

CHAPTER FIVE

THE MEDIA AND PUBLIC PERCEPTION IN A DEMOCRACY: THE NATIONAL JUDICIAL COUNCIL (NJC) IN FOCUS



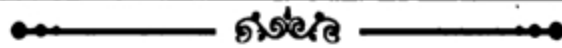
Taye C. Obateru, Ph.D

INTRODUCTION

Positive Public image or perception is something individuals, corporate bodies and government agencies crave as nobody likes negative publicity. This is more so in a democracy where public opinion hold sway in determining how government or its functionaries are viewed by the people. The mass media, no doubt, have a lot to do in the portrayal of individuals and corporate bodies to the public. Their influence is rooted in various media theories especially the Agenda Setting Theory. Using this theory, this paper looks at the role of the media in influencing the perception of government agencies focusing on the National Judicial Council (NJC) which is saddled with the responsibility of the appointment and discipline of judicial officials. Amidst the controversies surrounding the activities of some judges and in view of the importance of the Judicial Arm of Government to stabilizing the country's democracy, the paper argues that the NJC must be perceived as a credible body to enjoy the confidence of Nigerians.

Perception it has been argued, may become reality (Ogunbiyi, 2016). It is how an individual, organisation or body is viewed by the people. In other words, it is the impression formed based on the attitude, conduct or activities of the individual, body or group. Where the impression is positive, public perception of the individual, body or group is good, but where it is negative, a bad image is conveyed.

All over the world, the mass media have been identified as vital determinants in the way people and especially organizations are perceived. Given the important role of the mass media in shaping public opinion, the way an organization is presented in the mass media goes a long way in



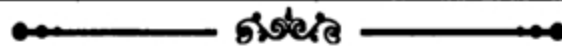
determining how it is perceived generally. This position is buttressed by Couldry in Ashuri (2012), when he noted the power of the news media in constructing social reality through what he called the dimensions of media power. The role of the press in disseminating necessary information as a way of mediating between governments and civil society for a healthy democracy is also well acknowledged. This is probably why the search for more effective ways to strengthen the media's contribution to democracy and the agitation against restrictive media laws in various countries' constitutions are ongoing (Centre for Democracy and Governance, 1999).

This paper examines how the National Judicial Council (NJC) is portrayed by the mass media in Nigeria in relation to its constitutionally-assigned functions. It looks at, how the activities of the council have influenced its portrayal in the media and public perception especially since the return to democratic governance in 1999, and what can be done to improve on the current perception.

THE MEDIA AND PUBLIC OPINION

That the mass media have become very influential in shaping public opinion hardly needs overstressing. This is not unconnected with their ability to reach the 'mass' via radio, television, newspapers and magazines. In many countries of the world, the media have become the source of information as many read or listen to keep abreast of global events or happenings. This dependence on the media has made the media to become an important aspect of people's lives as they look up to the mass media to inform and educate them on issues and 'guide' them in taking decisions such as in electoral matters (Omoera (2010).

This dependence on the mass media appear more pronounced in developing countries like Nigeria as a result of the level of development generally coupled with the low level of literacy. To many, the mass media have become a 'god' of sorts, which people swear by to affirm the veracity of their claims or point of view. Thus, it is common to find people say, 'I heard it on radio or read it in newspapers', to convince an argumentative friend of the truth of what they are saying. The scenario places an enormous responsibility on the mass media to report accurately as any inaccuracy concerning a person or



group could cause incalculable damage. It is also imperative to have an independent media that promotes the institutionalizing of the rule of law by keeping track on the judiciary and promoting a legal enabling environment for press freedom, free and fair elections, etc. (Centre for Democracy and Governance, 1999).

THEORETICAL FRAMEWORK

This paper draws from the Agenda Setting Theory. According to Wimmer and Dominick (2000), proposes that the public agenda or what kind of things people discuss, think and worry about is powerfully shaped and directed by what the media choose to publicize. Yaroson and Asemah (2008) say the theory propounds that the media may not tell the public what to think but what to think about through the emphasis or attention they give to issues.

Hence, this paper argues that the public image of the NJC as an important institution in Nigeria's democracy is largely influenced by how the mass media portrays it. If it is portrayed positively, then the image will be positive and vice versa.

THE NATIONAL JUDICIAL COUNCIL (NJC)

The National Judicial Council (NJC) was created under section 153 of the Constitution of the Federal Republic of Nigeria 1999 and the functions are listed in part one of the Third Schedule of the constitution. The establishment of the council was seen as an innovation of the 1999 constitution to safeguard the independence and integrity of the judiciary. Enweremadu (2009, p. 117) notes that prior to 1999, the judiciary in Nigeria was perceived as sectional and corrupt and as an anti-democratic institution which, contrary to its expected democracy enhancing role, "became a potent tool for undermining democracy and fostering authoritarian rule". This explains why the appointment and discipline of judicial officers for the judiciary, for which the NJC is responsible, are viewed as critical because of the judiciary's position as an important arm of government.

