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Press Freedom and Rhetoric of Human Rights in Nigeria

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ABSTRACT

This paper appraises the constitutional framework of press freedom and human rights in Nigeria. Press freedom, human rights or freedom of expression have been overarching concepts. Scholars of repute have taken positions and argued on either side of the divide. Classical liberal thinkers are of the opinions that freedom should be inalienable right human and of the press for the purpose of upholding accountability in the affairs of the state and beyond. These rights, they contend, should be unfettered in a way that the press should have unconditional access to operate without hindrance through the various state repressive apparatuses. On the other hand are scholars who argued that freedom of the press and human rights should be curtailed. One of such thinkers is the controversial philosopher, Jeremy Bentham, whose seminar work Anarchical Fallacies had sparked divergence intellectual debate. Betham describes rights as of all sorts as "Nonsense upon Stilts" and this has long established bipolar arguments among scholars globally including Nigeria.

Keywords: *human rights, press freedom,* media freedom

INTRODUCTION

Media freedom is crucial to democracy and development. The media as ideological weapon Brennen (2000) could be used use as tool to mass educate, enlighten the people on electoral processes and make them to be conscious of their rights and stand for it. Governments irrespective of the system of practice, distrust the media for the fear that the media, if not restrained, are capable of swaying people's views to oppose certain government policies. The reason for directing various legal and social control mechanisms at the media is that those at the helms of affairs claimed

that an unrestrained media is capable of exerting 'political subversion' (McQuail, 2010). McQuail argued further that defense such as 'to preserve moral and cultural reason', 'combat cyber-crime' and guide against reports undermining 'national security' are some of the tactics employed to restrict media freedom. Hutchinson, Schiano and Whitten-Woodring's (2016) submission gives credence and support to McQuail's thus:

> *The idea is that independent news media will facilitate free and fair elections and shine a spotlight on corruption - thereby serving as a fourth estate. Yet political leaders often justify restricting media freedom on the grounds that irresponsible news coverage will incite political violence - potentially undermining government and in effect acting as a fifth column (Hutchinson, Schiano and Whitten-Woodring (2016, p. 165).*

As a growing democratic country, Nigeria's political communication system has experienced major shifts since the return to civil rule in 1999. No doubt, democracy has brought greater and constitutionally protected freedom of the media. This freedom, however, is perceived as nexus that afford certain responsibilities for the media to fulfill its role as the fourth estate of the realm. The frequent obvious tension between journalists, politicians and the state (Wasserman, 2010), indicates that there is no clear consensus about what media freedom and responsibility mean in the context of Nigeria democracy.

History of Press Freedom

The agitation for free press perhaps started with the execution of Socrates (470-399 BC) who was accused of corrupting the minds of the youths of Athens by enlightening them about their freedom; and Galileo Galilei (1564-1642) who was hounded, persecuted and imprisoned for his scientific discoveries which the authorities believed was heretical (Olatunji, 2018; Okoye, 2007).

The first ever legislation on press freedom according to Cunningham's account could be traced to 1766 when the Swedish parliament enacted legislation that is now known as "The Press Act of 1766" (Cunningham, n.d.). Resulting from the demise of King Charles XII in 1718, the Swedish throne bequeathed to a series of feeble kings who were less powerful and influential (Weibull, 2020). The absence and failure of another monarch to immediately succeed King Charles XII paved way for the Riksdag to have enormous influence and control (Cunningham, n.d). Riksdag with four chambers: nobility, clergy, townsmen, and farmers formed two formidable parties known as the "Hats" and the "Nightcaps" (Weibull, 2020). Weibull recounts

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further that following Riksdag domination, the Nightcaps pushed for the liberalisation of Swedish society that ignited heated political debates, which resulted in a number of printed political pamphlets. The political influence of Anders Chydenius, a liberal Pastor and member of the Nightcaps propelled Riksdag to initiate and legislate the Freedom of the Press Act (Weibull, 2020; Cunningham, n.d.). The Press Act of 1766, passed by the Swedish Riksdag (parliament) as "His Majesty's Gracious Ordinance Relating to Freedom of Writing and of the Press", is considered the world's first law establishing the legal foundation for the freedom of the press and freedom of information (Weibull, 2020). The Press Act, according to Weibull, eliminated the restriction of all printed publications, including those adopted from other countries excluding those on academic and theological matters. The Press Act liberated government official secrecy and removed the restrains placed on most publications and accorded citizens the right and access to government documents to encourage the free exchange of ideas.

