



From Iwe Irohin (1859) to new media: A legal-historical analysis of the press and the limits of press freedom in Nigeria (1859-2026)

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Abstract

From the founding of Iwe Irohin in 1859 to the advent of digital new media in 2026, this article explores the development of the Nigerian press. From Townsend to Azikiwe, it contends that although the press existed before the Nigerian state and promoted nationalism and decolonisation, the constitutional guarantee of press freedom has remained structurally limited. The article examines the freedom of expression clauses in the 1960, 1963, 1979, and 1999 Constitutions while tracing the development of the press from missionary to nationalist press, deregulation in 1992, and new media. It concludes that the 1999 Constitution's Sections 39(3), 45(1), and 6(6)(c), along with Section 24 of the Cybercrimes Act 2015 as revised in 2024, form clogs that make Sections 39(1) and 22 aspirational. Despite *SERAP v Nigeria* and NDPA 2023 exemptions, an analysis of recent prosecutions of Daniel Ojukwu (FIJ), Agba Jalingo, and Segun Olatunji shows the persistence of colonial seditious libel in digital form as cyberstalking.

Keywords: Press history, freedom of the press, Iwe Irohin, cyberstalking, NDPA 2023, Nigeria

Introduction

Nigeria's journalism has a longer history than the country itself. The press began operating between August 6, 1861, when Lagos was annexed as a British colony, and January 1, 1914, when Lord Frederick Lugard combined the Colony of Lagos, the Protectorate of Southern Nigeria, and the Protectorate of Northern Nigeria. Nigeria was ruled by Britain from 1861 until 1960. The press served as a tool of instrument of colonial control as well as vehicles of resistance to same.

Newspaper culture in what would become Nigeria began on December 3, 1859, when Reverend Henry Townsend of the Church Missionary Society in Abeokuta founded Iwe Irohin Fun Awon Ara Egba Ati Yoruba. Iwe Irohin served mainly as a missionary newsletter for Bible reading and anti-slavery campaigns, but it also served as a model for later indigenous political publications, such as Robert Campbell's *Anglo-African* (1863), Richard Beale Blaize's *Lagos Times* (1880), and John Payne Jackson's *Lagos Weekly Record* (1891). These early papers, largely dominated by foreign and returnee interests, were clamped down by colonial masters through Seditious Offences Ordinance when they became critical of colonial policy.

The second epoch, from the 1930s to 1960, witnessed mechanisation and nationalism. The introduction of rotary press enabled Herbert Macaulay's *Lagos Daily News* (1925), and most significantly, Dr Nnamdi Azikiwe's *West African Pilot* (1937) which used press as instrument for decolonisation. The 1957 Willink Commission, which looked at minority concerns, suggested that the Independence Constitution be strengthened to include freedom of expression. This resulted in the 1960 and 1963 Constitutions' Section 24(1).

The post-independence era entrenched a paradox. Although the press is required by Section 21 of the 1979 Constitution and Section 22 of the 1999 Constitution to uphold government accountability to the people, Section 6(6)(c) of the 1999 Constitution renders this commitment non-

justiciable. As decided in *Archbishop Okogie v Attorney-General of Lagos State*, Chapter II, including press obligations, is unenforceable in court. Furthermore, section 39(3) and section 45(1) permit laws that derogate from freedom of expression, preserving colonial statutes like Official Secrets Act and Criminal Code defamation.

This paradox has been exacerbated by the fourth epoch, which saw the deregulation of broadcasting in 1992 and the emergence of new media from 2000 to 2026. While online newspapers like *Premium Times*, *SaharaReporters*, and the *Foundation for Investigative Journalism (FIJ)* now serve as watchdogs, they encounter new obstacles in digital form.

Section 24 of the Cybercrimes Act 2015, which replaced the Seditious Offences Ordinance, makes transmitting messages that cause "annoyance, inconvenience" illegal. Press persecution persisted from 1909 to 2024, as evidenced by the arrests of Daniel Ojukwu of FIJ on May 1, 2024, under Section 24(1)(b) for a public interest probe, Agba Jalingo in August 2023, and Segun Olatunji's kidnapping by the Defence Intelligence Agency on March 15, 2024. The Cybercrimes (Amendment) Act 2024 eliminated "annoyance," the Nigeria Data Protection Act 2023 now offers a journalistic exception for public interest, and the ECOWAS Court ruled in *SERAP v. Nigeria* (2022) that Section 24 was overly wide. Nevertheless, the structural constraint persists.

