case studies under the subject matters:
  - a. Abuse of Due Process
  - b. Innuendo
  - c. Gratification
  - d. Right of Publisher/Proprietor

## 7.0 REFERENCES/FURTHER READINGS

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