This historical landmark, reported to have set the standard principle, as the foundation of democracies throughout the world. It also permitted official and business activities of the government to be covered and made public. This principle also sets the pace for the belief that individual citizens of a State should be able to express and disseminate information without fear of reprisal (Cunningham, n.d). In the 17th centuries before the thirteen American colonies namely New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia were declared independent from the Great Britain in 1776, the British government had attempted to censor the American media by prohibiting newspapers from publishing unfavorable information and opinions (https://www.history.com/topics/colonial-america/thirteen-colonies). The emancipated colonies, which later came together to birth the United State of America (USA) had an ideological battle against the British government on free press and information.

In the American colonies, the struggle for free press and state appetite to wield maximum control resulted in a landmark trial of a roving American Journalist, John Peter Zenger. The British colonial authorities had instituted charges of seditious libel against a German born American Journalist, John Peter Zenger. During this period, the British appointed colonial Governor of New York, William Cosby, secured an indictment of seditious libel against John Peter Zenger for publishing articles disparaging and defaming him. At this time, as established by English common law, transported to the U.S, 'truth' not considered as defense for libel. Then, truthful information was more dangerous than lies by the British colonial government, because it was more believable by the American people

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(Gammon, 2012). Apparently, Zenger's publication contained offensive attacks on Governor Cosby. Some of these offensive statements included deriding comments that were considered and judged insensitive and inappropriate. In the Zenger's vile news article, the Governor (William Cosby) was particularly described by Zenger as having "loathsome false teeth and an unclean mouth" (Christen, 2010). These phrases were considered seditious to the state (the British government) and libelous to the Governor. Zenger's subsequent trial and exoneration is a milestone case in the history of freedom of the press in America, assisting to lay the foundation for the First Amendment (Weibull, 2020; Gamon, 2012; Christen, 2010). This made the University of Arizona Journalism Programme in 1954 to establish award prize on press freedom to journalist who fight for press freedom and the 'people have the right to know' after Zenger (Gamon, 2012).

The defense of John Peter Zenger, editor of the *New York Weekly Journal* in 1734, against libel charges in 1735 often seen as the beginning of American press freedom (Gammon, 2012). After the American Revolution, several states made legal provision for freedom of the press, and thereafter, the First Amendment (1791) to the U.S Constitution was born. The First Amendment has drafted by the framers of the U.S Constitution poignantly declared that *"Congress shall make no law ... abridging the freedom of speech or of the press"* (Weibull, 2020; Cunningham, n.d.).

However, the generic idea of press freedom is traceable to the Great Britain when the classical liberal thinkers championed the cause of liberty of the press. The first ever agitation on the defense of press freedom was initiated by the English peripatetic philosopher and poet John Milton in his 1644 classic pamphlet *Areopagitica.* According to Cunningham (2020), Milton's *Areopagitica* was written in response to the British Parliament's passage of a law requiring the government to approve all books prior to publication. Milton's argument was premised on the principle that "truth and understanding" are not economic commodities that can be monopolized and traded in the marketplace. Similarly, in 1859, more than two centuries after John Milton's *Areopagitica* was written, another advocate, John Stuart Mill one of the greatest proponents of press freedom and free speech advocates the essence of freedom of the press in his book *On Liberty*, where he established that freedom of opinion and its expression was not end in itself; he viewed it as "the necessity for the mental well-being of mankind (on which all other well-being depends)", as this expressed the ultimate objective in his summary of the grounds for pursuing this freedom (Nordenstreng, 2007).