Therefore, the study question is: Why has the 1960 constitutional guarantee of press freedom not prevented the press from being prosecuted? Using a legal-historical approach, this article examines case law, laws, and constitutional provisions from 1960, 1963, 1979, and 1999. It is divided into five sections: the historical development from Iwe Irohin to new media; the idea of press freedom; legal and constitutional restrictions; an examination of cyberstalking as a new form of sedition; and suggestions such as adding an anti-SLAPP clause and making section 22 justiciable.

Evolution of the Press in Nigeria

1. Missionary and Foreign-Dominated Press (1859-1913)

Nigeria's first newspaper was called "newspaper for the people of Egba and Yoruba land," or Iwe Irohin Fun Awon Ara Egba Ati Yoruba. It was established in Abeokuta in 1859 by Reverend Henry Townsend of the Church Missionary Society.

It transformed the emergence of newspapers in Nigeria. Following Townsend, the following newspapers were established: Robert Campbell founded The Anglo-African in 1863; Richard Beale Blaize founded The Lagos Times and Gold Coast Colony Advertiser in 1880; Bagan Benjamin founded The Lagos Observer in 1882; Owen Macaulay founded The Eagle and Lagos Critic in 1883; Adolphus Mark founded The Lagos Mirror in 1887; John Payne Jackson founded The Lagos Weekly Record in 1890; and the Johnson Brothers founded The Nigerian Chronicle in 1908. This early press was dominated by foreigners and faced clampdown by the colonial masters through seditious ordinances.

2. Indigenous Nationalist Press (1914-1960)

Following amalgamation in 1914, the native press gained prominence. The Nigerian Pioneer, created in 1914 by attorney Kitoye Ajasa, was the first newspaper published by a native Nigerian.

This paper lasted until 1937 due to its pro-government stance. Ernest Sessi Ikoli founded The African Messenger on 10 March 1921. The weekly newspaper cost three pence. When it was transformed and Ikoli took over as editor of the Daily Times in 1926, it came to an end. Additional pre-independence publications consist of: The first daily newspaper in British West Africa was the Lagos Daily News, which was established in 1925. The African Messenger was purchased by Herbert S. Macaulay and John Akinlade Caulcrick in 1927. The publication significantly contributed to the growth of nationalism and was associated with Macaulay's Nigerian National Democratic Party.

The Nigerian Daily Times was established as a government newspaper on 1 June 1926. Richard Barrow, VR Osborne on behalf of John Holt Ltd., WF Barker of the British Bank of West Africa, LA Archer, and Sir Adeyemo Alakija, the lone Nigerian member, made up the group that retained ownership. It became Daily Times in 1948.

Daily Service was founded in 1933 and became the political organ of the Lagos Youth Movement and later the Nigerian Youth Movement, which transformed into the Action Group. The West African Pilot was founded by Nnamdi Azikiwe on 22 November 1937. It served as the National Council of Nigeria and the Cameroons' (NCNC) spokesperson. Eastern Nigerian Guardian, The Nigerian Spokesman, Southern Defender, The Daily Comet, Northern Advocate, and The Sentinel were among the other publications that Azikiwe owned.

The first vernacular newspaper in the North, Gaskiya Ta Fi Kwabo (meaning "truth is more than money"), is one of the other early publications. The Nigerian Tribune was launched in 1949 by Obafemi Awolowo and was supported by the Northern Nigerian government. It was founded in January 1939 and edited by Abubakar Imam.

Post-independence newspapers include The Nigerian Observer, The Nigerian Statesman, The Pointer, Vanguard, The Guardian, Punch, Leadership, The Nation, ThisDay, Daily Trust, Premium Times and BusinessDay.

3. Broadcast Press: From RDS to Deregulation

Radio broadcasting was introduced in 1933 as the Radio Diffusion System (RDS) provided by the British Broadcasting Corporation via wired system. The purpose was colonial communication and propagation of imperialism.

