

**JOURNALISM PRACTICE AND APPLICATION
OF THE CONTEMPT OF COURT PRINCIPLE
IN THE NIGERIAN JUDICIARY**

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Abstract

The people's right to know is a cardinal feature of democratic governance. In the judiciary, the right to know presupposes an open justice system where judges are expected to adjudicate without concealments. As authentic information purveyors in society, the press and the judiciary need collaboration to achieve openness in justice administration and satisfaction of the people's right to know. Consequently, this paper explores the relationship between Nigerian judges and journalists vis a vis Nigeria's Chief Judge's recent directive to the bench to apply "contempt proceedings" in members' interactions with "wanting" journalists, and the people's right to know. The paper assessed judges' professed preconditions for journalists' presence in court and practical experiences of journalists in Nigerian courts. It identifies a depreciation of values in justice administration behind this morally repulsive relationship between the bench and the press and calls for urgent redress.

Keywords: Journalism practice, Prejudice, Contempt of court, Justice administration, Judiciary

Introduction

One key factor to the operability of a democracy is the people's right to know which is a function of a free press system. It underscores the notion of transparency in governance in that the governed is not prevented from knowing what happens around them. In a democracy, decisions are taken only after laid down procedures are seen to have been followed. Institutions are made responsible for every aspect of life among citizens and between the citizens and their government. Unlike military regimes that thrive on decrees and fiats, citizens dissatisfied with the operations of these institutions or leadership of the government in a democracy can recourse to the courts of law for redress. In every democracy, the courts are the arbiters in disputes of

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all kinds. They are saddled with the responsibility to ensure sanity in the society by redirecting government should it go wrong just as they can prescribe punishment for wrong doing and compensation for the ill-treated or victims of the excesses and shortcomings of people in authority.

Notably, all of this can happen when the principle of rule of law is given due prominence in governance. The role of the courts in democracies that are truly founded on the rule of law is enormous and encompassing. For instance, the courts have the task of interpreting laws guiding buying and selling (commercial law), production and manufacturing (industrial law), administration and organizing (administrative law), contracts and agreements (law of contract), land and land related transactions (land law), family (family law), relationship between producers and consumers of goods and services (consumer protection laws) and much more (Aligwe, 2013). With so much in hand, the court's business apparently rouses the interest of a wide variety of individuals, groups and organizations that constitute the general public. People are therefore anxious about court reports of all kinds to vicariously experience pleasure, empathy, sympathy or commonality with those directly affected, by reading newspaper court reports or exposing themselves to court stories in the broadcast news. In so doing, people can equally weigh the credibility of the courts through knowledge of court proceedings (Nwabueze, 2009).

The court reporter is otherwise known as the judiciary correspondent. His duties bring him into contact with many people including members of the bench and the bar. Others are litigants, their witnesses, observers and the police in the court premises. Not just that, the court reporter has cause to personally meet counsels on either side of a particular case to seek clarification on some murky spots on the issue he is reporting. Much as he is not expected to draw or make known his inferences from the goings-on in court, the court reporter must pay attention to the professional language of the court and demeanour of parties to a case to be able to report accurately. He is duty-bound to report the unvarnished truth of the matter to the extent that what is reported is the same as his lordship's records in facts except for the choice of words if he is not reporting verbatim.

The Nigerian judicial system allows the general public access to the courtroom to witness proceedings as disinterested observers. This freedom of access predates the extant Freedom of Information Act hence people, including journalists attend the courts without any form of identity checks, to date. However, this freedom of access does not extend to juvenile court sittings and in some cases; it is subject to the discretion of the presiding judge. The judge considers national interest,

public interest or privacy concerns of witnesses to exercise this discretion. Insight on judicial practice has shown that national interest matters much more to the courts than other interests. If the court weighs that lack of confidentiality in the hearing of a particular matter would be detrimental to national interest or the parties in the suit, access of journalists to the courts could be restricted. The journalist or reporter in a Third World country is nonetheless a development journalism practitioner who must pay attention to national interest. However, what is at issue in the court is that, depending on the character of the case, the judge and the journalist do not always agree on which interest (national or public) to rightly give prominence. In such situations, the position of the judge prevails and the journalist may find himself in contempt of court if his actions do not align with the position of the judge.