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Classical liberal theory also views the press as a defender of public interests and a 'watchdog' on the government. This established the liberal concept of 'Fourth Estate of the Realm**.** Scottish author, biographer and historian Thomas Carlyle attributed the origin of the concept of 'Fourth Estate of the Realm' to the Anglo-Irish politician and author Edmund Burke who purportedly used it in 1787 in allusion to the parliamentary reporters (Gentzkow, Glaeser & Goldin, 2006). In the early centuries, three "estates" were formally recognised as dictate of power. They are the Lords Spiritual (the clergy), the Lords Temporal (the nobles) and the House of Commons (the commoners). Each arm of the mediaeval government had a separate social role and a certain level of power, with Lord Spiritual being the most powerful (White, 2017; Bown, 1994).

During this era, the notion of Fourth Estate of the Realm, as proclaimed by Edmund Burke conferred on the press the status of a watchdog in the society. Prior to this period, the press had no known constitutional power and responsibility. It was therefore, tightly muffled by the state and citizens were denied access to dissenting voices and criticisms that the government deem inappropriate and offensive. The government had exclusive control of the press and as such suppressed the working of the press and the principle of the 'people right to know'. It was in this hostile environment that the nomenclature of the fourth estate of the realm was born to allow for free press. For this reason, James Mill contends that the "press should suffer hardly any restriction on its freedom to comment and to criticise" (Boyce, 1978). James Mill advocated further the importance of a free press and decries the continued decline of freedom of expression stating that such act gives room for political recklessness, radical and arbitrary use of power to oppress the people thus:

> *That the discontent of the people is the only means of removing the defects of vicious government, that the freedom of the press, the main instrument of creating the discontent, is, in all civilised countries, among all but the advocates of misgovernment, regarded as an indispensable security, and the greatest safeguard of the interests of mankind. How could the people criticise their governors, how indeed, choose them in the first place, if they did not possess the most perfect knowledge relative to the characters of those who present themselves to their choice, but by information conveyed freely, and without reserve, from one to another? For the governors to impose restraints in tantamount to the government choosing directors of the public mind, and if any government chooses the director of the public mind, that government is despotic* (Boyce, 1978, pp. 21-23).

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The event in the U.S eventually established the historic principle now sacredly enshrined in U.S. law on account that 'truthful information' can no longer be libelous. This signifies that truth, once it can be established and proven, especially the one that seeks to ride on public interest and fashioned on the moral justification of generality of 'common good' is now widely accepted and regarded as a potent defense against libel and seditious statements in across many nations.

Philosophical Foundations of Human Rights

All humans are product of natural rights and as such should at least enjoy measurable unhindered rights. Every man is born free with their accompanied rights otherwise known as 'natural rights'. Natural rights are clearly inalienable rights that cannot be repealed by fellow human being *neither* can it be licensed. Both living and non-living things have natural rights; even the dead has the right to rest in peace. This is natural and cannot be abridge by humans. The right to speak and of expression, the right to movement, the right to worship whichever God, the right to free thoughts, the right to own property – are all-natural rights and not of the human laws. In the 21st century, humans are beginning to understand that natural rights should be extended to nature as it is supposed to be. Globally, with the emergence of various international laws and conventions – which many countries have domesticated - indiscriminate cutting of trees and deforestation has become serious offence. The United Nations guided Kyoto Protocol of 1995 and the Paris Agreement of 2015 are major two of the numerous UN global treaties designed to protect climate and combat global warming. This is caused initially by human activities and disobedience to the natural rights to protect and preserve our forests and trees; also, by the activities of the industrialised countries with constant toxic emission. The terrific depletion of ozone layers is glaring evidence that the cloud was denied its natural right to clean energy. Obviously, natural rights extend beyond human realm.