The first television station in Africa, Western Nigeria Broadcasting Service (WNBS) and Western Nigeria Television (WNTV), was founded in Ibadan on October 31, 1959, by Obafemi Awolowo, Premier of the Western Region, in collaboration with Oversea Rediffusion Limited.

On 31 October 1959, Obafemi Awolowo, Premier of Western Region, in partnership with Oversea Rediffusion Limited, established Western Nigeria Broadcasting Service (WNBS) and Western Nigeria Television (WNTV) at Ibadan as the first television station in Africa. Radio Television Kaduna was established in 1962 after Eastern Region established Eastern Nigeria Television Service in 1960.

All regional television stations were taken over by General Olusegun Obasanjo's Military Government in 1978 and renamed Nigerian Television Authority (NTA). Prior to General Ibrahim Babangida's deregulation and liberalisation of the industry in 1992, which permitted private involvement, broadcasting was monopolised. This led to AIT, Channels Television and Arise News.

4. New Media

New media emerged with the advent of digitalisation in the late 1990s. Social media sites like Facebook and X (Twitter), which are an essential part of the Nigerian press, are used by journalists to share stories and images online.

5. Theoretical Framework: Four Theories and the Nigerian Press

A theoretical foundation is necessary to comprehend Nigerian press history. Four theories of the press were proposed by Siebert, Peterson, and Schramm: Soviet-Communist, libertarian, authoritarian, and social responsibility.

Press control during the colonial era is explained by the authoritarian theory. According to this theory, seditious libel laws are justified in order to defend the government, and the press is subservient to governmental power. This hypothesis is supported by the Seditious Offences Ordinance of 1909 and the colonial masters' suppression of the foreign-dominated early press.

While native publications like John Payne Jackson's Lagos Weekly Record were prosecuted for their anti-colonial stance, missionaries' founding of Iwe Irohin was only accepted since it did not criticise colonial rule.

The Libertarian theory, rooted in Milton and Mill, argues that man is rational and press should be free marketplace of ideas. The Willink Commission's recommendation to enshrine section 24(1) of the 1960 Constitution was influenced by this theory. To promote nationalism, the indigenous press, under the leadership of Herbert Macaulay and Nnamdi Azikiwe, took this libertarian approach.

According to the Hutchins Commission's 1947, Social Responsibility thesis, press freedom entails a duty to defend the government's accountability to the people. Both Section 21 of the 1979 Constitution and Section 22 of the 1999 Constitution use precisely this language. Although the press is free, it must exercise responsibility. This theory is refuted

by the failure to make Section 22 justiciable. Section 24 of the Cybercrimes Act, which governs online journalism, has brought the authoritarian notion back to life in the age of new media.

6. Literature Review and Gap

Up to 1937, Fred Omu's groundbreaking book *Press and Politics in Nigeria 1880-1937* is still the most thorough historical narrative. Omu did not examine constitutional constraints, instead tracing the development from Iwe Irohin to the age of mechanisation. While Adaba recorded broadcast history, Robert Goldblatt concentrated on Iwe Irohin from 1859 to 1867. Regarding press freedom, Ogbondah contended that Nigerian press regulations are remnants of colonialism. He pointed out that rules like the Official Secrets Act and Criminal Defamation Act as roadblocks notwithstanding constitutional guarantees.

In a similar vein, Malemi noted that Sections 39(3) and 45(1) are overly broad and susceptible to abuse. Nwabueze argued that Chapter II, containing the press obligation, is reduced to a simple religious proclamation due to non-justiciability under Section 6(6)(c).

In their analysis of new media and press freedom, more recent academics like Oso and Omenugha have highlighted the growth of online publications like Premium Times and SaharaReporters as well as the online harassment of journalists. None, however, integrated an examination of cyberstalking charges under the Cybercrimes Act as a novel kind of seditious libel with legal-historical development from 1859 to 2026. This article fills that gap.

Freedom of the Press in Nigeria

It is the duty of the press to inform, enlighten, educate and sensitise the people about their nation. This duty is only realisable if the press is free.

The provision of fundamental rights traces to the Henry Willink Commission 1957-58. The Commission was prompted by the fear of dominance expressed by minority ethnic groups. The Commission concluded that the concerns were real and suggested that fundamental rights be enshrined in the 1960 Independence Constitution.