In Nigeria, politics, national assembly, police, the anti-corruption institutions, etc., are the major sources of national news. What happens in these places are usually controversial and the courts arbitrate on all of these controversies hence they become a meeting point for politicians, criminals, businessman etc. seeking justice or trying to extricate themselves from the arms of the law. It is trite to state that no other profession in human life has such sweeping impact and influence on the general public as the journalism profession. The influence it has on the masses is unquantifiable given that only journalists can professionally set the agenda for public discuss and influence the direction of public opinion on topical societal issues including matters in the courts of law. In fact, journalism is the conveyor belt that moves all the happenings in the courts and other institutions of government to the general public. The media source, hear and ascertain on behalf of the general public and regularly keep its members (the general public) posted on the goings-on in the courts but when the judge for some reasons would not readily publicize a case in hand, the reporter's presence in court becomes a concern.

Why Report the Court

The executive, legislature and judiciary are three different structures that combine to form a robust system of democratic government. These structures relate complementarily to ensure wholesomeness in the overall structure of government. The parliament (legislature) enact laws, the executive implement the laws while the judiciary interpret them where the need arises. The news managers that is, the people and organizations that report what happens in these subsystems to the larger society are collectively known as "the fourth estate of the realm". This fourth estate characterized by mass communication media

practitioners is the strategic connection the citizenry has with the organs of government. Through information dissemination the mass media essentially exist to provide equilibrium so that each structure within the society knows its duties as well as harmonize its existence for the good of other structures and the overall system (Adelabu, 2011).

The courts are very busy places in societies that believe in their statutory responsibility as unbiased arbiters in all actionable activities. Editors rank the courts as the most important beat after the parliament and police beats because a lot of human drama unfolds in the courts (Vivian, 2005). Besides, after the police station and the ministry of justice which are not in the court's immediate environment, the official activities of authentic sources for a court reporter such as the registrar, judge, counsels and other court officials that complement the justice delivery process would be unknown to the public until they are reported. Just as transparency is the driving force of every democratic government, access of members of the public to courtrooms and court documents in the justice administration process support the notion of transparency in democratic governance. This idea of transparency in justice administration relate to what is known as the "open justice principle". It is a principle that ensures public operation of the justice system in order to sustain and enhance public confidence in a nation's judiciary.

The open justice system works in two ways: (1) the public should have access to the courtroom and (2) the press should be able to communicate what happens in the courtroom to the general public to encourage the peoples' right to know (O'kane 2017). This principle implies that justice must not just be done but must be seen to be done and to achieve this, the courts business must not be deliberately concealed from public glare. It follows that the media, being the eyes and ears of the public could stand in for the greater majority of the general public outside the courtroom. This makes media coverage of court proceedings a feature of the open justice principle in democratic governance. The journalist's presence in court and access to the right court documents enhances accuracy in court reports. That promotes better understanding of the workings of the justice system and translates to well informed commentaries and public opinion related to judicial practice. Again, covering and reporting criminal cases in O'Kane's (2018) opinion serves a cathartic purpose on people with criminal tendencies, in the general public

Court reporting ensures due diligence in justice administration. It creates in the minds of judicial officers the awareness that the public is watching. Society expects same punishment for the same offence otherwise the intervening factors have to be known, lest the judge's motives would be misconstrued by the public. For instance, though

two offenders may be guilty of the same offence, the penalty for a 'first offender' could be lighter than that of a notorious criminal if his lordship is furnished with the relevant facts. By clearly reporting all perspectives to such issues, the media help to build public confidence in the judiciary. Besides, it is only when people are adequately informed that criminals are punished and erroneously arrested people are exonerated by the courts, would the public have confidence in the rule of law as the fulcrum of democracy (Odornigie, 2010).

When courts are reported, the mere fact that a judge's conduct is open to commentaries in the media becomes the greatest check on official misconduct of judicial officers (Popoola, 2003). The curiosity this awareness rouses in him is a potent anticipatory weapon against judicial recklessness. Media reports and comments serve as mirrors to judges. As they reflect on their activities reported, they can sense reaffirmation for good deeds or penitence for ill-considered decisions. Public opinion and interest may at times disturb the privacy though, judicial officers deserve to remain focused in court business. Yet, it encourages impartiality and pragmatism in court proceedings and ultimately helps to elevate the justice system to higher standards of exactitude and honesty.

Responsible and Accountable Journalism

Any journalist worth the appellation would always keep focus on his responsibilities to the society he serves. Once he is able to circumvent infractions on these responsibilities, he is seen as a responsible journalism practitioner. Bandoel and d'Haenens (2004) believe that the journalist is particularly responsible to state mechanism, market forces, the professional self and the general public. Of these areas of concern, the journalist's responsibility to the general public brings him in contact with the various institutions of government including the courts of justice. The Committee of Concerned Journalists (CCJ) developed nine principles of journalism. One of them is that journalism's first loyalty is to the citizen. Another principle states that journalism must serve as an independent monitor of power, though the monitoring must not be for pecuniary gains (Kille, 2009). The interpretation of "citizens" otherwise called "the general public" represents everybody in the nation no matter the subdivision or profession one belongs to. Our view is that the second principle here reinforces the first in essence since, only a few persons hold state power for the citizens and journalism has a responsibility to monitor this power only in the interest of the general public, to whom it owes its first allegiance.

