FREEDOM OF EXPRESSION IN NIGERIA'S DIGITAL AGE: A CRITICAL ANALYSIS OF SOCIAL MEDIA REGULATION AND HATE SPEECH

BY

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2020/LW/14530

A PROJECT SUBMITTED TO THE FACULTY OF LAW, ALEX EKWUEME FEDERAL UNIVERSITY NDUFU-ALIKE IKWO IN PARTIAL FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF THE BACHELOR OF LAWS (LL.B) DEGREE IN LAW.

SEPTEMBER 2025

DECLARATION

I hereby declare that this work is the product of my own research efforts; undertaken under the supervision of Dr. Nnaemeka Amadi and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged.

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CERTIFICATION

This is to certify that this long essay titled "Freedom Of Expression in Nigeria's Digital Age: A Critical Analysis of Social Media Regulation and Hate Speech" has been assessed and approved by the Undergraduate Studies Community of the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike, as an original work carried out by Eze, Prince Victor Osinachi, with registration number: 2020/LW/14530 in the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike, under the guidance and supervision of Dr. Nnaemeka Amadi.

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DEDICATION

The long essay is dedicated to God Almighty for inspiring the writing of my project topic and for helping me through every hurdle, and to my supervisor for his guidance, teachings and advice, and then to my wonderful family for their never-ending love and support throughout the period of writing this project.

ACKNOWLEDGEMENT

I give my immense gratitude to God for His divine help for seeing me through the writing and research of this project and through my stay in AE-FUNAI; to Him be the honor and glory forevermore.

My profound appreciation to my supervisor, Dr. Amadi, for giving me very seasoned advice and expert supervision from the commencement of this project, to the end, whilst pushing me really hard to deliver this excellent work. May the Almighty God greatly reward you.

I am grateful to my Dean of Studies Prof. Eseni Azu Udu (Dean of Law AE-FUNAI). To my (H.O.D) Head of Department and also the Project Coordinator, Dr. Kelechi G. Onyegbule who gave us very good advice throughout our writing of our projects, helping us every step of the way by answering our questions and offering solutions for our concerns. My profound gratitude to a slew of my lecturers that have helped me all through my stay in the Faculty of Law: Barr. P. Olebara, Dr. O. T. Eze, Barr. C. Ekechi-Agwu, Barr. U. Anoke, Barr. N. Nweze, Barr. C. Emeka, Barr. G. Awoke, Barr. N. Nwambam, Dr. C. C. Ituma, Barr. C. Chinedu-Uhuo, etc.

I am also overwhelmingly grateful to my parents, Barr. Chukuwemeka Eze and Barr. (Mrs.) Nnennaya Eze, for their unending and unwavering support, love, encouragement and understanding all through the process of writing this project. I will not fail to appreciate my elder brother, Samuel Eze, for all his invaluable help and advice that made easy my writing of this project, may Almighty God bless you abundantly.

I would also not forget to extend my gratitude to every other person, family member, friend or roommate that may have helped me in one way or the other in the writing of this project, no matter how small or minuscule they might think their help was, of which is the contrary.

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LIST OF ABBREVIATIONS

UN-	United Nations
Cap-	Chapter
CDA-	Critical Discourse Analysis
CL-	Critical Linguistics
CDS-	Critical Discourse Studies
UDHR-	Universal Declaration of Human Rights
ICESCR-	International Covenant on Economic, Social and Cultural Rights
AI-	Artificial Intelligence
DM-	Direct Message
ICERD-	International Convention on the Elimination of All Forms of Racial Discrimination
CERD-	Committee on the Elimination of Racial Discrimination
NBC-	Nigerian Broadcasting Commission
NCC-	Nigerian Communications Commission
IEC-	International Electrotechnical Commission

CISPR-	International Special Committee on Radio Interference
CENELEC-	European Committee for Electrotechnical Standardization
ETSI-	European Telecommunications Standards Institute
WGIP-	Working Group on Indigenous Populations/Communities in Africa
WGIPM-	Working Group on Indigenous Populations/Communities and Minorities in Africa
AU-	African Union
OAU-	Organization of African Unity
ACHPR-	African Charter on Human and People's Rights
AfCHPR-	African Commission on Human and People's Rights
ICT-	Information and Communication Technology
IPI-	International Press Institute
PDP-	Peoples Democratic Party
IGPIRT-	Inspector General of Police Intelligence Response Team
OC-	Officer in Charge

ACO-	Assistant Chief Officer
SERAP-	Socio-Economic Rights and Accountability Project
NGO-	Non-Governmental Organization
ECOWAS-	Economic Community of West African States
ICCPR-	International Covenant on Civil and Political Rights
CAT-	Convention Against Torture
IPOB-	Indigenous People of Biafra
VPN-	Virtual Private Network

ABSTRACT

This study is an overall dissection of the regulation of freedom of expression and hate speech on digital spaces in Nigeria. It introduces the study by highlighting the rationale for the study by expatiating the background to the study. It outlines the background to the problem, emphasizing the tension between safeguarding free speech and curbing harmful expressions that incite violence or discrimination. It states problems identifying gaps in Nigeria's legal and institutional responses, including inconsistencies in existing laws and challenges of enforcement in a digital age. The objectives of the study are to critically analyze the legal framework governing freedom of expression and hate speech in Nigeria, assess its compatibility with constitutional and international human rights standards, and evaluate institutional mechanisms for addressing the menace. The study further justifies the study by underscoring its relevance to law reform, democratic consolidation, and the protection of fundamental rights. Methodologically, the work adopts doctrinal analysis of statutes, case law, international instruments, and scholarly writings. The study recognizes a lacuna in the domestic legal framework in Nigeria and how it can be addressed with express recommendations. Overall, it lays the foundation for a comprehensive inquiry into how Nigeria can strike a balance between protecting free expression and preventing hate speech on digital spaces in a democratic society living in a modern, digital and technology-friendly era.

CHAPTER ONE
INTRODUCTION

1.1 Background to the Study

Freedom of expression has always been a dicey topic since the dawn of time. Even after the establishment of "democracy" by the Greeks way back in the middle of the 5th century BCE[1] till the present day, freedom of expression is still a concept that weighs heavily even in present day states practising democracy. The concept is either fully embraced or somewhat considered by some states (i.e. states practising democracy) or is completely disregarded by other states (i.e. authoritarian or dictatorial systems of government and states under military rule). Here in the democratic system of the Federal Republic of Nigeria, of which is popularly considered as the Giant of Africa, it is evident in history that citizens' right to freely express themselves, even in the advent of social media has one way or the other been cleverly censored or limited sometimes unconstitutionally by the government. Nigerians have gotten used to pouring out their opinions across any and all social platforms since the advent of social media, especially the generation that it got introduced to: "the Gen Z's". Hence, the importance of social media in Nigeria in this present age of digital revolution cannot be overemphasized.

More than half of the Nigerian populace either owns a digital device or knows someone that owns one, whether it is as small as a smart phone, or iPad, or laptop, and so on. Technology has greatly influenced almost every faction of every Nigerian individual's life. We communicate with friends and loved ones using technological devices and also use them in work places. Some schools even now incorporate Electronic Boards (e-boards) and iPads and/or Laptops to facilitate an effective learning experience. Hence, the advent of social media as well has greatly influenced how Nigerians think as her people started interacting with the outside world and exchanging information that have affected the way we think and live our lives. Social media more importantly has facilitated an easier way for Nigerians to express their opinons on any given issue or matter, whether national or international.

However, even on these social media platforms, and even as freedom of expression has been ever more facilitated, one cannot deny the growing tensions between freedom of expression and

[1] I. Shapiro, D. Froomkin, 'democracy' (10 April 2025), available at https://www.britannica.com accessed 28 April 2025

social media regulation. Social media regulation is primarily given by the owners of such platforms and such regulations, however fair or unfair they may seem, are subject to the whims of the owners. And then, given that none of the main social media platforms are owned by any Nigerian, Nigeria has little influence to its regulation and sanctions attached, but only a supporting role as some partnerships would be presumably made with the owner states on Nigeria's role in the management of their platform in Nigeria. This was evidently witnessed in the ban of X (formerly known as Twitter) in 2021 by the Nigerian government, a few months shortly after the year of the pandemic.

1.2 Statement of the Problem

The problems that are in issue are to discover the actual extent and limitations of freedom of expression in Nigeria, whether or not the Nigerian government has the power to ban social media and whether or not banning social media amounts to the breach or stifling of freedom of expression. If social media is just a means to freedom of expression, does banning it affect the argument of a slippery slope problem, whereby banning it may amount to further bans and may further impede the potential and mechanisms for citizens to freely express their thoughts online. The ban on Twitter (X) in 2021 was actually a major rationale for the contention of this project topic. The researcher sought to look for answers at to the legal implications of such an action of the government and how it affects freedom of expression. It also shines a light on what actually hate speech even means and so that citizens can avoid committing such an offence when expressing their earnest thoughts and expressions, especially on matters of the government's actions and policies. This has also shone light on what laws should be considered in regulating freedom of expression and hate speech in digital spaces.

1.3 Research Questions

1. Is freedom of expression absolute?
2. Does the Nigerian government have the power to ban social media?
3. Does banning social media amount to stifling freedom of expression?
4. What is the full definition of hate speech and all its intricacies?
5. Does hate speech have a universally acceptable definition?
6. What are the constitutional and statutory frameworks governing freedom of expression and hate speech in Nigeria's digital age?

7. How do current social media laws and regulation impact the right to freedom of expression and hate speech online?
8. What are the implications of hate speech on social media for the society, and how can they be addressed?
9. What is the fine line between government criticism, hate speech and treason?
10. What are the political implications of hate speech?
11. What are the religious, tribal and cultural effects on online hate speech?
12. How can citizens ensure to steer clear from committing hate speech without a clear, express and expatiated definition?

1.4 Aim and Objectives of the Study

The aim of this study is to critically examine the impact of social media regulation on freedom of expression in Nigeria's digital age, with a focus on hate speech.

The objectives of this study include:

1. To analyze the constitutional and statutory frameworks governing freedom of expression in Nigeria
2. To examine the current social media regulations in Nigeria and their implications for freedom of expression
3. To investigate the impact of hate speech on social media in Nigeria and potential strategies for addressing it.
4. To identify potential solutions for balancing freedom of expression with the need to regulate online content.

1.5 Scope And Limitations

The *scope* of this study covers all constitutional and statutory frameworks within the jurisdiction of the Federal Republic of Nigeria governing freedom of expression, including all rules and regulation of any and all social media platforms in Nigeria governing freedom of expression or hate speech. It also covers the historical evolution of the rules and regulations of social media platforms to what the current laws and policies are in present day Nigeria. The scope extends to international events that may affect the regulations of these platforms, especially the parent companies' decisions for such platforms and how it affects hate speech, the dissemination of

information and the exchange of ideas and expression in response to such information in the Nigerian digital climate. This study will also investigate the prevalence, impact and potential strategies for addressing hate speech on social media.