The principle of natural rights proclaims that every human being enjoys exclusivity over his or her mental and bodily construct grounded in the mould of personal liberty. These rights are regarded as inalienable that can readily reject any attempt to extricate them. The term 'rights' was initially used to expressed the teachings of classical Roman lawyers, for whom *ius* ('right' or 'law') formed the basis of law and persons were essentially holders of rights originated from law. In feudal principle (church), custodians of law and philosophers argued that God bestowed human beings with basic rights to themselves and to those ideals that they required to preserve their heavenly created lives (Reeve, 1981).

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One of the established philosophers that advanced the context of natural rights is Thomas Hobbes. Hobbes attributes to all human being the natural liberty as well as equality, on the premised which they are permitted to carry out actions that are necessary for the purpose of preserving themselves from contemporary creatures. Hobbes maintained that the exercise of one's natural liberty leads directly to unceasing conflict and unremitting fear, inasmuch as nature confers upon each individual the right to possess everything and no legitimate limitation on one's freedom to enjoy this right (Carmichael, 1990; Reeve, 1981).

According to Hobbes, the right of nature is defined as the 'right of self-preservation.' This right is contrasted immediately with the 'law' of nature, whereby individuals are forbidden to do anything destructive of their lives or to omit the means of self-preservation. In Hobbesian view, natural rights do not entail correlative duties. To declare a right is to say that other persons have specifiable duties in respect of it, and these correlative duties are part of the meaning of the right (Carmichael, 1990, p. 4). This means that if one exercises a right to speak, others have a duty not to interrupt with exercising that right.

Meanwhile, John Locke contends that a natural right logically limits political authority; to say that individuals have a natural right is to say that others (including the state) have a duty not to interfere with the exercise of the right. According to Locke, the State has no authority to regulate individuals in that respect and so the natural right limits the state's authority. In this regard, according to Locke, the natural rights of individuals and the authority of the state are correlative: an increase in rights is a decrease in authority, and vice versa (Carmichael, 1990).

Alex reports that the controversial philosopher insisted that natural rights are 'human rights' where he consistently claimed that:

> *Men are naturally free and equal as part of the justification for understanding legitimate political government as the result of a social contract where people in the state of nature conditionally transfer some of their rights to the government in order to better ensure the stable, comfortable enjoyment of their lives, liberty, and property. Since governments exist by the consent of the people in order to protect the rights of the people and promote the public good, governments that fail to do so can be resisted and replaced with new governments* (Alex, 2020).

In moral and political philosophy, social contract as a theoretical model originated during the 'Age of Enlightenment' that seeks to address the formation of society and query the legality of the authority of the state over the individual. It posits that individuals have consented, either overtly or covertly, to relinquish some of their

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freedoms and succumb to the authority of the ruler or magistrate in exchange for protection of their remaining rights.

Locke perceives social contract as a political conception of aristocrats, and as such, should not be used to suppress natural rights insisting that natural rights supersede other political and legal rights; and as such, there should be no basis that justifies surrender of one person to another. According to Locke, any magistrate that repudiates to his wards the exercise of their natural rights to their life, liberty, and estate is autocratic and undeserving of obedience (Daniel, 2016; Carmichael, 1990; Reeve, 1981). Locke sees no pressing compulsion for people living in the state of nature to abdicate their natural right to communal life in the view of social contract. He argued that social contract does not confer on government the absolute right to suppress natural rights but rather seek to protect such inalienable rights. Locke emphasises that:

> *Should they (people) choose to enter into bonds of civil society by means of a contract; the sole reason that they do so is to avoid the "inconveniences" and inefficiency of the pre-civil world. This does not require parties to the contract to surrender any of their natural rights. Indeed, the only government worthy of authorization is that which strictly upholds and protects the rights that persons possess by nature (Alex, 2020; Daniel, 2016; Kelly, 2007).*

Locke's natural rights can be compared to contemporary human rights, but natural rights are wider in scope as far as they have fewer restrictions. Locke's natural rights are not the product of political, legal and social convention, but held by virtue of our common nature (Kelly, 2007). In Locke's view, those rights are natural because they are pre-political. It is pre-political in the sense that every human being is entitled to natural rights. It also signifies that state of nature predates any form of political authority. Thus, in a sense, Locke's natural rights are similar to contemporary human rights (Sandel, 2009; Kelly, 2007). He ends his *Second Treatise* with a debate on the dissolution of government which generated divergent views. Locke had steered intellectual conversation when he argued that "a government that infringes natural rights positions itself in a state of war with the members of civil society, who collectively and individually may severe allegiance to it and may vote to form a new government" (Sandel, 2009; Frederick, 2003, Carmichael, 1990).