The journalist's responsibilities have degrees of compulsion. Some are entirely voluntary and self-imposed; some are contracted between the media and audiences while others are required by law (McQuail, 2009). According to Hodges (1986), issues of responsibility involve social needs society expects journalists to respond to. On the other hand, issues of accountability relate to how society might call the journalist to account for fallouts in the performance of his responsibilities (McQuail, 2009). The process of accountability manifests in public scrutiny whereby the operations of the mass media are confronted with the legitimate expectations of society in relation to consequences or quality of output as it affects the referents (Prichard, 2003). In fact, under the notion of accountability, the watchdog is being watched by society and its institutions of control. In so doing, it (the media) is made to explain or justify the consequences of actions taken in the exercise of the freedom it is accorded to function given that, this freedom is limited by the rights of others. In his seminal work entitled "*The press and foreign policy*", Cohen (1963) sees the reporter functioning either as a neutral reporter or a participant. McQuail (2009) presents the reporter that assumes the first role (neutral reporter) as an informer, interpreter and instrument of government while as a participant the press acts as a representative of the public, critic of government, advocate of policy and general watchdog in society.

In the opinion of Weaver and Wilhoit (1986), the press is an interpreter, disseminator and adversary. The journalist that opts for the adversary role is identified with support for personal values of courage, self-reliance, integrity and impartiality. Of course journalists of this stamp are likely to be dogged and prone to problems that attend his professional life. Plaisance and Skews (2003) see those that support the disseminator role adopting fairness and self-control which normally distance them from possible harm.

The media are expected to provide positive symbolic support for established institutions and authorities such as the military, police, church, school the law, etc. The media report virtually everything in society but the freedom to do so may be limited by consideration of national interest in times of war, national integrity, terrorism, sedition etc. as well as privacy concerns in the courts. To avoid sanctions, they are not expected to stay out of bounds where such bounds are defined. The media are not expected to present reports in manners that seem to encourage criminality or disrupt social order but the unvarnished truth in any case. In short, the benchmark for accountability set by the US Society for Professional Journalists' expects journalists to abide by the same standards to which they hold others, admit mistakes and correct them promptly, encourage the public to express its grievances against the media, etc. In view of the intricacies

in the task of journalism, the media attempt to avoid external adjudication and sanctions by instituting self-regulatory mechanisms of accountability such as journalistic codes of ethics. These codes contain moral principles guiding journalism practice to protect it from abuse, the freedom conferred on the press by the Libertarian Theory, encourages the journalism practitioner to be socially responsible and free from external control or penalties. The Code of Ethics for Nigerian Journalists emphasizes respect for privacy concerns, accuracy and fairness, protection of public interest, etc., in news reportage.

The media are collectively seen as mediating factors in a democracy. They are regarded not just as the fourth estate of the realm but as essential social forces that help to lubricate the engine room of democracy (Akinfeleye, 2015). On the other hand, the courts are elevated institutions in society. They wield the power of life and death over suspected criminals. They hold the balance for law abiding citizens who have discrepant view-points on a given issue. Just as the pronouncement of a judge after due consideration of the facts before him is legally binding on parties to an issue, an error of judgment that condemns any human being legally spells death for him. What the journalist needs to ensure is that no possible distraction in justice administration should be traceable to unnecessary or ill-considered journalism otherwise, the errant journalist should be commensurately punished for failing to abide by the same standards to which he holds others.

The Judiciary in a Democracy

Democracy derives its essence from the accomplishments of a robust judiciary. It is the efficacy with which the courts function as final arbiters in all interactions in the polity that sustain this form of government anywhere it is practised. The responsibility saddled on the judiciary to keep a democracy on course is enormous because unfettered exercise of the fundamental human rights is a cardinal feature of democracy under the supremacy of the principle of the rule of law. In fact, the judiciary provides the axis on which the machinery of democracy equably revolves, given its (democracy) reliance on the rule of law which necessitates dispute resolution only through arbitration. All interactions between organs of government, groups and individuals in society are rules-governed in societies where the principle of rule of law prevails. Recourse is therefore made to the courts of law for interpretation of relevant laws where there are discrepancies in the interactions. Any court's position on such discrepancies holds until it is set aside by a superior court according to established judicial procedures. However, the position of the supreme court of Nigeria on

any matter before it is final. The judicial system in Nigeria allows some legal proceedings to be instituted right in the Supreme Court Registry while many other cases get to it through an appellate process.