The *limit* to the scope of this study involves the exclusion of all international laws of other independent states, except those that may affect the subject matter and all related matters to this study. The study may not capture the most recent developments in social media regulation as at the time of the submission of this study.

Limitations of the Study

The task of carrying out a research work on this topic was very inspiring, educative and informative but it is not devoid of some constraints.

These constraints include:

1. Time Constraint: Due to the academic and extra-curriculars in the school calender, the Researcher could not fully handle the process of getting the information needed for this study.
2. Lack of frequent power supply was also one of the challenges the researcher encountered in the course of carrying out this research.
3. Financial Constraint: The Researcher does not have the financial wherewithal to carry out some of the expenses in this research work.
4. Scarcity of Materials: there are no much source materials in respect to the topic of this study and this hindered the quick delivery of the research.

1.6 Significance of the Study

The relevance and importance of this study is for its potential impact on the legal world, every day individuals, government/policy makers and society as a whole.

This study aims to give contributions to existing legal theories and ideologies, further arming them with more ways to acquire solutions to the subject matter, therefore contributing to jurisprudence. The questions raised in this research, as well as its findings and solutions recommended could inform policy decision making by policy makers and government officials. It could practically serve as an eye-opener to policy makers by giving them some insights to give effective and informed calculated decisions that could result in positive effects on the society

moving forward. This study could be considered along with a plethora of legal works and scholarly writings used by legal practitioners, judges and judicial officers/legal jurists, legal scholars, and even law students in undergraduate law programmes.

It could count some steps closer to resolving deeper issues embedded in the fine linings, sporadic yet deep cracks and foundations of the machinery we call society. It could change what the whole landscape of what we mean by freedom of expression online in the digital media landscape. It could help understand the effects of hate speech and its impact on social unity and cohesion, and identifying ways to promote understanding and tolerance.

1.7 Research Methodology

This study adopts the doctrinal approach to legal research, focusing on the analysis of primary and secondary sources of law in Nigeria and also outside Nigeria related to freedom of expression and hate speech. Online journals and articles on freedom of expression and hate speech will also be consulted to gain insights into current trends and best knowledge on the subject matter. The research will involve a thorough examination of the legal provisions governing the subject matter as well as the exploration of the practical implications of these provisions in decided cases. By combining theoretical analysis with practical examples, this study aims to provide a comprehensive understanding of the extent to which Nigerian citizens can comfortably converse or express their opinions online without being subjected to random and frantic accusations of hate speech.

1.8 Chapter Analysis

This research work is divided into five distinct chapters. Chapter one introduced the work and laid a strenuous foundation as regards freedom of expression, hate speech and social media regulation in regards to them in Nigeria. The same chapter also looked out the problem that necessitated the study and as well analyzed research questions, scope of the study among others.

Chapter two discussed some key concepts to the topic of the research, discussed some theories of law and reviewed the position of some scholars and explained in clear terms the gap in knowledge the work intends to fill.

Chapter three discussed the existing legal and institutional frameworks in relation to the topic under discourse. Such legal and institutional frameworks respectively include the Constitution of the Federal Republic of Nigeria (1999 as amended), The Nigerian Criminal Code, National Broadcasting Commission Act, African Charter on Human and People's Rights (the Banjul Charter, 1986), Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), Cybercrime (Prohibition, Prevention, etc.) (Amendment) Act 2024, International Convention on the Elimination of All Forms of Racial Discrimination, National Broadcasting Commission (NBC), Nigerian Communications Commission (NCC), African Commission on Human and People's Rights (ACHPR), African Court on Human and People's Rights (AfCHPR) etc.

Chapter four looked at some key issues in the topic of study such as: Whether the Proposed Bills on Hate Speech on Social Media are Against the Right to Freedom of Expression, Is Freedom of Expression Absolute?, Politics & Hate Speech among others, while chapter five concluded the work.

CHAPTER TWO
LITERATURE REVIEW

2.1 Conceptual Framework

2.1.1 Freedom of Expression

Nigeria has its own definition of freedom of expression couched in Section 39 (1) of the grundnorm of the state (the 1999 constitution of the Federal of Republic of Nigeria), of which states:

> *"Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference".*[2]

However, the concept of freedom of expression will be defined solely empirically and in a general manner in this subtopic. 'Freedom of expression' is most cogently understood as freedom of communication. Even where freedom of expression is denominated as freedom of speech (whether in legal documents or in colloquial discourse) the speech referred to surely covers more than spoken language. For example, no one disputes that freedom of speech covers written language as well; and if so, it is difficult to see how it could exclude sign language, hieroglyphics, pictographs, pictures, movies, plays, and so forth.[3]

Freedom of expression protects everyone's right to seek out information, form their own opinions, and share ideas freely through conversation, social media, books, radio, TV, and all other media. It is so important that it is listed as a human right in Article 19 of the International Covenant on Civil and Political Rights (I.C.C.P.R.). It is the right to pursue, hold and share information, ideas, and opinions.[4] It also involves a vast range of topics, spanning areas as diverse as national security, personal privacy, courtroom perjury, or commercial fraud.[5]

2.1.2 Social Media

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[2] Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap. C23 Laws of the Federation of Nigeria 2004 (CFRN) 1999 s. 39(1)

[3] L.A. Alexander, 'Freedom of Expression', available at https://www.sciencedirect.com accessed 30 May 2025

[4] Human Rights Careers, 'Freedom of Expression 101: Definition, Examples, Limitations', available at https://www.humanrightscareers.com accessed 30 May 2025

[5] T. Herrenberg, 'Freedom of Expression' (1 September 2019), available at https://link.springer.com accessed 31 May 2025

Social media is a form of digital communication that allows users to form online networks and communities for socializing, sharing information, and posting user-created content. It refers to online platforms where users can share information and connect with virtual communities through text, video, photos, and other content. As of 2024, social media had more than five billion global users, which is equal to more than 62% of the world population. This includes apps or websites designed for messaging and chat, social platforms (like Facebook, Instagram, and TikTok), and community forums, such as Reddit and Discord.[6] It is a form of mass media communications on the Internet (such as on websites for social networking and microblogging) through which users share information, ideas, personal messages, and other content.[7] Such websites and applications focus on communication, community-based input, interaction, content-sharing and collaboration. People use social media to stay in touch and interact with various communities, follow trends, and stay informed.[8]

2.1.3 Hate Speech

In common language, "hate speech" refers to offensive discourse targeting a group or an individual based on inherent characteristics (such as race, religion or gender) and that may threaten social peace. To provide a unified framework for the United Nations to address the issue globally, the UN Strategy and Plan of Action on Hate Speech defines hate speech as…

> *"any kind of communication in speech, writing or behavior, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor."*[9]

It can be conveyed through any form of expression, including images, cartoons, memes, objects, gestures and symbols and it can be disseminated offline or online. It is "discriminatory" (biased, bigoted or intolerant) or "pejorative" (prejudiced, contemptuous or demeaning) of an individual

[6] K. Paljug, 'Social Media: Definition, Importance, Top Websites, and Apps' (19 February 2025), available at https://www.investopedia.com accessed 31 May 2025
[7] The Editors of Encyclopaedia Britannica, 'Social media | Definition, History, Examples & Facts' (13 June 2025), available at https://www.britannica.com accessed 31 May 2025
[8] K. T. Hanna, 'What is Social Media | Definition from TechTarget' (23 January 2025), available at https://www.techtarget.com accessed 1 June 2025
[9] Welcome to the United Nations, 'What is hate speech', available at https://www.un.org accessed 1 June 2025

or group. Hate Speech also calls out real or perceived "identity factors" of an individual or a group, including: "religion, ethnicity, nationality, race, colour, descent, gender," but also characteristics such as language, economic or social origin, disability, health status, or sexual orientation, among many others.[10] It also refers to a speech or an expression that denigrates a person or persons on the basis of (alleged) membership in a social group identified by attributes such as race, ethnicity, gender, sexual orientation, religion, age, physical or mental disability and others.[11]

Typical hate speech involves epithets and slurs, statements that promote malicious stereotypes, and speech intended to incite hatred or violence against a group.

Hate Speech can also include nonverbal depictions and symbols. For example, the Nazi swastika, the Confederate Battle Flag (of the Confederate States of America), and pornography have all been considered hate speech by a variety of people and groups. Critics of hate speech argue not only that it causes psychological harm to its victims (and physical harm when it incites violence) but also that it undermines the victims' social equality. They claim this because the social groups that are commonly the targets of hate speech have historically suffered from social marginalization and oppression. Hate speech therefore poses a challenge for modern liberal societies, which are committed to both freedom of expression and social equality. Whether and how hate speech should be regulated or censored is an ongoing debate in such societies.[12]

2.1.4 Digital Age

The digital age is a period beginning in the last quarter of the 20th century when information became easily accessible through publications and through the manipulation of information by computers and computer networks.[13] Cambridge dictionary defines it as 'the present time, in which many things are done by computer and large amounts of information are available because of computer technology.'[14] It is a present time, when most information is in a digital form,

[10] Ibid
[11] W. M. Curtis, 'Hate Speech | Definition, Examples & Consequences' (22 April 2025), available at https://britnnica.com accessed 2 June 2025
[12] Ibid
[13] Vocabulary.com, 'Digital age – Definition, Meaning & Synonyms – Vocabulary.com', available at https://www.vocabulary.com accessed 2 June 2025
[14] Cambridge Dictionary, 'Digital Age | English Meaning – Cambridge Dictionary', available at https://www.dictionary.cambridge.org accessed 2 June 2025

especially when compared to the time when computers were not used.[15] Collins Dictionary simply defines 'the digital age' (or information age) as "a time when large amounts of information are widely available to many people, largely through computer technology".[16] One definition that captures the broad essence of the digital age is from *Techopedia*, which defines 'The Digital Revolution' as 'the advancement of technology from analog electronic and mechanical devices to the digital technology available today. The era started during the 1980s and is ongoing. The Digital Revolution also marks the beginning of the Information Era".[17]

2.2 Theoretical Framework

2.2.1 Habermas' Public Sphere Theory

Jürgen Habermas first articulated his idea of a "public sphere" (German: öffentlichkeit) in The Structural Transformation of the Public Sphere (1962, translated to English in 1989). Describing the öffentlichkeit as "a realm of our social life in which something approaching public opinion can be formed," and into which "access is guaranteed to all citizens," Habermas established a conceptual ideal space where all citizens would be able to gather and discuss matters of common interest in an "unrestricted fashion" (Habermas, 1974, p. 49).[18] While theoretically innocuous, such a space has never existed in practice because a truly equitable society has not yet been established. To understand the utility of the Habermasian public sphere model, as well as the common critiques against it, a general understanding of how the model works is helpful. The public sphere is seen as a domain of social life where public opinion can be formed, and it is constituted in every conversation in which individuals come together to form a public. Habermas saw several necessary conditions for the public sphere to function in a way that meaningfully serves a wide section of a population.[19]