Supporting this standpoint, Nwoye (2018) notes that the judiciary is considered to hold the key to the correction of perceived anomalies in the internal administrative and democratic process of the country. He adds that



the judiciary which is often branded as the ultimate arbiter and fountain of justice in a democracy, is looked up to by Nigerians to discharge her constitutional responsibility with strict adherence to ethical values and standards. Enweremadu (2009) shares a similar view, describing the judiciary as a vital instrument of political control and democratic stabilization. He submits that an independent judiciary is desirable in any organized society that cherishes the idea of the rule of law and freedom. According to Enweremadu (2009, pp.133-134), "many Nigeria's democratic failings in the past have been the result of the inability to construct an impartial and honest judiciary that commands the respect and confidence of most of the members of its fractious political class and its deeply divided population." He believes that the establishment of the NJC and the Federal Judicial Service Commission (FJSC) by the 1999 Nigerian Constitution has contributed to a saner judiciary. Obviously, the calibre of people appointed as judicial officers as recommended by the NJC determines the extent to which the expectations of an independent judiciary would be met.

Functions of the NJC

By the provision of Paragraph 21 of Part One of the Third Schedule to the 1999 Constitution of the Federal Republic of Nigeria (as amended), The National Judicial Council has the power to:

- recommend to the President from among the list of persons submitted to it by the Federal Judicial Service Commission, persons for appointment to the Offices of the Chief Justice of Nigeria, the Justices of the Supreme Court, the President and Justices of the Court of Appeal, the Chief Judge and Judges of the Federal High Court, and the Judicial Service Committee of the Federal Capital Territory, Abuja; persons for appointment to the Offices of the Chief Judge and Judges of the High Court of the Federal Capital Territory, Abuja, the Grand Kadi and Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja and the President and Judges of the Customary Court of Appeal of the Federal Capital Territory, Abuja;
- *recommend to the President the removal from Office of the Judicial Officers specified in sub-paragraph (a) of this paragraph, and to exercise disciplinary control over such Officers;*
- *recommend to the Governors from among the list of persons submitted to it*



by the State Judicial Service Commission persons for appointment to the Offices of the Chief Judges of the States and Judges of the High Courts of the States, the Grand Kadis and Kadis of the Sharia Courts of Appeal of the States; and President and Judges of the Customary Courts of Appeal of the States;

- recommend to the Governors the removal from office of the Judicial Officers specified in sub-paragraph (c) of this paragraph, and to exercise disciplinary control over such officers;
- collect, control and disburse all monies, Capital and Recurrent, for the Judiciary;
- advise the President and Governors in any matter pertaining to the judiciary as may be referred to the Council by the President or the Governors;
- appoint, dismiss and exercise disciplinary control over Members and Staff of the Council;
- control and disburse all monies, Capital and Recurrent, for the services of the Council; and
- deal with all other matters relating to broad issues of policy and administration.

In addition to the above, Section 158 & Paragraph 21 Sub-paragraph (i) of Part One of the Third Schedule to the 1999 Constitution of the Federal Republic of Nigeria (as amended) listed other functions of the Council to include:

- Screening/interview of candidates/judges/justices for judicial appointments;
- Performance evaluation of judicial officers of superior courts of record in the federation;
- The Council prepares the Capital and Recurrent budget for the Federal Judiciary; and also the Recurrent budget for the State Judicial Offices (High Court of Justice, Sharia Court of Appeal and Customary Court of Appeal), in respect of their Consolidated Salaries, Allowances and Overhead cost;
- Payment of gratuities and pensions of all retired Federal Judicial Officers vide the Federal Judicial Officers (Administration of Pension) Act 2007.

Composition

The composition of the council is suggestive of a desire to ensure that the highest standard of integrity is maintained in the judiciary. The NJC consists of twenty three current or retired members of the judiciary and public



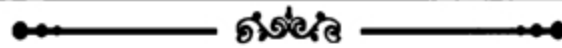
representation. They include, five retired justices from the Supreme Court or Court of Appeal selected by the Chief Justice of the Federation, five Chief Judges of States appointed by the Chief Justice to serve on a rotational basis, five members of the Nigerian Bar Association appointed by the Chief Justice of Nigeria on the recommendation of the National Executive Committee of the Nigerian Bar Association and two non-legal practitioners who, in the estimation of the Chief Justice are of unquestionable integrity.