The 1960 Constitution states that "every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference". This was retained in the 1963 Republican Constitution's Section 25(1).

Section 36(1) of the 1979 Constitution declares the same. Section 36(2) provides for owning medium. Section 21 provides: "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". The 1999 Constitution adopts these in Sections 39(1), 39(2) and 22 respectively.

Constitutional Limitations and Modern Clogs: Cyberstalking as New Seditious Libel

Despite guarantees, freedom of the press has not been easy to assert.

First, Section 39(3) allows regulations pertaining to broadcasting, telecommunications, courts, and private information that are adequately justified in a democratic society.

Second, Section 45(1) allows laws reasonably justifiable that derogate from Section 39.

Third, unlike Kenya 2010 Article 34, freedom of the press is not expressly protected as a separate right under Section 39(1) and Zimbabwe 2013 Section 61.

Fourth, Section 6(6)(c) renders non-justiciable Chapter II rights, including Section 22. Therefore, if its requirements are contravened, a journalist cannot seek redress in court.

1. Two Recent Cases — Cyberstalking as New Clog (2023-2024)

The most potent modern limitation has been Section 24 of the Cybercrimes (Prohibition, Prevention etc.) Act 2015, which criminalised cyberstalking. Originally used against journalists for online publications, it replicated colonial seditious libel.

▪ Case 1: Daniel Ojukwu — Foundation for Investigative Journalism (FIJ) (May 2024)

In May 2024, Daniel Ojukwu, journalist with FIJ, was abducted by police in Lagos and detained for 10 days under Section 24(1)(b) Cybercrimes Act for his investigative report on alleged corruption in the Office of the Senior Special Assistant to President Muhammadu Buhari on Sustainable Development Goals-Princess Adegoke Orellope-Adefulire. The police relied on alleged "false" online publication causing annoyance. The Committee to Protect Journalists condemned the case internationally, which resulted in an Act modification. It demonstrates the application of prior restraint under Section 24 Cybercrimes Act.

▪ Case 2: Agba Jalingo — CrossRiverWatch (August 2023) and Segun Olatunji (March 2024)

After releasing reports on the Cross-River State government, the CrossRiverWatch publisher was re-arrested in August 2023 for alleged cyberstalking under Section 24 in the Agba Jalingo case. In a same vein, Segun Olatunji, Editor of FirstNews, was abducted by the military in March 2024 and held for 14 days due to a piece about defence corruption that was justified under cybercrime laws. In both situations, state and military entities are circumventing Section 39(1) by utilising digital law.

After the ECOWAS Court ruled in *SERAP v. Federal Republic of Nigeria* that Section 24 was in conflict with Article 9 of the African Charter, the Cybercrimes (Amendment) Act 2024 amended section 24 to require proof of intent to create "breakdown of law and order" rather than just irritation. However, arrests continued under state criminal defamation laws.

1. Judicial Interpretation of Non-Justiciability: From Okogie to Present

In *Archbishop Okogie v. Attorney-General of Lagos State*, the court determined that Section 6(6)(c) renders Chapter II provisions, including Section 21 of the 1979 Constitution (currently Section 22 of 1999), non-justiciable. Justice Mamman Nasir stated that Chapter II is for the legislature to implement, not for courts to enforce. This has been affirmed in *Badejo v Federal Ministry of Education and Adewole v Jakande*. The implication is that a journalist cannot rely on section 22 to compel government accountability. This contradicts Social Responsibility theory and international standards. The Court of Appeal ruled in *Arthur Nwankwo v*

The State that the sedition statute was unconstitutional because it violated the right to free speech and that press restrictions could not be based on fear of the government.

2. Cyberstalking as New Seditious Libel: Section 24 Cybercrimes Act 2015

The Cybercrimes Act of 2015's Section 24(1) stated: Anyone who intentionally transmits a communication that is extremely offensive, indecent, obscene, menacing, or false with the intent to cause irritation, discomfort, danger, etc. is guilty of a crime and faces a three-year prison sentence. The phrase "annoyance, inconvenience" was ambiguous and too general. This provision became tool for silencing online press. Unlike traditional criminal defamation under Section 375 Criminal Code which required trial, Section 24 allowed arrest by police without warrant for online publication.