First, it needs to be open to all citizens, who assemble freely to express their opinions in public discussions. In this realm they are not acting as or on behalf of a business or any private interests, but rather as an individual who is dealing with common matters of general interest. Because

[15] Ibid
[16] Riskonnect, 'What is Digital Age?' (28 May 2025), available at https://riskonnect.com accessed 2 June 2025
[17] Ibid
[18] University of Washington, 'Habermas and The "Public Sphere", available at https://uw.pressbooks.pub accessed 5 Jun 2025
[19] Ibid

potential topics of discussion are numerous, the public sphere may be divided into smaller and more cohesive conversations which focus on specific issues. A political public sphere holds public discourse about topics connected to governing and political practice. For example, an environmental or "green" public sphere offers space for citizens to discuss the interests of a range of stakeholders – from activists and experts to corporate interests and elected officials – as individuals. In this space they would be able to share their concerns about environmental issues and to express demands about the crafting or enforcement of relevant regulations (Pezzullo & Cox, 2018). This exemplifies Habermas' second condition for a functional public sphere: as a realm in which public opinion is formed, it mediates between the state and society. The Habermasian model of a public sphere holds a normative claim. That is, he describes a space which can only exist in an ideal democratic state, where equal participation and consideration are available to everyone. This condition is a difficult one to fill for many reasons, but primarily because civil rights and political representation have not yet been guaranteed to all citizens in any democracy (i.e. regardless of gender, sexual orientation, ability, race or ethnicity, economic class, education, etc.). Therefore, critics of Habermas' model have offered several alternatives. The most well-known of these was articulated by feminist scholar Nancy Fraser, who pointed out that it is often difficult – if not impossible – to separate matters of public and private concern, especially for historically marginalized groups. She suggested that such groups in practice formed their own spaces, which she called subaltern counter publics (Fraser, 1992). Whether an idealized public sphere is possible – or even desirable – has become a rather moot point as nations and populations grew too large for face-to-face communication. Certainly, there is utility in single-issue publics and in counter publics, but interpersonal conversations about "matters of common interest" are no longer sufficient to transmit the concerns of citizens directly to their elected officials. Overtime, we in some ways shifted our understanding about political discourse to include mass media (specifically news media, or "the press"). But how does the press fit into Nigerian democracy, and how should we expect media to serve us as citizens.[20]

2.2.2 Utilitarianism

Utilitarianism, in normative ethics, is a tradition stemming from the late 18th- and 19th-century English philosophers and economists Jeremy Bentham and John Stuart Mill according to which

[20] Ibid

an action (or type of action) is right if it tends to promote happiness or pleasure and wrong if it tends to produce unhappiness or pain, not just for the performer of the action but also for everyone else affected by it. Utilitarianism is a species of consequentialism, the general doctrine in ethics that actions (or types of action) should be evaluated on the basis of their consequences. Utilitarianism and other consequentialist theories are in opposition to egoism, the view that each person should pursue his or her own self-interest, even at the expense of others, and to any ethical theory that regards some actions (or types of action) as right or wrong independently of their consequences. Utilitarianism also differs from ethical theories that make the rightness or wrongness of an action dependent upon the motive of the agent—for, according to the utilitarian, it is possible for the right thing to be done from a bad motive. Utilitarians may, however, distinguish the aptness of praising or blaming an agent from whether the action was right. Utilitarianism is an effort to provide an answer to the practical question "What ought a person to do?" The answer is that a person ought to act so as to maximize happiness or pleasure and to minimize unhappiness or pain.[21]

In the notion of consequences, the utilitarian includes all of the good and bad produced by the action, whether arising after the action has been performed or during its performance. If the difference in the consequences of alternative actions is not great, some utilitarians would not regard the choice between them as a moral issue. According to Mill, acts should be classified as morally right or wrong only if the consequences are of such significance that a person would wish to see the agent compelled, not merely persuaded and exhorted, to act in the preferred manner. In assessing the consequences of actions, utilitarianism relies upon some theory of intrinsic value: something is held to be good in itself, apart from further consequences, and all other values are believed to derive their worth from their relation to this intrinsic good as a means to an end. Bentham and Mill were hedonists; i.e, they analyzed happiness as a balance of pleasure over pain and believed that these feelings alone are of intrinsic value and disvalue. Utilitarians also assume that it is possible to compare the intrinsic values produced by two alternative actions and to estimate which would have better consequences. Bentham believed that a hedonic calculus is theoretically possible. A moralist, he maintained, could sum up the units of pleasure and the units of pain for everyone likely to be affected, immediately and in the future, and could take the balance as a measure of the overall good or evil tendency of an action. Such

[21] Ibid

precise measurement as Bentham envisioned is perhaps not essential, but it is nonetheless necessary for the utilitarian to make some interpersonal comparisons of the values of the effects of alternative courses of action.[22]

Mill's response to the dilemma he faced is his justification of and argument for freedom as laid out in *On Liberty. On Liberty* is certainly Mill's greatest and longest-lasting contribution to political theory and one of the finest expressions of the liberal spirit. Yet it is a book that, in spite of having some wonderful arguments, is also faulted by a number of evasions and contradictions. The fact that I will concentrate on what seems most problematic in On Liberty should not, however, be taken to mean that I, or one, could not also support many of Mill's aims. One of the main things that Mill learned from aristocrats reacting to the growth of democracy and social equality is that equality is something to be feared, that the vast majority of the "common people" are to be feared for more than their troublesome propensity every once in a while to engage in revolt; they were now to be feared as a growing power within civilization itself. They were to be feared as a coherent, somewhat insidious force that threatened to undo the progress of civilization from within by subverting the spirit of liberty in favour of narrow-minded conformity. Now, earlier liberalism had focused its fears for the individual on the potentially oppressive power of governments, or of organized factions, "sinister interests", minorities that could take over and use the power of governments. But Mill is discovering that there is another possible source of danger to the individual. And this now comes, for the first time, from outside the political sphere proper. It is the power of "public opinion" – or perhaps of what we might have more recently called "mass culture". As Mill puts it, "There needs to be protection against the tyranny of prevailing opinion and feeling, against the tendency of society to impose, by means other than civil penalties, its own ideas and practices as rules of conduct on those who dissent… to fetter the development and, if possible, to prevent the formation of any individuality… and compel all characters to fashion themselves on the model of its own." [23]

So the danger is that the rise of the average person and his/her claim to be treated as an equal will give rise to the rule of conformity. And after Mill, liberalism will make this fear of conformity one of its permanent central concerns, all the way through to post-modern forms of radical

[22] Ibid
[23] York University, 'A Utilitarian Argument for Freedom of expression', available at https://www.yorku.ca accessed 19 June 2025

liberalism. Now what is new in this fear of conformity is that Mill is no longer focused exclusively on the pressure for conformity coming from the state (or the state religion). Any form of social power that makes the individual fearful to develop in his own direction, afraid to appear eccentric or deviant, afraid to be seen doing something that "they" would not consider normal – any form of individual expression that inhibits individual expression is to be resisted, whether it comes officially from the state, or more subtly from the pressure of public opinion or even common tastes. For Mill, individual development would be stunted or impossible when our actions are simply adaptations to some already existing code. Under those conditions the human faculties are not exerted and consequently atrophy. It becomes as though they never existed. *On Liberty* is, then, to a very large degree about the necessity not to enforce morals. But Mill is, and remains a utilitarian and therefore cannot appeal to any natural right inherent in the individual upon which society ought not to intrude. The argument in favour of a maximum of individual freedom of expression is going to have to be put in terms of how freedom of expression is necessary and essential to the greatest good of the greatest number. The central formula that Mill proposes in order to protect liberty, the formula for which he will have to provide a separate new defense, goes as follows:

> *"The sole ends for which mankind are warranted, individually and collectively, in interfering with the liberty of action of any of their number is self-protection."*[24]

Now, this formula, or principle if you like, implies a strict distinction between two different types of action and two different spheres of human life, a distinction between a self-regarding act or sphere and an other-regarding act or sphere. In the other-regarding sphere, i.e. the area where our actions (or non-actions) affect others, interference is allowed, even though that interference is to be limited and guided by the principle of utility. In the sphere in which your actions affect the happiness of others you may only be limited in such a way as is consistent with the greatest good of the greatest number. But there is also a sphere, according to Mill, in which action is purely self-regarding. Here your actions are not relevant to anyone else. Action here does not affect the greatest good of the greatest number. In the self-regarding sphere you would have no power to harm others. So, Mill is saying that you can be interfered with, but only where you have a duty; and you only have a duty where your actions have the power to harm others. Conversely,

[24] Ibid

in the self-regarding sphere, you have no duties. There are no duties to yourself. What you do there is entirely your own business, and no one can tell you what to do with it. Now this sounds all very good and well, but it is when we get down to specific cases that the weakness in this doctrine begins to display itself. And it is a rather dangerous weakness in one of the central beliefs of all liberalism – the belief in the priority of the individual. Remember, the belief in the priority of the individual does not mean the belief that the individual is the highest good or is more important or valuable than society – virtually all political viewpoints hold that to be true and each will argue that its understanding of individuality really assigns the highest moral priority to the individual. We are not talking about the moral (or "axiological") priority of the individual, but about the ontological priority of the individual (which is prior in the order of being). And liberalism (versus conservatism or socialism) holds that the individual is prior in the sense that for society to exist at all we have to assume the essential independence of the individual from it. Priority in "the order of being" means that the individual is a substance unto himself, essentially self-sufficient, independent and not formed as an individual, in and through, or even in and through a reaction to what is not the individual.[25]

Now there are some cases where Mill's rule seems to work fairly well. He gives the example of someone crossing a rickety bridge that we know to be unsafe. As long as we supply enough conditions – we know that no one else is on the bridge, which it won't collapse on anyone's head or on their property – as long as we know it is truly and purely a self-regarding action, then we should not interfere with her putting herself in danger of harm. But the fact that so many other conditions have to be supplied should warn you that in fact this rule may not be as useful as Mill claims it is, i.e. as a quick and sure solution to the problem of limiting and legitimating interference with the individual. There is also something else to keep in mind: that in giving you a principle that limits interference, he is also legitimating all the interference that falls outside the limiting boundary. There are really two problems here: you could argue that there is no such thing as a truly self-regarding act, that anything we do, or even refrain from doing, does affect others (and materially). In the age of dawning ecological consciousness this weighs on our awareness a little more every day: each time I go to the grocery store to buy too many and too many over-packaged goods, or drive my car, or turn up the heat in my house there is a little worry (and a justified one) about the greenhouse effect and global warming. Each time someone