The courts are required in a democracy to define, confine, discuss, interpret, etc. several constitutional rights, privileges and limitations in the relationship between government and the governed as well as among individuals, groups and institutions in a nation (Abayomi, 2009). They are vested with authority to limit the state and other powerful individuals from assuming repressive tendencies and bring about equilibrium in the dealings of such elements with other groups or individuals constituting the citizenry. In terms of contribution towards sustaining democracy, the judiciary is ranked above the other arms of government given its capacity to guide the values of the constitution with fearlessness, frankness, fraternity and integrity (Krishna, 2010). In addition, the courts provide the bulwark against human rights infringements to advance the frontiers of the freedom guaranteed in a democracy, by liberally interpreting relevant portions of the constitution (Aligwe, 2013).

The overarching powers of the judiciary are exemplified in the fact that it sits in judgment over the other arms of government. When the executive is guilty of misuse of its powers the judiciary calls it to order. Similarly, the judiciary has the capacity to void actions of the legislature it deems unfit for the polity. It protects the constitution and stands out as the only arm of government vested with the sole responsibility of stabilizing the polity according to provisions of the constitution. As frontrunners of the judiciary, the courts play exclusive roles in governance and deserve to be emboldened to dispassionately and disinterestedly deliver on their constitutional responsibilities. Accordingly, it becomes imperative for judicial officers to be safeguarded from the immoderations and discourtesies of news purveyors since such distractions will rub off on the nicety with which justice deserves to be dispensed. That possibly occasioned Nigeria's Chief Judge's call on judicial officers to readily apply contempt of court principles in their interactions with wanting reporters. The call may have been made in earnest, to stop malevolent citizens from getting back at judicial officers under the guise of free speech. Unfortunately, the inconsiderate application of this universal principle already has an inversely compromising effect on the judiciary in Nigeria.

The Principle of "Contempt of Court"

Contempt of court refers to willful disobedience or disregard for the authority of a court of law. It involves speech (spoken or written), actions

and inactions that fail to accord due respect to a court thereby bringing the person of the judge or his official duties to disrepute. It concerns activities that affront the authority and dignity of the judiciary as an institution and judges as judicial officers (Odornigie, 2010). Contempt of court embraces: (1) Disrespect for judicial proceedings in speech or manner. (2) Refusal to attend or give evidence in judicial proceedings. (3) Obstructing or disturbing judicial proceedings. (4) Writing or saying anything capable of changing the cause of justice. (5) Publishing proceedings that are supposed to be kept secret. (6) Attempt to wrongfully interfere with or influence a witness in judicial proceedings. (7) Dismissing a staff for giving evidence in court on judicial proceedings. (8) Retaking possession of a property already adjudicated to someone. (9) Committing any act of intentional disrespect to judicial proceedings (Adaramaja in Aleide, 2013).

With particular reference to media practice in the court, the practitioner may be found wanting when: (1) the report of a matter by the media deems a suspect in a criminal matter guilty even before the trial is over; (2) comments in a case before a court in a manner suggesting that those involved may not obtain justice; and (3) disrespect to the judge is shown by doing things in court which are counterproductive to the administration of justice (Odornigie, 2016). There are two aspects of the principle of contempt of court namely, civil and criminal contempt. Civil contempt entails disobedience to court order or subpoena or refusal to carry out the verdict of a court. In contrast, criminal contempt involves any act of public character that interferes with the administration of justice or which brings the administration of justice to dishonour (Daramola, 2013).

Contempt by media practitioners or reporters is almost always criminal in nature. They take the form of public communication of materials: (a) deemed prejudicial to the conduct of pending legal proceedings, (b) that interferes with the administration of justice or (c) that are scandalous of the judge or business of the court (Daramola, 2013). The contempt of court principle precludes reportage of matters that are subjudice? Or not yet decided judicially. This owes to the fact that media reportage of cases pending in court may generate a strongly held public opinion about a case, which the judge may have to contend with in the administration of justice. It equally encompasses actions disparaging or prejudicial to litigants or their witnesses in a matter before a court of law. When contempt occurs in the court premises or in the presence of the judge, it constitutes what is called *contempt in facie curiae* but it would be *contempt ex facie curiae* if the action took place outside the precincts of the court and out of sight of the judge (Agary, 2018). While the judge can summarily deal with *in facie curiae* contempt cases, he is expected to follow through the judicial processes

of apprehension and prosecution to achieve conviction of the *ex facie* contemnor. Again, the *ex facie* contempt case has to be tried by a judge order than the denigrated.