3. Case Analysis 1: Daniel Ojukwu, Foundation for Investigative Journalism (May 2024)

On November 2, 2023, journalist Daniel Ojukwu of the Foundation for Investigative Journalism (FIJ) launched an investigation claiming that the Senior Special Assistant to President Muhammadu Buhari-Adegoke Orelope-Adefulire had spent N147 million on school building without following the proper procedures. On 1 May 2024, he was abducted by officers of the Intelligence Response Team in Lagos, his phones seized, and moved to Abuja. He was detained for 10 days at State Criminal Investigation Department and Force Criminal Investigation Department. The First Information Report cited violation of Section 24(1)(b) Cybercrimes Act — sending false message for purpose of causing annoyance. Even though his report was backed up by Freedom of Information requests, he was nevertheless arrested. The Nigeria Union of Journalists and Committee to Protect Journalists condemned it as return to Decree 2 of 1984. Following public uproar, he was freed on May 10, 2024, although his devices were still taken for forensic examination. This case demonstrates continuity: colonial Seditious Offences Ordinance 1909 used "bringing government into contempt"; Section 24 uses "annoyance". Both criminalise criticism.

4. Case Analysis 2: Agba Jalingo (August 2023) and Segun Olatunji (March 2024)

CrossRiverWatch publisher Agba Jalingo was initially detained in 2019 on charges of treason due to reports about Governor Ayade. Following his release, he was detained again on August 19, 2023, by police on charges of cyberstalking and character defamation against Mrs. Elizabeth Alami Frank, the wife of the former governor's brother. He was charged under Section 24(1)(b) for article titled "How wife of Cross River Assembly Speaker diverted N500 million". He spent 34 days in detention. On January 28, 2024, Segun Olatunji, Editor of FirstNews, wrote an article titled "How Gbajabiamila attempted to corner \$30bn loot, 10% from Emeziele" in which he claimed that Femi Gbajabiamila, the President's Chief of Staff, tried to divert recovered wealth. He was abducted from his Lagos home on March 15, 2024, blindfolded, and held without charge for 14 days in Abuja by armed military officers from the Defence Intelligence Agency (DIA). His wife's habeas corpus application was ignored. Following protests by the Nigerian Guild of Editors and military pressure to have his narrative removed, he was freed on March 29, 2024.

Both examples demonstrate state actors' extralegal exploitation of the cybercrime framework to get around the section 22 requirement and section 39(1) guarantee.

5. ECOWAS Intervention and Legislative Reform

In *SERAP v Federal Republic of Nigeria*, the ECOWAS Court of Justice held on 25 March 2022 that Section 24 Cybercrimes Act is vague, overbroad, and violates Article 9 African Charter on Human and Peoples' Rights and Article 19 ICCPR. The Court ordered Nigeria to amend Section 24. The Cybercrimes (Amendment) Act 2024 was passed by the National Assembly in response to this and the Ojukwu/Olatunji occurrences. Section 24 now requires that false information must cause "breakdown of law and order, threat to life, or deliberate attempt to cause ethnic or religious hatred". The words "annoyance, inconvenience" were deleted. However, as police continue to make arrests in accordance with state legislation, implementation is still lacking.

6. Nigeria Data Protection Act 2023 as Shield

The Nigeria Data Protection Act 2023 establishes lawful basis for processing personal data and exemptions for journalism, literature and art where in public interest. According to section 3(2)(d), processing for journalistic purposes is exempt if it is proportionate and serves the public interest. Unlike section 24, which criminalised them, this can shield journalists covering public officials from data privacy claims.

Conclusion and Recommendations

From Iwe Irohin in 1859, the Nigerian press has developed into a thriving digital ecosystem. However, modern cyberstalking laws and constitutional restrictions in Sections 39(3), 45(1), and 6(6)(c) have made sure that press freedom is still qualified. In order for press freedom to be significant:

- Amend section 22 in order to make it justiciable by 2014 National Conference;
- Stringent interpretation and application of sections 39(3) and 45(1) in accordance with the Nwankwo principle, which states that restrictions must be proportionate and reasonably justified;
- Add an anti-SLAPP provision to the Cybercrimes Act that exempts public interest investigative journalism, similar to Ghana's Cyber Security Act 2020;
- Teaching DIA and police about the NDPA journalism exemption.

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