[25] Ibid

flushes a toilet, we are aware of the extra x liters of fresh water that could be denied the next generation. What appears to be self-regarding may not be so, and what appears to be trivial and incapable of causing harm to people may not be so. Secondly, you could argue that even if there are purely self-regarding acts, they will inevitably turn out to be trivial – virtually by definition: a self–regarding act is one that does not have the power to affect others. What acts are there that is significant for me that do not have the power to affect others? How valuable to my individuality is that self-regarding act? How valuable is a liberty to perform acts that are powerless? How much liberty is Mill really granting the individual here?[26]

2.2.3 Critical Discourse Analysis (CDA)

Critical discourse analysis focuses on the investigation of the ways in which social power, dominance and inequality are practiced, reproduced, and sometimes resisted through the inspection of several forms of communication in relation to social and political contexts (van Dijk, 2015). Critical discourse analysis is not a particular method but rather a critical attitude towards the use of discourse practices to maintain the status quo in power relationships. Thus, critical discourse analysis integrates studies from different perspectives and methods in discourse studies, including conversation analysis, argumentation analysis, discourse pragmatics, multimodal discourse analysis, sociolinguistics, social semiotics, among several others.[27]

Critical Discourse Analysis (hereafter CDA) is a cross -discipline set forth in the early 1990s by a group of scholars such as Theo van Leeuwen, Gunther Kress, Teun van Dijk, and Norman Fairclough (Wodak & Meyer, 2001).[28] At that time, theories and methods of CDA have been formulated to differentiate this paradigm from other theories and methodologies in Discourse Analysis. Later on, the term has been known under many designations. While, according to their fields of research or areas of study, some scholars prefer the concept Critical Linguistics (CL), others choose to use the label Critical Discourse Studies (CDS). It follows from this to argue that CDA is an interdisciplinary approach which, as stated by Bloor and Bloor (2007), can be used by professionals from a variety of backgrounds such as historians, business institutions, lawyers, politicians, etc., to investigate social problems relating to their work. Since the last decade or so,

[26] Ibid
[27] ScienceDirect, 'Critical Discourse Analysis', available at https://www.sciencedirect.com accessed 19 June 2025
[28] F. Amoussou, A. A. Allagbe, 'Principles, Theories and Approaches to Critical Discourse Analysis', (2018) 6(1) *International Journal on Studies in English Language and Literature (IJSELL)* 11

there has been a resurgence of the application of the theory of CDA to a range of studies (Bloor & Bloor, 2007; Bayram 2010; Jahedi & Abudullah 2012; Parham, 2013; Akogbeto & Koukpossi, 2015;Koussouhon & Dossoumou, 2015, Koussouhon & Amoussou, 2016; to name but a few). Although such research works provide the reader with valuable and pertinent results, some seem far from abiding by the elementary principles underlying the critical approach they set out to apply. In that sense, this research work intends to make it clear that a systematic application of some theories like Systemic Functional Linguistics to a text or discourse (as often recommended by CDA proponents) is not sufficient to claim the critical stance of the study of the text or discourse. As Wodak & Meyer (2009) put it, there are "salient principles which are constitutive of all approaches in CDA" (p.1). The current endeavor attempts then to clarify what it means to say that one is doing critical discourse analysis. In that perspective, the following research questions are posed: what is CDA? Can any analysis of discourse, assuming that language is social and political, be considered as a CDA? To what extent does CDA differ from other types of discourse analysis? What aspects of language are important to analyze in conducting CDA? How do we assess the validity and trustworthiness of research on CDA? The subsequent sections will try to provide answers to these questions.[29]

2.2.4 Speech Act Theory

Speech act theory is a subfield of pragmatics that studies how words are used not only to present information but also to carry out actions. The speech act theory was introduced by Oxford philosopher J.L. Austin in "How to Do Things with Words" and further developed by American philosopher John Searle.[30] It considers the degree to which utterances are said to perform locutionary acts, illocutionary acts, and/or perlocutionary acts. Many philosophers and linguists, such as Andreas Kemmerling, study speech act theory as a way to better understand human communication. "Part of the joy of doing speech act theory, from my strictly first-person point of view," Kemmerling wrote, "is becoming more and more remindful of how many surprisingly different things we do when we talk to each other". John Searle is responsible for devising a system of speech act categorization. In the past three decades, speech act theory has become an important branch of the contemporary theory of language thanks mainly to the influence of J.R.

[29] Ibid
[30] R. Nordquist, 'What Is The Speech Act Theory: Definition and Examples' (29 April 2025), available at https://www.thoughtco.com accessed 19 June 2025

Searle (1969, 1979) and H.P. Grice (1975) whose ideas on meaning and communication have stimulated research in philosophy and in human and cognitive sciences. From Searle's view, there are only five illocutionary points that speakers can achieve on propositions in an utterance, namely:

- The assertive
- The commissive
- The directive
- The declaratory
- The expressive

Speakers achieve the assertive point when they represent how things are in the world; the commissive point when they commit themselves to doing something; the directive point when they make an attempt to get hearers to do something; the declaratory point when they do things in the world at the moment of the utterance solely by virtue of saying that they do; the expressive point when they express their attitudes about objects and facts of the world (Vanderkeven and Kubo 2002).[31]

Speech act theory can also be defined as the idea that language contains meaning beyond just the definition of the words that are used. Language is a tool to perform various functions, also called speech acts.[32] Speech act theory suggests that the meaning of what we say is influenced by the type of speech it is, the structure of the utterance, and the context in which it is used. It also explains how speech can create an action or outcome. This theory is part of the field of pragmatics, which is the study of how language is used in a social context. A speech act is any utterance that serves a function in communication. For example, speech can be used to make statements, ask questions, apologize, describe, or persuade, among many other uses. In a speech act, words are used to do something, not just to say something. This is a type of speech in which a person's words are causing something to happen and not just making a statement. Rather than simply describing or stating facts, some words perform an action or create something new. For

[31] Ibid
[32] N. Kain, R. Johnson, 'Speech Act Theory | Overview, Types & Pragmatics' (21 November 2023), available at https://study.com accessed 19 June 2025

example, when both people in a marriage ceremony say "I do," they are causing the marriage to happen.[33]

[33] Ibid

CHAPTER THREE
LEGAL AND INSTITUTIONAL FRAMEWORK

3.1 Legal Framework

The legal framework of this study refers to the laws, Acts, statutes and other Nigerian legislations that have bearing or relation to the project topic. Hence, they include:

3.1.1 The Constitution of the Federal Republic of Nigeria (1999 as amended)

The grundnorm of the Federal Republic of Nigeria stipulates basic rights known as the Fundamental Human Rights, and among these rights is the right to freedom of expression enshrined in section 39, Chapter IV of the Constitution of the Federal Republic of Nigeria as (1999 as amended). Subsection 1 provides 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'.*[34]

This provision provides that all citizens of Nigeria have the right to hold opinions and express themselves. They also have the right to receive opinions and information and have the right to be able to disseminate such information without external interference. However, this right is not absolute. A right is non-absolute if there are some situations when the law allows the government to limit the enjoyment of the right.[35]

Limitations on media outlets: The Nigerian constitution in sections 39 (2) and (3) requires the licensing and authorization requirements from the president before owning and operating a radio or television station.[36]

Limitations on everyone: The Nigerian constitution in sections 39 (3) and 45 allow for the restriction of the right to freedom of expression for preventing the disclosure of information received in confidence, for maintaining the authority and independence of the courts, as a result of occupying a certain office in the government, for belonging to the military, police or any other

[34] Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap. C23 Laws of the Federation of Nigeria 2004 (CFRN) 1999 s. 39(1).
[35] Action 4 Justice, 'Can freedom of expression be limited', available at https://nigeria.action4justice.org accessed 20 June 2025
[36] Ibid

security agencies, in the interest of security, public safety, public order, public morality, and public health, to protect the rights and freedom of other people.[37]

Examples of limitations include: if a confidential relationship exists, such as between a lawyer and his client, if it is an order of a competent court, to prevent the sharing of information received in the course of duty by a government official, military personnel, a police officer, etc., defamation laws which provide that people cannot intentionally share lies about other people in a way which affects their reputation, data protection laws which limit the sharing or disclosing personal information or sensitive information of other people, hate speech laws may restrict or limit the inciting of violence against other groups. Some laws have been made in Nigeria in order to protect National security such as the Cybercrimes Act and the Quarantine Laws made during the COVID-19 outbreak. [38]

However, these limitations are not automatic and all of these restrictions to freedom of expression must comply with some requirements to comply with international standards. How does the law protect people in Nigeria from excessive limitations and breaches to freedom of expression? It uses the three-part test.[39]

The three-part test is an internationally recognized standard that is to be used when restricting the right to freedom of expression to avoid the government abusing human rights by the excessive limitation of this right. It is called the three-past test because every government action that limits the right to freedom of expression must pass these three tests to be acceptable and legal. The three tests are:

- The restriction must be legal.
- The restriction to freedom of expression must be legitimate.
- The restriction to freedom of expression must be necessary and proportional.[40]

This test means that a law in the country must create the restrictions to the right to freedom of expression. This means that the government cannot create a restriction if it is regulated in another form that is not a law, for example a policy, a regulation, an ordinance or a verbal order.

[37] Ibid
[38] Ibid
[39] Ibid
[40] Ibid

When the government limits freedom of expression, a good question to be raised from individuals and groups should be, 'Can the government tell us what law permits the government to do this?' In addition, the law creating the restriction must identify the circumstances when the restriction should be applied in a way that is specific and clear to allow people to know the limitation in advance how to act, not allow those restricting freedom of expression discretion to choose how to limit it in a way that is not clear in the law, not allow other human right violations, and not make freedom of expression the exception to the rule.[41] The legality test ensures that people are aware of the restrictions and that, as laws are created through democratic process; there is more control over which laws are dictated. For example: A State government cannot ban peaceful protests because it is uncomfortable with what people would say at the protests. There must be a law permitting the government to ban protests and also meet the other two tests below.[42]

There is something called the Legitimacy Test. The legitimacy test ensures that the purpose for which the government restricts the right to freedom of expression is real and important. There is a list of specific reasons under which a law can restrict freedom of expression. The ICCPR states that there are only three purposes for limiting freedom of expression.[43] They include:

a. To respect of the rights or reputation of others.
b. To protect national security or public order.
c. To protect public health or morals.[44]

This also means that any restrictions to freedom of expression by law and using any of these purposes must be applied only for that specific purpose and must be directly related to the specific purpose. For example: if the government creates a law which restricts posting about the political handling of the pandemic by the ministry of health online under the reason that it will affect public health, that is not a legitimate reason.[45] A legitimate restriction of the right to freedom of expression could be a government restriction on officers of the Nigerian military from sharing information about the plans and strategies of the government for fighting Boko

[41] Ibid
[42] Ibid
[43] Ibid
[44] Ibid
[45] Ibid

Haram. When the government limits freedom of expression, a good question to ask is: What is the purpose for limiting freedom of expression through this law and is this purpose actually being protected with this law?[46]

3.1.2 The Nigerian Criminal Code

The Nigerian Criminal Code does not have a specific or particular or expressly stated offence for hate speech. However, it prohibits seditious acts, of which such acts may overlap or intercross with hate speech in its possible objective to stir up hatred, disorder, or violence. There are major sections of the criminal code that may be of relevance. They include:

- **Section 50:** This section expressly prohibits all acts, importations and publications with 'seditious intentions.' It describes what 'importation' means:
  a) To bring into Nigeria; and
  b) To bring within the inland waters of Nigeria whether or not the publication is brought ashore and whether or not there is an intention to bring the same ashore.