Criticisms of Natural Rights

Some critics (Smith, 2018; Valentini, 2017; Schofield, 2003; Bedau, 2000; Bentham, 1843) accused Locke of advancing inciting statements which had resulted

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in revolutions against the powerful States on the principle of natural rights. Jeremy Bentham (1843) in his famous *Anarchical Fallacies* describes natural rights as "Nonsense upon Stilts". Bentham's criticism is considered as the most scathing refutation of natural rights (Schofield, 2003). Also, political economist, Josiah Tucker also has discerning perspective about the doctrine of natural rights as postulated by Locke. Tucker referred to "the Lockian System" "as Universal Demolisher of all Civil Government, but not the Builder of any" (Smith, 2018). Bentham polemical remarks and stark opposition to natural right rest on his conviction that if natural rights are adequately guaranteed, they will result in anarchy and state of anomie. Bentham explains further that natural rights had been the potent justification for staging the American and French Revolutions. Owing to this restiveness, he regarded 'natural' as "terrorist language" (Smith, 2018, Valentini, 2017; Bentham 1843). Bentham argues that natural rights lacked natural basis apart from the fact that they echoed and represented the personal wishes of those propagating them (Schofield, 2003; Bedau, 2000). Bentham believes there is no known natural right; that every right is a product of law and manifestation of government. Bedau also captures Bentham's repudiation of natural rights thus:

> *...that it consists of "execrable trash," that its purpose is "resistance to all laws" and insurrection," that its advocates "sow the seeds of anarchy broad-cast," and, most memorably, that any doctrine of natural rights is "simple nonsense: natural and imprescriptible rights, rhetorical nonsense, - nonsense upon stilts* (Bedau, 2000, p. 263).

The significance of these criticisms is that natural rights cannot be satisfactorily vindicated (Valentini, 2017). Valentini's argument is tailored towards Bentham supposition that Lock's natural rights have inadequacies, and submits that there is no such thing as natural rights thus:

> *Purported grounds for natural rights either fall short of accounting for their target phenomenon (i.e., they ground natural duties but not rights) or merely reassert that phenomenon, so that citing those "grounds" amounts to nothing more than postulating natural rights. But this postulation strategy is dubious: our intuitions in support of natural rights, it turns out, are not particularly reliable and can be easily explained away. Postulating such rights is thus explanatorily unnecessary. This leads me to conclude that there are no natural rights* (Valentini, 2017, p. 2).

Thus, Bentham and Valentini contend that there are no laws without government and since natural rights do not originate from government and law and with no known

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source, they constitute what Bentham termed "anarchical fallacies" (Valentini, 2017; Bentham 1843).

However, Locke perspective seems to be less harmful on the conviction that retaining one's natural rights in civil society provides one the ability to protect oneself from those who may want to acquire one's property or limit one's liberty (Igwe, 2015). Contrary to Bentham's postulation, Igwe (2015) argues that there exist natural rights that predate the existence and formation of law and government; hence, natural rights are not of law and government. This means that without government, these rights exist. They are not anarchical as claimed by Bentham. On the contrary, it is their non-recognition by the government that may engender a state of anarchy…. natural rights are the sine qua non for human development. Consequently, their denunciation constitutes an impediment to human development (Igwe, 2015).