MEDIA PERCEPTION OF NJC

An overview of news reports, commentaries, opinions and editorials on the activities of the NJC since its inception presents a mixed bag, with many of its actions eliciting commendations just as there are those that feel it could have done better in some areas. In general terms, it was found that except when disciplinary actions are taken against judicial officers or where it is perceived not to have acted as it ought to have done, the NJC hardly gets a mention in the Nigerian mass media.

Even when, based on the council's recommendations persons are appointed as judges of various senior courts, it is the confirmation of such appointments by the President or Governors that get publicized with the council getting just a passing mention where it gets mentioned at all. However, disciplinary actions taken against judicial officers since 1999 have served as the bases for most of the reports and commentaries on the activities of the NJC. Between 1999 and 2004, at least five judges were dismissed for corruption and abuse of power (Enweremadu, 2009) and this was given widespread reportage by the news media. Without doubt, the publicity which have been majorly positive, have brought the council into the consciousness of many Nigerians who hitherto knew little or nothing about the council.

Specific cases such as the retirement of some judges over alleged misconduct attracted positive news reports and comments in the media which tended to portray the NJC as genuinely concerned about upholding the integrity of the Nigeria judiciary. Writing on how the NJC is perceived by Nigerians Otteh (2005) wrote:



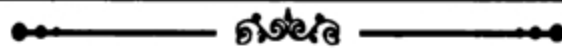
The NJC in the eyes of many Nigerians is not just a watchdog body, it embodies the very spirit of the moral redemption of the judicial branch from the abyss. The NJC to a large extent, administers a "centre- strong" system of appointment, discipline and removal of persons of superior court judges, who make up a significant constituency of the judicature.

Such a position is undoubtedly, based on what the NJC has been seen to be doing in the discharge of its responsibilities. The perception of the NJC as an efficient 'check' on the judiciary has also resulted in situations where opinion and comments have been written to protest the perceived usurpation of the powers of the NJC by other agencies of government. It is doubtful if this would have been the case if the NJC was viewed as an ineffective body that is not living up to its responsibilities.

One of such cases which received generous media coverage was the case involving the Chief Justice of Akwa Ibom State, Justice Effiong Idiong following his reported arrest by the Independent Corrupt Practices Commission (ICPC) over his alleged involvement in the bribery saga concerning members of the state's Governorship Election Petition Tribunal even though he was earlier cleared by the panel constituted by the NJC to investigate the matter. According to media reports, based on the recommendation of the panel, a judge of the Federal High Court, three other judges and a chief magistrate were indicted and subsequently retired based on NJC's recommendation.

However, notwithstanding Idiong's clearance by the NJC, the ICPC was reported to have invited him for questioning over the same allegations. This prompted Idiong's lawyer A. Ekong Bassey (SAN) to issue a press statement which underscored the pre-eminence of the NJC in matters relating to the discipline of judicial officers which he said could not be questioned by any other body. The press statement was well publicized by the media and boosted NJC's perception as the 'superintendent' of the judiciary in the country.

Faulting the reported arrest of Idiong, the mass media quoted Bassey as having stated: "At the appropriate time, we shall seek to know if the ICPC



has and under what it derives the authority to question or review or sit on appeal over the judgment or decision of the NJC or of any judicial or quasi-judicial panel set up by the council."

The statement went ahead to argue that whereas the NJC was established by the constitution, the ICPC was not. The incident was another demonstration of how the NJC is perceived by Nigerians based on what they read about the council.

Another area where the NJC has been portrayed in positive light by the media is in the defense of judges considered to have been sanctioned without due process. A case in point is that of the former Chief Judge of Ebonyi State, Justice E.I. Isuama where the NJC wrote to the Ebonyi State House of Assembly which had commenced a process for his removal that it was the council that had such powers. Although the house ignored the protest from the NJC and went ahead to remove the chief judge, media reports on the council's intervention portrayed the NJC as not only out to discipline but to also protect judicial offices from arbitrary punishment.

On the other hand, however, there have also been other activities of the NJC that have attracted news reports and comments suggesting that the perception of the NJC in the Nigerian mass media has not been totally positive. For example, suits filed by some judges who were retired or against whom other disciplinary actions were taken tend to give the impression that the actions were unfair. One of such cases was filed by Justice Chrisanthus Senlong a retired judge of the Federal High Court, who challenged his retirement and alleging unfair treatment from the NJC. Commentaries in newspapers on such matters tend to suggest that the sympathy of the people lies more with the NJC than with the protesting judges.