  It also defines 'seditious publication' as a publication having a seditious intention and 'seditious words' as words having a seditious intention.

  Subsection 2 provides thus: A "seditious intention" is an intention-

  a) to bring into hatred or contempt or excite disaffection against the person of the President or of the Governor of a State or the Government of the Federation; or
  b) to excite the citizens or other inhabitants of Nigeria to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Nigeria as by law established; or
  c) to raise discontent or disaffection amongst the citizens or other inhabitants of Nigeria; or
  d) to promote feelings of ill-will and hostility between different classes of the population of Nigeria,

  But an act, speech or publication is not seditious by reason only that it intends-

  i. to show that the President or the Governor of a State has been misled or mistaken in any measure in the Federation or a State, as the case may be; or

[46] Ibid

ii. to point out errors or defects in the Government or Constitution of Nigeria, or of any State thereof, as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or

iii. to persuade the citizens or other inhabitants of Nigeria to attempt to procure by lawful means the alteration of any matter in Nigeria as by law established; or

iv. to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of Nigeria.

In determining whether the intention with which any act was done, any words were spoken, or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.[47]

- **Section 51:** This section further states the various offences of sedition:

1) Any person who-

a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;

b) utters any seditious words;

c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;

d) imports any seditious publication, unless he has no reason to believe that it is seditious, is guilty of an offence and liable on conviction for a first offence to imprisonment for two years or to a fine of two hundred naira or to both such imprisonment and fine and for a subsequent offence to imprisonment for three years and any seditious publication shall be forfeited for the State.

2) Any person who without lawful excuse has in his possession any seditious publication is guilty of an offence and liable on conviction, for a first offence, to imprisonment for one year or to a fine of one hundred naira or to both such imprisonment and fine, and for a subsequent offence, to imprisonment for two years; and such publication shall be forfeited to the State.[48]

[47] Criminal Code Act Cap. 77 Laws of the Federation of Nigeria 1990 s. 50 (1)(2)(3)
[48] Ibid s. 51 (1)(2)

- **Section 373:** This section deals with defamation. These are acts that are likely to injure the reputation of any person by exposing him to hatred, contempt, or ridicule, or likely to damage any person in his profession or trade by any injury to his reputation. Such matter may be expressed in spoken words or in any audible sounds, or in words legibly marked on any substance whatever, or by any sign or object signifying such matter otherwise than by words, and may be expressed either directly or by insinuation or irony. It is immaterial whether at the time of the publication of the defamatory matter, the person concerning whom such matter is published is living or dead: Provided that no prosecution for the publication of defamatory matter concerning a dead person shall be instituted without the consent of the Attorney-General of the Federation.[49]
- **Section 59:** This section provides for the offence of the publication of false news with intent to cause fear and alarm to the public.
    1) Any person who publishes or reproduces any statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace, knowing or having reason to believe that such statement, rumour or report is false, is guilty of a misdemeanour and liable on conviction to imprisonment for three years.
    2) It shall be no defence to a charge under subsection (1) of this section that he did not know or did not have reason to believe that the statement, rumour or report was false unless he proves that, prior to publication; he took reasonable measures to verify the accuracy of such statement, rumour or report.[50]

Hence, these sections of the Nigerian Criminal Code stress on the concepts of sedition, defamation, and publishing false news and how they relate to inciting hatred and violence, of which intercrosses with the concept of hate speech and the many forms it can take. In matters of hate speech however, these sections may be used in tandem and be balanced with the constitutional provisional human rights of freedom of expression.

3.1.3 National Broadcasting Commission Act

This Act is the primary legislation that established the National Broadcasting Commission (NBC) to regulate Nigeria's broadcasting sector. While the Act establishes the framework, the

[49] Ibid s. 373
[50] Ibid s. 59 (1)(2)

specific details on hates speech are found in the Nigeria Broadcasting Code, of which prohibits the spread of false, misleading or inciting information, the spread of hate speech, unverified news, and any and other related issues, especially during elections or national crises.[51]

3.1.4 African Charter on Human and People's Rights (Banjul Charter, 1981)

The African Charter on Human and People's Rights itself does not directly or explicitly mention or provide for or ban "hate speech" but it prohibits discrimination and promotes freedom of expression. Nevertheless, these are basic and fundamental principles of combating hate speech.

Article 9 which provides for freedom of expression:

- Every individual shall have the right to receive information.
- Every individual shall have the right to express and disseminate his opinions within the law.[52]

And Article 2 which provides for the prohibition of discrimination and that 'every individual shall be entitled to enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language', are used by bodies like the African Commission on Human and People's Rights, 1987 (ACHPR; one of the organs of the African Union, AU) to address and condemn hate speech that encourages and incites discrimination and violence. Despite these provisions, there are limitations on such rights to freedom of expression since the clause is not absolute. States have autonomy to impose restrictions on this right through legislations that protect the health of the public, public order, or the rights of others in which may be infringed upon when upholding the rights of freedom of expression of the former.

Evidently the present government is already threatened by social media contents and discussions.[53] Nigerian youths do not just bully but they expose every pretender, accomplice in the social media. Many of these people stalked and monitored are government officials, politicians and solicitors. It is part of taking back their country which the youths are willing and

[51] National Broadcasting Commission, 'FAQ's', available at https://www.nbc.gov.ng accessed 23 June 2025
[52] African Union, '*African Charter on Human and People's Rights*' (27 June 1981) Article 9
[53] O. W. Toochukwu, 'Broadcasting commission and social media regulation in Nigeria' (19 October 2023), available at https://businessday.ng accessed 24 June 2025

ready to undertake. Incidentally, the government has posited that young people could be misguided by such contents if not regulated. The National Broadcasting Commission has so far hounded media houses for broadcasting what they (the NBC) considered injurious to the public consumption.[54] The National Broadcasting Commission (NBC) Act is the major legislation on broadcasting in Nigeria. Just as the administration of Muhammadu Buhari made every effort to scuttle criticism, undermine opposition, gag the press, censor information, minimize accountability, control freedom of speech and ignore youth's restiveness with unemployment; the present government might as well toe the same line.[55] In 2019, the Senate passed a bill; "Hate Speech Bill" through which many opposing voices were silenced. Again, in June 2021, the Federal government banned the use of Twitter in Nigeria. The then Minister of Information, Lai Mohammed, was always at work to impose sanctions on media houses through Nigerian Broadcasting Commission (NBC) all in a bid to monitor freedom of speech.

The 1999 Constitution has freedom of speech as an inalienable right of citizens. The United Nations Universal Declaration on Human Rights (UDHR) equally noted freedom of speech as a basic right of individuals. Significantly, banning social media sites might be the next target of a government that doesn't want to be held on its toes or show to be accountable to the people. *Nigerian youths have in October 2020 mobilized themselves on X (formerly known as Twitter) to protest against police brutality*.[56] Also, the 2023 general elections had mobilization on social media which the ruling party jeered at knowing fully what they had planned to do. The term social media refers to a computer-based technology that facilitates the sharing of ideas, thoughts and information through virtual networks and communities. Social media is internet-based and gives users quick electronic communication of content, such as personal information, documents, videos and photos. Users engage with social media via a computer, tablet, or smartphone via web-based software or applications. While social media is ubiquitous in America and Europe, Asian countries like Indonesia lead the list of social media usage. More than 4.5 billion people use social media, as of October 2021. The largest social media networks include Facebook, Instagram, Twitter (now X), YouTube, and TikTok. Social media typically features user-generated content and personalized profiles. Presently, the citizens in the country just have only

[54] Ibid
[55] Ibid
[56] Ibid

the social media sites to communicate their feelings, pains, discontent and express their assessment of the government.[57]

Billions of people around the world use social media to share information and make connections. On a personal level, social media allows you to communicate with friends and family, learn new things, develop your interests and be entertained. On a professional level, you can use social media to broaden your knowledge in a particular field and build your professional network by connecting with other professionals in your industry. At the company level, social media allows you to have a conversation with your audience, gain customer feedback, and elevate your brand.[58] Eventually, in the whole of Africa, Nigeria and Zambia are seen championing the course to quench the internet revolution of social media. We can see in some African countries that democracy has been sidelined or just on paper. The intention of the far-right governments to regulate and censor the social media network could be judged as the end of democracy and freedom. Of course, there are negative impacts or abuses of social media but that doesn't discredit its usefulness. Presently, the citizens in the country just have only the social media sites to communicate their feelings, pains, discontent and express their assessment of the government. *In Nigeria, pump price of petrol has no fixed amount, the Naira floats(devalued), citizens are to pay car ownership proof, 24% inflation, 40% increase on electricity tariff, demolition of properties, sacrifices by citizens which are never enough, high cost of living, suffering, moaning and weeping as many households starve.* The internet revolution has been a significant transformation and the impact is ongoing and evolving. With the introduction of the World Wide Web in the 1990s which made the internet accessible and easy to navigate for non- technical users, we started having smartphones in the late 2000s and the subsequent rise of mobile internet making people access and interact with the internet. With the IoT and AI, a lot more is yet to happen in the world of technology, even 5G networks.[59]

Some governments have justified the banning of social media sites by citing concerns about the spread of misinformation, hate speech, incitement to violence, or the need to maintain control over the flow of information. The approach to regulating social media sites varies significantly across countries, reflecting the diverse legal, cultural, and political context in which they operate.