Formation of International Rights and Conventions

The amplification of the Lockean views on natural rights during the eighteenth century perhaps triggered the French Revolution that resulted in the widely proclaimed 'Declaration of the Rights of Man and the Citizen'. The Declaration, which possibly is the roots to other later declarations of human rights, declares that the primary aim of civil life is "the preservation of the natural and imprescriptible rights of man" - including political, economic, social, religious, and cultural rights as well as resistance to tyranny (Daniel, 2016; Kelly, 2007).

Therefore, a vital characteristic of the fully established idea of natural rights is its direct and immediate political behaviour. Given that natural rights may not be curtailed or eliminated without the denial to a person of his or her very humanity, any government that attempts to suppress them without due process has no claim on the obedience of its citizens (Alex, 2020; Daniel, 2016).

This implies that natural rights always take precedence over artificial communal or public rights that might be imposed by political institutions. In this way, the mantra of natural rights confines political power and may even lead to a defense of confrontation to or revolution against systems of government that violate the rights of individuals. Consequently, international conventions were subsequently enacted to ensure liberty of the people in all frontiers. Such conventions were initiated by a unified global community – the United Nations (UN). After the collapsed of President Woodrow Wilson's founded League of Nations, the UN was formed in June 1945 (at a point when the Second World War (1939-1945) ended) to foster global unity and prevent occurrence of another world war. By this time, the

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idea of a universally acceptable human rights was muted and born through Universal Declaration of Human Rights (UDHR) (www.un.org).

According to Australian Human Rights, "Universal Declaration is not a treaty, and thus does not directly create legal obligations for countries" (https://humanrights.gov.au/our-work/what-universal-declaration-human-rights). It is an expression of the essential values which bind all members of the international community. This gesture has had a significant influence on the formation and development of international human rights law including strengthening various human rights group.

The harrowing incidents that ensued during the Second World War reminded the comity of nations that human rights are always violated and universally not respected. The pogrom that ensued tormented the entire world that made governments globally, irrespective of their political leanings, to make a concerted effort to prevent a reoccurrence. In 1948, representatives from the 50 member states of the United Nations came together under the leadership of Eleanor Roosevelt to develop a list of all the human rights that everyone across the world should enjoy. On December 10, 1948, the General Assembly of the UN announced the Universal Declaration of Human Rights. The 30 rights and freedoms articulated in the UDHR include the right to **asylum,** the right to **freedom from torture**, the right to **free speech** and the right to **education**. It also includes civil and political rights, like the right to **life, liberty, free speech** and **privacy**. It also includes economic, social and cultural rights, like the right to **social security, health** and **education** (Amnesty International, 2017).

For the first time, after the first and the second world wars, the formation of UDHR signifies a paradigm change by declaring that all human beings are free and equal, irrespective of colour, faith or religion. It is a watershed in the world history that there was a global agreement that put human beings, not power politics and power play, at the front burner. Commenting on the importance of human rights during the tenth anniversary of the UDHR in 1958, the Chairman of the Commission on Human Rights which drafted the UDHR and former First Lady of the U.S.A, Eleanor Roosevelt, in her speech titled *'Where Do Human Rights Begin?'* noted that:

> *Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seek equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have*

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> *meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world* (Amnesty International, 2017).

Article 19 of the Universal Declaration of Human Rights guarantees all human the freedom to express themselves without fear and prejudice but such expression should be decent that it may not in any manner affect the freedom of others to freely express their opinions. The articles read: "Everyone has the right to their opinions, and to be able to express them freely. We should have the right to share our ideas with who we want, and in whichever way we choose" (Brown, 2016).

The Declaration of UDHR and its wide acceptance by comity of nations has led to various other international agreements, which are legitimately obligatory on the nations that ratify them. Such treaties include International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). These treaties, including the African Charter on Human and Peoples Rights (ACHPR), were modeled after UDHR.