The law of contempt is not meant to specifically protect the individual judge who may be given to eccentricity and fretfulness about public opinion (Krishna, 2010). Its primary objective is indeed to protect the dignity, integrity and reputation of the institution of justice from unfounded allegations (Boateng, 2013). However, underhanded judicial officers in Nigeria misapply this law to foreclose the fundamental open justice principle and that has inversely promoted knavery in the justice delivery process. This situation is anti-democratic because when judges themselves are guilty of flaws, shortcomings, violations etc. in their official responsibilities public criticism is the only way by which they can be corrected (Krishna, 2010).

The contempt of court principle is universal. It is applied anywhere the notion of free speech is given due recognition and has largely provided the needed protection for justice administrators. As a tool for protection of the judiciary, it draws strength from the commonplace notion that the authority of the judiciary should be insulated from incursions because nobody takes orders from an authority that has lost its respect. That is to say, the contempt of court principle protects the judiciary from losing its respect in society because whatever the judiciary does from the moment it loses respect becomes inconsequential to the public (Agary, 2018). However, it is sometimes used in Nigeria as a mere tool of intimidation where a judge decides to overawe the press for laughable reasons thereby giving this universal principle a false representation that vitiates its essence.

The issues

It is evident that while the media appear to be predatory on the judiciary for excesses in justice administration, the justice administrators in turn watch out for infringements on reporting restrictions and mete out sanctions for such infringements. Unlike the judges who have constitutional powers to punish for offensive actions, the media can only publicize their woes for the public to speak for them. The farthest they can go is to influence public opinion for or against judicial decisions affecting the media or anybody in the society. Through media reports, public opinion on decisions taken by courts is formed and judges receive commendation or condemnation in the court of public opinion. This happens to be the singular weapon of the media in the recurrent face-offs they have with the courts. The former Chief Judge of Nigeria (CJN), Justice Walter Onoghen on January 10, 2018 warned the public as well as lawyers to desist from making unguarded

statements on cases pending in court. He further enjoined the bar to invoke the inherent powers of the “contempt of court principle” against anyone discussing in the press, any matter pending in any court of law (Okakwu, 2018). He also pointed out that it is contempt of court for anyone to discuss matters pending in any court of law in the country and that the punishment for contempt may include a term of imprisonment (Nnochiri, 2018). His position is that the bench should inhibit acts that amount to trial of cases in the mass media or any medium other than the courts of law.

This position is contrary to Akinlola’s (2018) view of the responsibilities of the press that it owes a duty to the public to make straight-news reports and commentaries of cases in court, as long as such commentaries do not prejudice justice administration. Be that as it may, given that media reports generate discussions that influence public policies in some direction, the fear behind the CJN’s call is the possibility of this influence translating to public pressure on the judges in matters that are subjudice. The situation is such that, while the judges have a right to safe-guard themselves from undue pressure, the media have another right or responsibility to let the public know exactly what transpires in the courts. Obviously, the right of the public to know is subsumed in the principle of press freedom which though fundamental, is not absolute. It is pertinent to note that not all rights are equal before the law and that when two rights clash one can limit the other depending on prevailing conditions. Of course when the press is pitted against the bench that is responsible for interpreting the constitution and other laws of the land, the tendency to be self-serving is an initial factor to be dealt with. Put differently, when the notions of free speech and the inviolability of the judiciary are juxtaposed, free speech suffers because for the judiciary to be dedicated to its responsibilities, it would protect itself from “undue interference”.

Apart from this disadvantaged position of the press, some actions taken against it by the bench tend to conflict with the spirit of the contempt of court principle and may pass for abuse of the same principle. The press is often accused of invasion of privacy when its presence in court is not welcomed. An instance is when journalists visited Justice N. I. Agbelu’s court at Ogun State South-West Nigeria on September 15, 2015, the presiding judge accused the journalists of invading the court’s privacy positing that the court is not a public place (Folarin, 2015). This position contradicts Akinfeleye’s (2015) view that all who in their official capacities wield powers accorded their offices by the constitution are holding public office and that the individual holder of such an office qualifies as a public officer. Folarin (2015) sees public office as one created by government at any level