[57] Ibid
[58] Ibid
[59] Ibid

More importantly, social media companies often develop their own policies, guidelines, and community standards to regulate user behaviour and content on their platforms. They may establish rules regarding hate speech, harassment, violent content, nudity, and other forms of prohibited content. Self-regulation can involve setting up mechanisms for reporting and flagging content, as well as implementing automated content filtering systems. Nigerians can learn to make proper use of the social media by taking breaks when needed to avoid addiction.[60] They can use the platforms to share meaningful and positive content, develop a critical mind when consuming content, manage their time, verify every piece of information before sharing, avoid engaging in online harassment, cyber bullying, or spreading hate speech. They can always use their common sense by thinking before posting and always define their purpose. Just as the tax collectors were despised and hated by the Jews because they were regarded as greedy mercenaries and traitors working for the Roman conquerors, so have Nigerians been fed up with the political structure in their country wishing and praying for a change of narrative and the birth of a new Nigeria. Nigerians have adjudged every politician of the old order as enriching themselves at the expense of the people. Nigerians have regardless of their anger and the wrath they feel within remained law-abiding, waiting for justice to take its due course. But the political class needs to understand what leadership entails. It is about lifting the people who are still down to come up but the average politician in Nigeria feels he has risen and no one can bring them down. Change, improvement, growth, success, and victory don't happen because they're admirable concepts or desirable options. No, they happen because you're totally committed and willing to pay the price. However, despite these challenges, social media remains a valuable platform for citizens to express their voices, mobilize for change, and hold governments accountable.[61]

3.1.5 Universal Declaration of Human Rights (UDHR) 1948

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of

[60] Ibid
[61] Ibid

achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages. The UDHR is widely recognized as having inspired, and paved the way for, the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels (all containing references to it in their preambles).[62]

- Article 1 provides that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.[63]
- Article 2 provides that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.[64]
- Article 19, the most crucial to this study, provides that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.[65]

3.1.6 International Covenant on Civil and Political Rights (ICCPR)

The Covenant was adopted by the United Nations General Assembly Resolution 2200A (XXI) of 16 December 1966. It entered into force on 23 March 1976, in accordance with article 49, for all provisions except those of article 41; 28 March 1979 for the provisions of article 41 (Human Rights Committee), in accordance with paragraph 2 of the said article 41.[66] It took another 10 years before the necessary 35 States had become parties to it and it formally entered into force for those States on 23 March 1976, in accordance with Article 49. This covenant and the

[62] Welcome to the United Nations, 'Universal Declaration of Human Rights', available at https://www.un.org accessed 28 June 2025
[63] UN General Assembly, Resolution 217A (III), *Universal Declaration of Human Rights*, A/RES/217(III) (10 December 1948) Article 1
[64] Ibid. Article 2
[65] Ibid. Article 19
[66] Refworld, 'International Covenant on Civil and Political Rights' (16 December 1966), available at https://www.refworld.org accessed 28 June 2025

ICESCR build on the rights in the Universal Declaration of Human Rights. Together, the Universal Declaration and these two Covenants form the International Bill of Human Rights. The ICCPR aims to ensure the protection of civil and political rights including:

- Freedom from discrimination
- Right to equality between men and women
- Right to life
- Freedom of expression
- Right to participate in public affairs
- Right to equality before the law etc.[67]

3.1.7 Cybercrime (Prohibition, Prevention, etc.) (Amendment) Act 2024

The Nigeria Cybercrimes Act is a legislation that was first enacted in 2015 and was later amended on February 28, 2024. It was established for the prohibition, prevention and prosecution of cybercrimes in Nigeria. The point of issue is section 24 of which provides thus:

- **Subsection 1:** A person who knowingly or intentionally sends a message or other matter by means of Computer Systems or Network that –
  (a) is grossly offensive, pornographic or of an indecent obscene or menacing character or causes any such message or matter to be so sent; or[68]
  (b) He knows to be false, for the purpose of causing annoyance, inconvenience danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent.

  Any individual that commits an offence under this Act is liable on conviction to a fine of not more than #7,000,000.00 or imprisonment for a term of not more than 3 years or both.[69]
- **Subsection 2:** A person who knowingly or intentionally transmits or causes the transmission of any communication through a Computer System or Network –
  (a) to bully, threaten or harass another person, where such communication places another person in fear of death, violence or bodily harm to another person;[70]

[67] Ohchr, 'Background to the International Covenant on Civil and Political Rights and Optional Protocols', available at https://www.ohchr.org accessed 28 June 2025
[68] Cybercrime (Prohibition, Prevention, etc.) Act, 2015 with Amendment Act 2024, 2015 (2024 Amended), s. 24(1)(a)
[69] Cybercrime (Prohibition, Prevention, etc.) Act, s. 24(1)(b)

(b) containing any threat to kidnap any person or any threat to harm the person of another, any demand or request for a ransom for the release of any kidnapped person, to extort from any person, firm, association or corporation, any money or other thing of value, or;[71]

(c) containing any threat to harm the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, to extort from any person, firm, association, or corporation, any money or other thing of value, commits an offence under this Act and is liable on conviction.[72]

The sanctions are avidly couched in section 24 (2) (c) (i) and (ii).

3.1.8 International Convention on the Elimination of All Forms of Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is a United Nations convention. A third-generation human rights instrument, the Convention commits its members to the elimination of racial discrimination and the promotion of understanding among all races. *The Convention also requires its parties to outlaw hate speech and criminalize membership in racist organizations.* The Convention also includes an individual complaints mechanism, effectively making it enforceable against its parties. This has led to the development of a limited jurisprudence on the interpretation and implementation of the Convention. The convention was adopted and opened for signature by the United Nations General Assembly on 21 December 1965, and entered into force on 4 January 1969. As of July 2020, it has 88 signatories and 182 parties. The Convention is monitored by the Committee on the Elimination of Racial Discrimination (CERD). [73]

Article 4 of the Convention condemns propaganda and organizations that attempt to justify discrimination or are based on the idea of racial supremacism.[74] It obliges parties, "with due regard to the principles embodied in the Universal Declaration of Human Rights", to adopt "immediate and positive measures" to eradicate these forms of incitement and discrimination.

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[70] Cybercrime (Prohibition, Prevention, etc.) Act, s. 24(2)(a)
[71] Cybercrime (Prohibition, Prevention, etc.) Act, s. 24(2)(b)
[72] Cybercrime (Prohibition, Prevention, etc.) Act, s. 24(2)(c)
[73] Equality & Human Rights Commission, 'International Convention on the Elimination of All Forms of Racial Discrimination', available at https://sthelenaehrc.org accessed 30 June 2025
[74] United Nations, International Convention on the Elimination of All Forms of Racial Discrimination (1996), Treaty Series, Article 4.

Specifically, it obliges parties to criminalize hate speech, hate crimes and the financing of racist activities, and to prohibit and criminalize membership in organizations that "promote and incite" racial discrimination. A number of parties have reservations on this article, and interpret it as not permitting or requiring measures that infringe on the freedoms of speech, association or assembly. The Committee on the Elimination of Racial Discrimination regards this article as a mandatory obligation of parties to the Convention, and has repeatedly criticized parties for failing to abide by it. It regards the obligation as consistent with the *freedoms of opinion and expression* affirmed in the UDHR and ICCPR and notes that the latter specifically outlaws inciting racial discrimination, hatred and violence. It views the provisions as necessary to prevent organized racial violence and the "political exploitation of ethnic difference."[75]

Individual complaints mechanism

Article 14 of the Convention establishes an individual complaints mechanism similar to that of the First Optional Protocol to the International Covenant on Civil and Political Rights, Optional Protocol to the Convention on the Rights of Persons with Disabilities and Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Parties may at any time recognize the competence of the Committee on the Elimination of Racial Discrimination to consider complaints from individuals or groups who claim their rights under the Convention have been violated. Such parties may establish local bodies to hear complaints before they are passed on. Complainants must have exhausted all domestic remedies, and anonymous complaints and complaints that refer to events that occurred before the country concerned joined Convention are not permitted. The Committee can request information from and make recommendations to a party. The individual complaints mechanism came into operation in 1982, after it had been accepted by ten states-parties. As of 2010, 58 states had recognized the competence of the Committee, and 54 cases have been dealt with by the Committee.[76]

Committee on the Elimination of Racial Discrimination

[75] n129
[76] Ibid

The Committee on the Elimination of Racial Discrimination is a body of human rights experts tasked with monitoring the implementation of the Convention. It consists of 18 independent human rights experts, elected for four-year terms, with half the members elected every two years. Members are elected by secret ballot of the parties, with each party allowed to nominate one of its nationals to the Committee. All parties are required to submit regular reports to the Committee outlining the legislative, judicial, policy and other measures they have taken to give effect to the Convention. The first report is due within a year of the Convention entering into effect for that state; thereafter reports are due every two years or whenever the Committee requests. The Committee examines each report and addresses its concerns and recommendations to the state party in the form of "concluding observations".[77] This is body is more or less tasked with the avid implementation of the Convention, including offences related to hate speech.

3.1.9 Code of Practice for Interactive Computer Service Platforms/Internet Intermediaries

The National Information Technology Development Agency (NITDA) has issued a Code of Practice for Interactive Computer Service Platforms/Internet Intermediaries and Conditions for Operating in Nigeria. A draft signed by Mrs. Hadiza Umar, Head Corporate Affairs and External Relationship, NITDA, said the Code of Practice is aimed at protecting fundamental human rights of Nigerians and non-Nigerians living in the country as well as define guidelines for interacting on the digital ecosystem. The regulatory agency outlined various dos and don'ts for the Nigerian digital ecosystem, especially platforms having more than 100,000 users. The platforms are by the Code, saddled with the responsibility to do the following among others:

- Be incorporated in Nigeria.
- Have a physical contact address in Nigeria, details of which shall be available on their website or Platform.
- Appoint a Liaison Officer who shall serve as a communication channel between the government and the Platform.

[77] Ibid

- Provide the necessary human supervision to review and improve the use of automated tools to strengthen accuracy and fairness, checkmate bias and discrimination to ensure freedom of expression and privacy of users.
- On demand, furnish a user, or authorized government agency with information on: a) reason behind popular online content demand and the factor or figure behind the influence. b) why users get specific information on their timelines.
- Provide users or authorized government agency, upon request, with report of due process on their activities, and/or open investigation to ensure individuals are not targeted.

"A Platform shall not continue to keep prohibited materials or make them available for access when they are informed of such [prohibited] materials. Prohibited material is that which is objectionable on the grounds of public interest, morality, order, security, peace, or is otherwise prohibited by applicable Nigerian laws," the Code says. Government's move to regulate social media in 2019 met a heavy pushback from civil rights organizations and members of the public as it was seen as an attempt to gag the civic space. However, the government has tried to use its agencies like the Nigerian Broadcasting Corporation to enact the regulatory rules. NITDA's Code had come months after the federal government lifted its four-month ban on Twitter. It was a controversial decision that drew condemnation globally. Like the 2019 social media bill, the NITDA Code is already riling up the civic space that has described it as an attempt to censor social media through the back door, especially as the 2023 general elections drew nearer.[78]

The National Information Technology Development Agency (NITDA) is mandated by section 6 of the NITDA Act 2007, to standardize, coordinate and develop regulatory frameworks for all Information Technology (IT) practices in Nigeria. In accordance with its mandates, President Muhammadu Buhari, GCFR, directed the Agency to develop a Code of Practice for Interactive Computer Service Platforms/Internet Intermediaries (Online Platforms), in collaboration with relevant Regulatory Agencies and Stakeholders. In line with the directive, NITDA wishes to present to the Public a Code of Practice for Interactive Computer Service Platforms/Internet Intermediaries for further review and input. The Code of Practice is aimed at protecting fundamental human rights of Nigerians and non-Nigerians living in the country as well as to