The United Nations International Covenant on Civil and Political Rights (ICCPR) strives to safeguard the protection of civil and political rights. It was adopted by the UN's General Assembly on December 19, 1966, and it came into force on March 23, 1976. The ICCPR necessitates nations that have consented to the treaty to defend and preserve basic human rights such as: the right to life and human dignity; equality before the law; freedom of speech, assembly, and association; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; the right to a fair trial; right family life and family unity; and minority rights. In the same spirit, Article 19 of the International Covenant on Civil and Political Rights also accord all humans freedom of expression regardless of the medium which is used to convey such expression. Article 19 that is divided into three parts has its first two parts focus on human freedom. The first being "Everyone shall have the right to hold opinions without interference." And the second with more decisive expansion thus "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Similarly, the International Covenant on Economic, Social and Cultural Rights (ICESCR) is also another multilateral rights treaty adopted by the United Nations General Assembly on 16 December 1966. The Covenant was implemented in 1976 and had been ratified by 160 countries. A major highlight of the treaty is the assurance that people have the right of self-determination, including the right to determine their political status and freely pursue their economic, social and

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cultural development. Like the earlier discussed two conventions, ICESCR has a clause that ensures people are not only free to express themselves but also enjoy the liberty of economic trade and socio-cultural relationship. Article 19 of the International Covenant on Economic, Social and Cultural Rights states that:

> *The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18 (www.ohchr.org)*

The Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), alongside the International Covenant on Economic, Social and Cultural Rights (ICESCR) constitutes what is globally known as the *International Bill of Human Rights.* Regional blocs have also adopted similar international treaties to ensure human rights protection within their continents. In Africa, the African Charter on Human and Peoples' Rights (ACHPR), which was instituted by the Organisation of African Unity (now Africa Union), was adopted in 1981 and came into force on member states in 1986. The treaty was designed, formulated and adopted by member states to curb excessive rights abuses within the region. In its 68 Articles, the charter in Article 9 declares in the first part that "Every individual shall have the right to receive information" and the later part reads further thus: "Every individual shall have the right to express and disseminate his opinions within the law." (www.achpr.org).

Articles 19, 19, and 9 of the Universal Declaration of Human Rights, International Covenant on Human and Peoples Rights, the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and Peoples Rights respectively, placed emphasis on people to freely express themselves without intimidation, irrespective of political climates; though with caveat that such expression should be done within the ambit of the law to safeguard the freedom of others and protect against anarchy. Subsequently, various countries of the world have also domesticated most crucial parts of these conventions to ensure liberty of their citizens. However, some aspects of these conventions were strictly modified to suit the system of the government in force in different countries.

Human Rights and Fundamental Human Rights

At this junction, there is a need for clarification and distinction between human rights and fundamental human rights. Dragne (2013) cited Nastase (1992) to have defined human rights as:

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> *The prerogatives conferred in the domestic law and which are recognized by the international law to each individual, in his relation with the community and the state, which express the fundamental social values and are meant to satisfy the essential human needs and lawful endeavours, in the economic, social, political, cultural and historical context of a certain society* (Dragne, and Balaceanu, 2013, p. 1).

According to Olatunji (2018), human rights are fundamental because they are inalienable; they are universal and critical to a person's existence. Human rights cannot be transferred, waved or forfeited except with the due process of the law (Olatunji, 2018). The United Nations offered a more elaborate understanding of human rights thus:

> *Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination* (www.un.org).

Following the submissions of Olatunji (2018) and Dragne & Balaceanu, (2013), it is clear that fundamental human rights are derivatives of human rights and are enshrined in the fundamental objectives of the constitution of each sovereign State; human rights are inalienable rights and are universally oriented. Although, both concepts are somewhat similar, but differ in scope, application and enforcement. In term of scope, human rights are universal, a world's view rights, meanwhile, fundamental human rights are country specific.

In relation to applicability, human rights are internationally constituted and guided by international declarations, laws and treaties whereas fundamental human rights are rights specific drawn from constitution of each sovereign country and are applied within the geographical territory of the country. Because of the nature and peculiarities in their scope and application, enforcement of these rights and penalties on arbitrary breaches or violations on same differ. While human rights are dispensed and enforced by the United Nations Human Rights Council (UNHRC) on the countries that ratify human rights treaties, fundamental human rights are guarantee through the legal provisions of the constitution of a country and are enforced by court of competent jurisdiction within the territorial integrity of the country. Although, when domestic laws fail to provide justice for human rights violations in countries that are signatory to the treaties, aggrieved parties are permitted to seek redress through international mechanisms (Dragne, and Balaceanu, 2013).