Still on the negative side is the perception in certain quarters that the NJC did not do enough to protect the integrity of the judiciary where there have been obvious cases demanding some decisiveness. Often cited is the trial of Senator Iyiola Omisore over the murder of former Minister of Justice and Attorney-General, Chief Bola Ige where presiding judges withdrew from the case over alleged interference from unknown quarters.



In a commentary entitled "Salvaging the Judiciary" in 'This Day' edition of August 7 2003, the writer wondered why the NJC did not take steps to investigate the specific allegation by Justice Moshood Abbas who withdrew from the case as a result of what he called "untold pressures from unexpected quarters". It went ahead to urge the NJC to "brace up to the challenge of restoring confidence in Nigeria's judiciary" in view of the responsibilities conferred on it by the 1999 constitution.

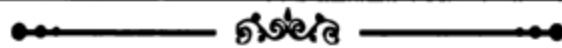
Another criticism is the alleged manner the NJC distanced itself from the plight of workers in the Abia State Judiciary who are allegedly being persecuted by the state chief judge for daring to write a petition against him and for which he was indicted by a panel constituted by the NJC. In fact, the integrity of the NJC in the matter was queried by a non-government body - Access to Justice - which questioned the propriety of the NJC pairing the same judge with Hon. Justice Owolabi Kolawole who headed the panel that investigated the chief judge, on a panel to investigate another judge.

This action drew the ire of the Abia State Branch of Court Registrars Association of Nigeria (CRAN) which described it as curious and inappropriate. Condemning the handling of the matter in an article on "Judicial Corruption: The Abia Example" also published by 'This Day' the body had this to say:

What is hard to understand is why the NJC is closing its eyes to the harm and scandal brought to the judicial system by a chief judge against whom the most denigrating abuse of office records have been documented. Even more than that, it is a wonder why the council would close its eyes, fold its arms and fail to lend its support to persons whose dogged pursuit of accountability has elicited a firestorm from the chief judge, and placed them directly in the line of fire, to the point where they now stand in danger of losing their lives.

CONCLUSION

As stated, the perception of the NJC in the Nigerian mass media has been a mixed bag of the positive and the negative based largely on the actions or perceived inactions of the council. This paper has tried to present the actions



that have attracted positive media coverage which are clearly in the majority and the other areas where the council is not seen to have done enough.

One of the things that has become obvious from the reports, opinions and commentaries on the NJC in the mass media is that the council being a 'new baby' is still trying to in common parlance, carve a niche for itself. It is expected that as the council 'grows older' and gains more experience in carrying out its constitutionally-assigned responsibilities, its rating in the public domain which will be largely influenced by the media will continue to improve. A critical look at some of the complaints and addressing them will definitely contribute significantly to achieving a better perception of the NJC in the mass media and beyond.

For example, the NJC may need to look more at activities of non-members of the judiciary such as those always putting pressure on judges to compromise their integrity as was alleged during the Omisore trial. It will be seen to be fighting to uphold the integrity of the judiciary if such allegations are investigated and exposed. This will send signals to all and sundry that attempts to corrupt judicial officers will no longer be tolerated.

It will also boost the image of the NJC not to be seen to be indifferent to the plight of those who volunteer or dare to expose corrupt activities of top judicial officers as in the Abia case. That some members of staff of that state's judiciary are reportedly on suspension and on the verge of losing their jobs after they exposed the corrupt activities of the chief judge which the NJC investigated and found to be true is bad enough. For the NJC to have washed its hands off their plight on the excuse that it had no powers to act on their matter may make people become afraid of volunteering such information in future. This could ultimately create a perception that NJC is not sincere about bringing corrupt judges to book.

The confusion surrounding the appointment of Justice K.O. Amah to a panel alongside the judge who headed the panel that investigated his own case is capable of sending wrong signals and could be wrongly interpreted by the media. It will be better to avoid actions capable of being misconstrued as 'shady' if the perception of the NJC is to remain positive.



A key issue which the NJC must begin to look at with a view to proposing a way out in due course, is the argument that its existence violated the spirit of true federalism. The submission of Professor Jadesola Akande in this regard may be a good food for thought. According to her:

The establishment of this body (i.e. NJC) has violated the cardinal principle of federalism. i.e. autonomy of the federal units. The argument that the State Judicial Commissions have not been abolished and to this extent, the states through this body advise the NJC is not strong enough justification for taking a most important arm of the three arms of governance away from the state if there is true federalism.

This issue is germane to the extent that the NJC cannot afford to be perceived as another body used to take away the power of the second tier of government. A proper dissemination of NJC's position on this in the mass media is bound to help shape opinions on this matter. These and other suggestions if considered and acted upon will no doubt go a long way in shaping how the NJC is perceived not just by the Nigerian mass media, but ultimately the bulk of the public whose opinions on issues are greatly influenced by the media.

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