with specific remunerations, rights, privileges and responsibilities attached. He states further that a public officer is one that derives his livelihood from taxes paid by the public by virtue of the office he holds. In Krishna's (2018) opinion, when power is given to an individual by the constitution, he/she holds this power in trust for the public. Folarin (2015) quotes Thomas Jefferson that where a man or woman assumes public trust; he/she should equally consider himself/herself as public property. Folarin does not think the case of Nigerian judges should be different and asked if a judge is a public officer in a public office, should the actions in his/her official capacity be considered as his/her private affairs? The remarks of Hugo Black, a judge of the US Supreme Court that judges are not essentially different from other government officials (Krishna, 2018) answer this question. In sum, the foregoing account indicates that a judge essentially is one that holds public office in the interest of the general public. He/she is, therefore, not exempted from being held accountable for his or her official activities. The public has a right to know what he/she does for them, whether such activities represent the purpose for the existence of that office. In another breath, though the press has the freedom to report the activities of all public officers or the goings-on in their offices, they may not enjoy the same freedom in institutions like parliament and the judiciary. There are known reporting restrictions infringements on which amount to contempt of parliament or contempt of court. Under this principle, the court is empowered to punish a member of the press found wanting in his reportage. This power is what the chief judge of Nigeria's Supreme Court wants members of the Nigerian bench to wield to curb the perceived excesses of the press. Justice Onoghen remarked that the language the press uses to describe judgments of the courts is not only ungentlemanly, degrading and contemptuous but amount to uncharitable insults which must not be encouraged in a decent democracy (Nnochiri, 2015). However, it should be noted that if judicial officers behave the way they are reported, reporters may have been constrained to be ungentlemanly in their choice of words to report the courts.

Media Foundation of West Africa (2017) recounts that on March 5, 2017 a reporter of the *Vanguard* (in Nigeria) Onozare Daniel was stopped from covering a case in a Lagos magistrate court. The court reportedly stopped proceedings on realizing that a reporter was in the court. The reporter was then asked to declare her interest in the case being heard. She replied that she had no interest in the case order than that of a judiciary correspondent. She was further asked if she sought and secured his lordship's permission to be in the court. The reporter responded that the court is a public place, suggesting that being a public place she had no reason to seek permission to be

in court. The honourable judge required the reporter to present her report to him for vetting before publication, this of course amounts to censorship and when she protested, she got sacked from the court. In a similar situation, Ukpong (2017) reports that midway into proceedings, the police prosecutor in a court at Akwa Ibom State, South-South of Nigeria expressed discomposure at journalists' presence in court. The presiding magistrate instructed the journalists to stand up and announced to them that the ethics of the court require journalists to give prior information to court about their presence before they could report proceedings. He explained that even a visitor to someone's house would first inform his host about his coming so that the host could prepare for him. He then directed the reporters from *Premium Times*, *New Nigerian newspapers* and *Inspiration FM* radio station to delete all notes they had taken on the proceedings. This happened despite defence counsel's appeal to court that the constitution of Nigeria allows reporters unrestricted access to court proceedings except in situations where the court is protecting minors or in special cases relating to national security.

What is bothersome in this situation is that across the globe, members of the bench are expected to be fair-minded and detached in justice administration. If a judge during sittings gets so interested in the different personalities in court, he is most likely to be engulfed in what social scientists call the "Hawthorne Effect". Then verdicts would be attributable to attention paid to personalities rather than the facts of the matter before him. That would naturally lead to grievous miscarriage of justice.

At Abeokuta, Ogun State, South-West Nigeria, a high court detained seven journalists of *Vanguard*, *The Punch*, *The Nation*, *Daily Times Nigerian Pilot*, *TVC News* and *Alaroye* respectively for three hours in the administrative block of the court. According to Olatunji (2015), the judge arrested and detained the journalists for failing to provide authorization for their presence in the court claiming that the court premises is not a public place. He is reported to have asked whether the journalists have any defence if they were accused of trespass for failure to produce a letter of authorization from the chief judge of Nigeria or a senior judicial officer permitting them to enter the court premises. This state of affairs typically exemplifies what provokes contempt proceedings in many Nigerian courts against court reporters. Application of the contempt of court principle is principally discretionary. In fact, no judicial officer is obligated to apply it except that he personally wishes to recourse to it. Reporters more often fall foul of this law than any other known law in the discharge of their responsibilities. It is seen to have been justifiably applied in some cases while indiscretion on the part of some judicial officers largely accounts for its application

in many instances. The cumulative effect of this situation in Nigeria is the prevailing absence of cordiality in the interactions between this organ of government and what is known as “the fourth estate of the realm” The reporter is often seen as a pathological faultfinder whose rights have to be inhibited order than an unbiased news purveyor and a notable vanguard for human rights protection whose rights must first be protected to enable him function properly.