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Press Freedom and Human Rights in Nigeria

Nigeria, like other democracies in the world, knows the important role of the mass media, and have entrenched in her constitution a legal responsibility of the media to the society. Sections 22 and 39 of the 1999 Constitution of the Federal Republic of Nigeria (FRN) (as amended) guaranteed every Nigerian freedom of expression and empowered individuals the rights to own, establish and operate print and broadcast medium/media for distribution of meaningful and factual information; it also confers on the media the obligation to monitor governance and hold the government accountable to the people. In clear term, Section 22 states that **"**The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people." Subsequently, Section 39, subsection (1) guarantees freedom of expression thus: "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference."

A critical appraisal at the 1999 Constitution of the FRN identifies that the media are accorded the responsibility to monitor governance and watch over the society on behalf of Nigerians for the purpose of achieving a better and healthier political, economic and social environment that can accommodate all Nigerians irrespective of their tribes, ethnic sentiments, religion differences, and political affiliations. But, the legal mechanism to perform this role is either too weak or inadequate for the media to perform this task. For instance, Section 39 which discusses press freedom does not give freedom to the journalists. The freedom enjoyed in that Section is exclusively for ownership of the media.

Similarly, Section 39(3) reveals other restrictions on the media practitioner. It states, "Nothing in this section shall invalidate any law 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 cinematography films. (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".

The integral tenet of the developmental role of the media as postulated by McQuail (2010, 1987) include freedom of gathering and dissemination of information, authentication of news, education and enlightenment of the people, promotion of national culture interest and agenda, protection of right of individuals, interest

groups and promotion of economic priorities and development needs of the people. The constitutional provisions in Chapter Two, Sections 22 and 39 of the 1999 Constitution are grossly inadequate for the media and journalists to perform this developmental task.

A careful look at Sections 22 and 39 of the 1999 Constitution of the Federal Republic Nigeria (FRN) indicate that the provisions contained therein neither specify any consequences nor punitive measures for contravention of journalists' rights to freedom of expression. This means that no penalty whether in form of fines or jail terms adjudicate on those who illegally interfere or intend to stop journalists from exercising their right to freedom of expression. From this perspective, it is obvious that freedom of expression for the press is perceived as the individual right to freedom of expression for respective journalists and not as legal backing. Sections 22 and 39 of the 1999 Constitution simply imposed duties and responsibilities on the media without providing the Fourth Estate of the Realm any right or privilege beyond the general right to freedom of expression guaranteed every person in Nigeria. Perhaps, this is one of the reasons no government in Nigeria considered it obligatory to respect the press constitutional right to freedom of expression. The implication of this legal loophole is that media that is denied of its freedom to operate cannot be effective its surveillance function and on the responsibility of holding public officials accountable, because its own right to accountability is being constantly threatened and challenged.

The international conventions on freedom of expression and its subsequent integration into different countries' statue books are manifestations of the liberal ideas championed by the early intellectual works of John Stuart Mill (1644), John Milton (1859) shaped by philosophical beliefs of Thomas Hobbes and John Locke.

CONCLUSION

From this discourse, as established by various scholars, freedom of the press and of expression depends on the government perception irrespective of the system of government put in place in a particular country. Arguments have also been centred on the principle that freedom, (especially human freedom) is absolutely inalienable right and as such, should not be limited by constraints of whatever sort. This school of thought pitched tent with ideals of libertarian philosophy of John Stuart Mills, John Milton, Thomas Hobbes, and John Locke who were early philosophers and thinkers that advanced the course of liberty against the oppressive government and their Repressive State Apparatus (RSA).

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