[78] Tekedia, 'NITDA Unveils Code of Practice To Regulate Social Media in Nigeria', available at https://www.tekedia.com accessed 12 September 2025

define guidelines for interacting on the digital ecosystem. This is in line with international best practices as obtainable in democratic nations such as the United State of America, United Kingdom, European Union, and United Nations. The Code of Practice was developed in collaboration with the Nigerian Communications Commission (NCC) and National Broadcasting Commission (NBC), as well as input from Interactive Computer Service Platforms such as Twitter, Facebook, WhatsApp, Instagram, Google, and Tik Tok amongst others. Other relevant stakeholders with peculiar knowledge in this area were consulted such as Civil Society Organizations and expert groups. The results of these consultations were duly incorporated into the Draft Code of Practice. The new global reality is that the activities conducted on these Online Platforms wield enormous influence over our society, social interaction, and economic choices. Hence, the Code of Practice is an intervention to recalibrate the relationship of Online Platforms with Nigerians in order to maximize mutual benefits for our nation, while promoting a sustainable digital economy.[79]

Additionally, the Code of Practice sets out procedures to safeguard the security and welfare of Nigerians while interacting on these Platforms. It aims to demand accountability from Online Platforms regarding unlawful and harmful contents on their Platforms. Furthermore, it establishes a robust framework for collaborative efforts to protect Nigerians against online harms, such as hate speech, cyber-bullying, as well as disinformation and/or misinformation. Similarly, to ensure compliance with the Code of Practice, NITDA also wishes to notify all Interactive Computer Service Platforms/Internet Intermediaries operating in Nigeria that the Federal Government of Nigeria has set out conditions for operating in the country. These conditions address issues around legal registration of operations, taxation, and managing prohibited publication in line with Nigerian laws.[80]

3.2 Institutional Framework

3.2.1 National Broadcasting Commission (NBC)

The National Broadcasting Commission (NBC) is the regulatory body responsible for overseeing and controlling the broadcast media in Nigeria. It was established by Decree No. 38 of 1992 (now an Act of the National Assembly) and is mandated to regulate and license radio and

[79] Ibid
[80] Ibid

television stations, ensure compliance with the national broadcasting code, and uphold ethical standards in broadcasting. NBC also monitors content to ensure adherence to Nigeria's cultural and national values while preventing the broadcast of harmful or misleading information.[81]

The NBC performs several critical functions, including:

- Licensing and regulating broadcasting stations in Nigeria
- Ensuring compliance with the Nigeria Broadcasting Code, which sets ethical and professional standards
- Monitoring broadcast content to ensure it aligns with national security, morality, and social harmony
- Sanctioning stations that violate broadcasting regulations. Promoting local content in broadcasting while ensuring adherence to international best practices
- Managing the transition from analog to digital broadcasting in Nigeria[82]

The NBC enforces compliance with the Nigeria Broadcasting Code, which prohibits the spread of false, misleading, or inciting information. The Commission monitors television and radio broadcasts, issuing fines, suspensions, or outright revocations of licenses for non-compliance. NBC also collaborates with security agencies to curb the spread of hate speech, misinformation, and unverified news, particularly during elections or national crises. Penalties for breaching NBC regulations vary depending on the severity of the violation. Some common sanctions include:

- Warnings and fines for minor infractions such as failure to meet local content requirements
- Suspension of broadcast licenses for stations that repeatedly violate ethical standards
- Outright revocation of licenses for severe breaches, including incitement of violence, hate speech, or national security threats
- Temporary shutdowns of stations that fail to pay required license fees or comply with regulatory guidelines[83]

3.2.2 Nigerian Communications Commission (NCC)

[81] National Broadcasting Commission, 'FAQ's', available at https://www.nbc.gov.ng accessed 5 July 2025
[82] Ibid
[83] Ibid

The Nigerian Communications Commission is empowered by the Nigerian Communications Act 2003 to establish and enforce standards for all telecommunications equipment in operation in the Federal Republic of Nigeria to ensure that they operate seamlessly and safely within the Nigerian telecommunications environment.[84]

To ensure maximum interoperability and affordability for consumers, the Type Approval standards set by the Nigerian Communications Commission are based on international standards from; The International Electrotechnical Commission (IEC) and its International Special Committee on Radio Interference (CISPR), The European Committee for Electrotechnical Standardization (CENELEC) and The European Telecommunications Standards Institute (ETSI). Note that Nigeria is an associate member of IEC through the Standards Organization of Nigeria (SON) and could become an associate member of CENELEC and ETSI. All equipment manufacturers, vendors and operators, including customer devices such as mobile phones and wireless adapters, must therefore ensure that their equipment conform to the applicable standards as mandated by the Commission before bringing them into Nigeria.[85]

3.2.3 African Commission on Human and People's Rights (ACHPR)

The African Commission on Human and Peoples' Rights (ACHPR, or the Commission) was established in accordance with Article 30 of the African Charter on Human and Peoples' Rights (the African Charter) with a mandate to promote and protect human and peoples' rights on the African continent. It was officially inaugurated on 2 November 1987 and is the premier human rights monitoring body of the African Union (AU). In 2001, the ACHPR established a Working Group on Indigenous Populations/Communities in Africa (WGIP), marking a milestone in the promotion and protection of the rights of Indigenous Peoples in Africa. [86]

In 2003, the WGIP produced a comprehensive report on Indigenous Peoples in Africa which, among other things, sets out common characteristics that can be used to identify Indigenous communities in Africa. The report was adopted by the ACHPR in 2003 and was subsequently endorsed by the AU in 2005. The report therefore represents the official position of the ACHPR,

[84] Nigerian Communications Commission, 'NCC: Home', available at https://www.ncc.gov.ng accessed 5 July 2025
[85] Ibid
[86] IWGIA, 'African Commission on Human and People's Rights (ACHPR) – IWGIA' (25 April 2025), available at https://iwgia.org accessed 5 July 2025

as well as that of the AU, on the concept and rights of Indigenous Peoples in Africa. The 2003 report serves as the basis for constructive engagement between the ACHPR and various stakeholders based in the continent and elsewhere, including states, national human rights institutions, NGOs, Indigenous communities and their organizations. The participation of Indigenous Peoples' representatives in the sessions of the ACHPR as well as in the various activities of the WGIP, which include sensitization seminars, country visits, information activities and research, has also played a crucial role in ensuring and maintaining this vital engagement and dialogue for many years. In 2020, at the 66th Ordinary Session of the ACHPR, the mandate of the WGIP was expanded to include the rights of minorities, with the following amended name: "Working Group on Indigenous Populations/Communities and Minorities in Africa" (WGIPM).[87]

3.2.4 African Court on Human and People's Rights (AfCHPR)

The African Court on Human and Peoples' Rights (the Court) is a continental court established by African countries to ensure the protection of human and peoples' rights in Africa. It complements and reinforces the functions of the African Commission on Human and Peoples' Rights. The Court was established by pursuant to Article 1 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, (the Protocol) which was adopted by Member States of the then Organization of African Unity (OAU) in Ouagadougou, Burkina Faso, in June 1998. The Protocol came into force on 25 January 2004. The 34 States which have ratified the Protocol are: Algeria, Benin, Burkina Faso, Burundi, Cameroon, Chad, Côte d'Ivoire, Comoros, Congo, Democratic Republic of Congo, Gabon, The Gambia, Ghana, Guinea-Bissau, Kenya, Libya, Lesotho, Madagascar, Mali, Malawi, Mozambique, Mauritania, Mauritius, Nigeria, Niger, Rwanda, Sahrawi Arab Democratic Republic, South Africa, Senegal, Tanzania, Togo, Tunisia, Uganda and Zambia. To date, only eight (8) of the thirty-four (34) State Parties to the Protocol have deposited the declaration recognizing the competence of the Court to receive cases directly from NGOs and individuals. The eight States are: Burkina Faso, The Gambia, Ghana, Guinea-Bissau, Mali, Malawi, Niger and Tunisia. The Court's Contentious Jurisdiction applies to all cases and disputes submitted to it in respect of the interpretation and application of the African Charter on

[87] Ibid

Human and Peoples' Rights, (the Charter), the Protocol and any other relevant human rights instrument ratified by the States concerned. For its Advisory Jurisdiction, the Court may, at the request of a Member State of the African Union (AU), the AU, any of its organs or any African organization recognized by the AU, give an opinion on any other legal matter relating to the Charter or any other relevant human rights instruments, provided that the subject matter of the opinion is not related to a matter being examined by the Commission.[88]

The Court is composed of eleven judges who are nationals of Member States of the African Union. The first Judges of the Court were elected in January 2006 in Khartoum, Sudan. They were sworn in before the 7th Assembly of Heads of State and Government of the African Union on 2nd July 2006 in Banjul, Gambia. Upon nomination by their respective States, the Judges of the Court are elected, in their individual capacities, from among African jurists of proven integrity and of recognized practical, judicial or academic competence and experience in the field of human rights. The Judges are elected for a six-year term, renewable once. The Judges of the Court will elect, from among themselves, a President and Vice-President of the Court who will serve a two-year term. They can be re-elected only once. The President of the Court resides and works full time at the seat of the Court, while the other ten (10) Judges work on part-time basis. In the discharge of his/her duties, the President is assisted by a Registrar who performs registry, managerial and administrative functions of the Court. The Court officially started its operations in Addis Ababa, Ethiopia in November 2006. In August 2007 it moved to its seat in Arusha, the United Republic of Tanzania. Between 2006 and 2008, the Court dealt principally with operational and administrative issues, including developing of the structure of the Court's Registry, preparing its budget and drafting of its Interim Rules of Procedure.[89]

In 2008, during the Court's Ninth Ordinary Session, the Court adopted the Interim Rules of Court, pending consultation with the African Commission on Human and Peoples' Rights, with a view to harmonizing their rules. This harmonization process was completed in April 2010, and in June 2010, the Court adopted its Final Rules of Court*. The Court may receive cases filed by the African Commission of Human and Peoples' Rights, State Parties to the Protocol or African Intergovernmental Organizations. Non-Governmental Organizations with observer status with

[88] African Court on Human and People's Rights, 'African Court on Human and People's Rights', available at https://www.african-court.org accessed 10 July 2025
[89] Ibid

the African Commission and individuals can file cases directly at the Court as long as the State that they are suing has deposited the Article 34(6) declaration recognizing the jurisdiction of the Court to accept cases from individuals and NGOs.[90]