The chief justice of Somalia observes that respect for the rule of law is the basis for reorganizing the rights of journalists (International Media Support, 2006). Of course, it is rule of law that encourages the open justice principle which in turn supports the presence of reporters in court to promote the citizens’ right to know. This view of Somalia’s Chief Judge probably explains the training session organized by UNESCO in partnership with IMS-Fojo, Somalia for Somali justices on March 17 and 18, 2018 at Mogadishu. This endeavour was an effort to strengthen African judges to play their rightful role as vanguards in defending freedom of expression and safety of journalists. Issues tackled in the training session according to the International Media Support included: criminal defamation, safety of journalists and impunity of judges.

Contrary to what obtains in Nigeria, court proceedings are broadcast live in South Africa for the people to watch at home (Ukpong, 2017). Also in Britain among many other instances, cameras were allowed in court to film Tommy Robinson’s appeal against contempt proceedings (Waterson, 2018). In one instructive situation, Lord Shawcross was reported in *The Times of London* as remarking on one of Lord Denning’s judgments that “Denning is an ass”. Though any remark on a judge could hardly be more censorious, Denning promised to disprove this remarks not by contempt proceedings but by means of performance (Krishna, 2010). As a matter of fact, this state of affairs in other climes and the last incident in particular that depicts individual judge’s disposition towards others in contemptible circumstances are instructive enough to help redirect the interactions between the press and the bench who should see each other as counterparts in strengthening Nigeria’s democracy.

Conclusion and Recommendation

Transparency and accountability are key democratic principles the world over. The notion of transparency in the context of this work embodies honesty and openness in the justice delivery process. It connotes a situation where judicial officers would be blunt and uninvolved umpires to citizens seeking justice, to an extent that greatly enhances the integrity and public image of the judiciary. It relates to a judiciary that takes into account the fact that people will always have

perceptions that are unpredictable and yet such perceptions are not allowed to impinge on the lucidity of their actions. It behooves judicial officers to act with integrity to acquit the judiciary of wrong perceptions the public could hold about it. In fact, judges must strive to be seen as men of even temper. They must demonstrate self-possession and exude competence to glorify their elevated position in society and protect the wellbeing of the nation's jurisprudence.

The former Chief Justice of Nigeria acknowledges that responsible mass media will do their best to be fair but there will also be ill-informed slapdash and prejudiced attempts to influence the public against their referents. This work agrees with his position and also holds that where actions and verdicts of judicial officers are founded on good reason, criticism however fierce loses its bite. The judiciary should realize that though the media are expected to report without harm to their referents, any reprisal on harmful reportage that threatens to caulk the valid sources of information in society will nonetheless earn the judiciary more of unsympathetic criticism. Though recognized in law, even the reporting restrictions are an aberration in the eyes of the public. Judges must therefore exercise forbearance in justice administration lest they precipitate reactions against unsubstantiated criticism derail the cause of justice eventually.

Media practitioners should observe all ethical considerations that guide against excessive expression of opinion that could impinge on the integrity of the judiciary. They should be acquainted with the workings of the courts in other not to in their reportage, instill animosity in the relationship between the judiciary and the public. The press should be aware that public interest is encompassing and does not solely represent the public's right to know. Damaging reportage of the judiciary in itself is prejudicial to public interest because a denigrated institution of justice loses respect and its regulatory powers on the citizens. This could mortify the entire machinery of government. The presumption of innocence of an accused during trial must be respected, the right to privacy of litigants and their witnesses is the judge's to determine and his opinion in that regard must always be respected. On one hand, the media are the machinery of representation in any modern society. The representation they make of anybody shapes the opinion the public has of him and that remains valid in the minds of the public. Therefore, media practitioners must keep their passions in check and do no less than sound reportage so that they do not disparage the judiciary willfully or inadvertently. On the other hand, only an irrepressible press can make the judiciary in a democracy accountable to the citizens through insightful reprimands. If a judge is not ready to hold open sessions he should be able to issue a writ to that effect. The writ will indicate that part of the proceeding he would

not make public if not the entire proceedings and the reporter that fails to adhere could be made to face attendant sanctions. The fact that judges have to compel reporters to obtain permit and submit same to the court or inform court in advance the intention to report proceedings suggests that there is more to the judicial processes in Nigeria than the ordinary mind could fathom. The implication is that if this situation prevails, the judiciary will completely lose the confidence the citizenry repose in it sooner than later.

This article, therefore, calls on third parties including government and NGOs to organize workshops and training sessions for the bench, to address its unpleasant disposition towards the press so the bench and the press could see themselves as partners working for the maturation of Nigeria's democracy. Furthermore, the Nigerian Bar Association (NBA) and the Nigerian Union of Journalists (NUJ) should individually make deliberate efforts towards realignment of interests and redressing the sore points in their interactions in the interest of the nation's development.

References

- Abayomi, T. (1999). The judiciary and free press in the administration of social justice. In L.U. Uche (Ed.) *Mass communication democracy and civil society in Africa* (pp 268-273). Lagos: Nigerian National Commission for UNESCO. Adelabu, O. & Tejumaiye A. (2011). Mass media and governance: Issues and challenges in contemporary Nigeria. In L. Oso & U. Pate (Eds.) *Mass media and society in Nigeria*. Lagos: Malthouse Press limited.
- Agari, K, (2018).Contempt of court. Retrieved 2 December 2018, from <https://punching.com>contempt-of-court>.
- Akinola, R. (2018). Freedom of expression and contempt of court. The Justice Abang order against Channels in perspective. Retrieved 11 November 2018, from <https://www.vanguardngr.com>.
- Aleide, E.J. (2013). Exploring the synergy between the application of press law by media practitioners, effective performance and contribution to national development. In N. Okoro (Ed.) *Contemporary readings in media and communication studies* (pp. 410-425). Lagos: St. Benedette Publishers Ltd.
- Aligwe, N.U. (2013). Mass media law in Nigeria. In N. Okoro (Ed.) *Contemporary readings in media and communication studies* (pp. 400-409). Lagos: St. Benedette Publishers Ltd.

- Boateng, A. (2013). Abuse of judicial power through contempt. Retrieved 3 December 2018, from <https://mobileghanaweb.com>features>.
- Cohen, B. (1963). *The press and foreign policy*. Princeton, NJ: Princeton University Press.
- Daramola, I. (2013). Ethical and legal issues consideration in public affairs reporting: A study of parliamentary reporting in Nigeria. *Arabian Journal of Business and Management Review (Oman Chapter)*, 2(10), 62-70.
- Folarin, J. (2015). Judges vs journalists in the public sphere: Is the court of law a private or public place. Retrieved 12 December 2018, from <https://allafrica.com>stories>
- Hodges, L.W. (1986). Defining press responsibility: A functional approach. In D. Elliot (Ed.). *Responsible journalism*. Beverly Hills, CA: Sage.
- Krishna, V.R. (2010). Against abuse of the contempt power. Retrieved 3 November 2018, from www.thehindu.com.
- Lorenz, L.A. & Vivian, J. (2005). *News reporting and writing*. Delhi: Pearson Education.
- McQuail, D. (2009). *McQuail's mass communication theory*. (6th ed.). London: Sage.
- Media Foundation of West Africa (2017). Court sacks journalist from court. Retrieved 3 November 2018, from: www.mfwa.org.
- Nnochiri, I. (2018). Make unguarded comments on cases before court and risk jail. CJN warns. Retrieved 22 December 2018, from <https://www.vanguardngr.com>.
- Nwabueze, C. (2009). *Reporting*. Owerri: Top Shelf Publisher.
- Okakwu, L. (2018). Nigeria's Chief Justice threatens to punish media discussion of cases pending in court. Retrieved 30 November 2018, from www.premiumtimesng.com.
- O'Kane, O. (2017). Media role in justice delivery. Retrieved 11 November 2018, from www.irishexaminer.com.
- Olatunji, D. (2018). Judge detains seven journalists for hours, free them after snake threat. Retrieved 11 November 2018, from <https://vanguardngr.com>
- Odornigie, O.B. (2016). Reporting court proceedings by the media: The uses and abuses. Retrieved 11 November 2018, from: <https://www.pressreader.com>thisday>
- Plaisance, P.L. & Skews, E.A. (2003). Personal and professional dimensions of news work: Exploring links between journalists values and roles. *Journalism and Mass Communication Quarterly*, 20(4), 833-848.
- Popoola, A.O. (2003). A doctrinal and comparative perspective of the enhancement of citizens' participation in democratic

-
- governance. In L. Arogundade (ed.). *FOIA (freedom of information act) and civil society*: Lagos: International Press Centre.
- Prichard, D. (2000). *Holding the media accountable*. Bloomington IN: University of Indiana Press.
- Ukpong, C. (2018). Judge tells journalist to obtain permission before covering court proceedings. Retrieved 11 November 2018, from <https://www.vanguardngr.com>
- Weaver, D & Wilhoit, C.G. (1986). *The American journalist*. Bloomington IN: University of Indiana Press.