3.2.5 The International Press Institute (IPI) Global Network

The International Press Institute (IPI) global network welcomes the recent decision by the ECOWAS Court of Justice which declared some provisions of the Nigeria broadcasting regulations as incompatible with the freedom of expression guarantees in the African Charter on Human and Peoples' Rights (ACHPR).[91] In a judgment delivered on October 23, 2023, the Court ruled that Articles 3(1) (1) and (2) as well as 15(2)(1) of the Nigeria Broadcasting Code (6th Edition) and Article 15(5)(1) of the Amendments to the Nigeria Broadcasting Code contravenes Article 9 (1) & (2) of the African Charter on Human and Peoples' Rights(ACHPR). Nigeria has signed and ratified the ACHPR and is therefore bound by its provisions. Article 3(1)(1) of the Code prohibits broadcasters from airing content that "encourages or incites crime, leads to public disorder or hate," is "repugnant to public feelings" or that makes offensive references to "any person or organization, alive or dead" or that generally "disrespectful to human dignity."[92] Article 15 lays out the sanctions for violating the provisions of the Code which would include revocation of license. The ECOWAS Court also ordered the Nigerian government to align these provisions with its international obligations and cease enforcing them until they reflect the ACHPR's freedom of expression guarantees. "This ruling is a much-welcomed victory for media freedom and freedom of expression in Nigeria – and Africa – as it reaffirms that states have obligations at international and regional levels to protect and promote these fundamental rights," Nompilo Simanje, IPI's Africa Advocacy and Partnerships Lead, said. She added that this demonstrates the importance of utilizing existing regional standards and mechanisms to hold states accountable to their commitments. IPI urges the Nigerian government to comply with this ruling together with all other international and regional frameworks for the protection of freedom of expression and of the media. In August 2023, IPI published a resource toolkit on the foundations of press freedom in Africa which outlines international and regional frameworks that

[90] Ibid
[91] International Press Institute, 'Nigeria: IPI welcomes ECOWAS Court decision protecting freedom of expression standards' (13 November 2023), available at https://ipi.media accessed 25 June 2025
[92] Ibid

advocacy groups and other stakeholders can rely on to improve the media environment, demand accountability, and curb impunity for attacks on the press. Among other frameworks, the document highlights critical decisions handed down by the African Commission, the African Court, and sub-regional courts like the ECOWAS Court of Justice, which further clarify state responsibilities and obligations toward media freedom.[93]

3.2.6 Ministry of Communications, Innovation and Digital Economy

The Federal Ministry of Communications, Innovation, and Digital Economy was created in 2011. Formerly known as The Federal Ministry of Communications Technology, it was created to foster a knowledge-based economy and information society in Nigeria. The Ministry was created to facilitate ICT as a key tool in the transformation agenda for Nigeria in the areas of job creation, economic growth, and transparency of governance.[94]

3.2.7 Economic Community of West African States (ECOWAS)

Economic Community of West African States is an economic association established in 1975 whose members are Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo. Mauritania joined but withdrew in 2002.[95] Its mission is to promote economic integration in all fields of economic activity, particularly industry, transport, telecommunications, energy, agriculture, natural resources, commerce, monetary and financial questions, social and cultural matters. The ECOWAS are: the Commission; the Community Parliament; the Community Court of Justice and the Bank for Investment and Development.[96]

In October 2011, the Contracting Parties of the Economic Community of West African States adopted a Supplementary Act on a Uniform Framework on Freedom of Expression and Freedom of Information in West Africa. The Act provides strong safeguards for the protection of freedom of expression in West Africa, notably by decriminalizing press offences such as: criminal

[93] Ibid
[94] Federal Ministry of Communications, Innovation and Digital Economy, 'Ministry of Communications, Innovation and Digital Economy', available at https://fmcide.gov.ng accessed 10 July 2025
[95] Dictionary.com, 'ECOWAS Definition & Meaning', available at https://www.dictionary.com accessed 25 June 2025
[96] Refworld, 'Economic Community of West African States (ECOWAS)', available at https://www.refworld.org accessed 28 June 2025

defamation, insult laws, sedition laws, and false news laws. An increasing number of West African States seem set to adopt Freedom of Information laws. Nigeria is leading the way with the adoption of a Freedom of Information Act in June 2011.[97]

3.2.8 National Information Technology Development Agency (NITDA)

National Information Technology Development Agency (NITDA) was created in April 2001 to implement the Nigerian Information Technology Policy and co-ordinate general IT development in the country. Their Act (National Information Technology Development Act [2007]) mandates them to create a framework for the planning, research, development, standardization, application, coordination, monitoring, evaluation and regulation of Information Technology practices, activities and systems in Nigeria. Their role therefore is to develop, regulate and advise on Information technology in the country through regulatory standards, guidelines and policies. Additionally, NITDA is the clearing house for all IT projects and infrastructural development in the country. It is the prime Agency for e-government implementation, Internet governance and general IT development in Nigeria. NITDA is poised to actualize its mammoth mandate through strategic and inclusive stakeholder management, local and international partnership and efficient utilization of resources in the interest of Nigeria.[98] NITDA has been mandated by the National Information Technology Development Act (2007) to establish Standards, Guidelines and frameworks for the development, standardization, and regulation of Information Technology practices in Nigeria. The Agency's role, therefore, is to develop Information technology in Nigeria through the use of regulatory instruments. As a regulatory Agency, NITDA is the clearinghouse for all Government Information Technology projects and infrastructural development in the country. The instruments are designed to achieve the Information Technology policy objectives by providing frameworks within which to implement policies. NITDA has published several instruments and monitors their compliance for the development of information technology in Nigeria. The instruments serve as a minimum benchmark in the development and implementation of information technology in Nigeria and enforceable by law.[99]

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[97] Refworld, 'West Africa: Free expression and law in 2011' (5 April 2012), available at https://www.refworld.org accessed 28 June 2025

[98] National Information Technology Development Agency, 'Background', available at https://nitda.gov.ng accessed 12 September 2025

[99] National Information Technology Development Agency, 'Regulations', available at https://nitda.gov.ng accessed 12 September 2025

The instruments are being reviewed frequently due to the dynamic nature of the IT environment and technology innovations.

CHAPTER FOUR

ANALYSIS OF FREEDOM OF EXPRESSION AND SOCIAL MEDIA REGULATION VIS-À-VIS HATE SPEECH

4.1 Whether the Proposed Bills on Hate Speech on Social Media are Against the Right to Freedom of Expression

The Nigerian Senate in 2019 was considering two harsh bills relating to freedom of expression online, including one which proposes the death penalty for 'hate speech.' These bills, supported by the Nigerian government, represent an alarming escalation in the authorities' attempts to censor and punish social media users for freely expressing their opinions. The proposed National Commission for the Prohibition of Hate Speech bill, and the Protection from Internet Falsehood and Manipulation and other Related Offences bill (often called the 'Social Media bill'), would potentially give authorities arbitrary powers to shut down the internet and limit access to social media, and make criticizing the government punishable with penalties of up to three years in prison.[100] Both bills were not later enacted and passed to law after receiving significant public criticism at the time. The National Commission for the Prohibition of Hate Speech bill proposed to create an administrative body to investigate and recommend sanctions for hate speech offences while the Protection from Internet Falsehood and Manipulation and other Related Offences bill was withdrawn after the second reading.

"Social media is one of the last remaining places where Nigerians can express their opinions freely. The harassment of journalists and bloggers and the introduction of the Cyber Crimes Act have already shrunk the civic space and created a climate of fear," said Seun Bakare, Programmes Manager, Amnesty International Nigeria. "We are urging the Nigerian authorities to drop these bills, which are open to vague and broad interpretations and impose incredibly harsh punishments simply for criticizing the authorities. Social media is one of the last remaining places where Nigerians can express their opinions freely".[101]

There are many provisions in the bills that do not meet international human rights standards. For example, section 4 of the "hate speech" bill prohibits abusive, threatening and insulting behaviour, which is open to very wide interpretation. This section would pose a threat to critical

[100] Amnesty International, 'Nigeria: Bills on Hate Speech and social media are dangerous attacks on freedom of expression' (4 December 2019), available at https://www.amnesty.org accessed 30 July 2025
[101] Ibid

opinion, satire, public dialogue and political commentary. The social media bill contains overbroad provisions that unduly restrict access to and use of social media and seems designed to gag freedom of expression. For example, section 3, which relates to the transmission of false statements of facts, contains provisions against sharing statements "likely to be prejudicial to the security of Nigeria, public safety, tranquility, public finances and friendly relations of Nigeria with other countries". This could be easily abused to punish critics of government policies and actions, and anyone who asks difficult questions could find themselves liable for 'diminishing public confidence in the government.' The two bills are set to criminalize those who breach the law with punitive measures like fines and imprisonment of up to three years solely for peacefully exercising their right to freedom of expression. In the case of the "hate speech" bill, people could face life imprisonment and the death penalty. [102]

Two Nigerian senators sponsored the National Commission for the Prohibition of Hate Speech bill and the Protection from Internet Falsehood and Manipulation and other Related Offences bill. The Nigerian government stated its resolve to regulate the operation of social media and the information shared on them. The existing Cyber Crimes Act and the Anti-Terrorism Act, which already cover many of the offences the new bills seek to address, have been used as tools to gag freedom of expression in Nigeria. International law and standards require States to prohibit in law advocacy of hatred that constitutes incitement to discrimination, hostility or violence (commonly known as "hate speech"). Such prohibitions need to be set forth in law and formulated precisely. The law and its application must also comply with the required guarantees on the right to freedom of expression, and in particular must meet the requirements of necessity and proportionality, in compliance with Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR).[103]

The International Press Institute (IPI), a global network of editors, media executives and leading journalists for press freedom, joined its Nigerian National Committee in expressing concern over the two cybercrime bills targeting vague concepts of "hate speech", "fake news" and misinformation. As mentioned before, the first bill, the National Commission for the Prohibition of Hate Speeches Bill, would set up a new administrative body to investigate hate speech online

[102] Ibid
[103] Ibid

and identify perceived offenders. The body would then make a recommendation to the attorney-general, the Nigerian Human Rights Commission or "other relevant bodies" regarding sanctions. It would also have the power to publicly blacklist offenders, such as individual journalists, commentators or media organizations, that it deems to have committed offences. The head of the Commission and its 12 commissioners would be recommended by the National Council of State, approved by Nigeria's president, and then voted in by the National Assembly with a two-thirds majority.[104] In a bid to reiterate, section 4 of the bill defines "hate speech" as "threatening, abusive or insulting" words or behaviour which is aimed at stirring up ethnic hatred. However, this ambiguous language and broad scope leaves it open to wide and multiple interpretations and possible misuse against media. Punishments for those convicted are also extremely punitive. Under section 4(2), the bill states that individuals found to have committed an offence could face life imprisonment. Media organizations found to have published threatening or offensive material could also face financial penalties of up to 10 million naira.[105]

Meanwhile, the second bill would censor and criminalize statements on social media deemed "likely to be prejudicial to the security of Nigeria, public safety, tranquility, public finances and friendly relations of Nigeria with other countries". Journalists would also be liable if they are found to have "diminished public confidence" in Nigeria's government. Supporters of the bill have stated it is aimed at addressing "the menace of fake news and falsehoods in media broadcast and transmissions". Penalties would also include hefty fines, prison sentences, or both. Law enforcement agencies would also be handed the power to order internet service providers to shut down social media, while regulators would also be empowered to impose bans on internet access for journalists or bloggers deemed to be spreading misinformation or "fake news" which risks public safety and security. "We are seriously alarmed about the threat that these bills pose to media freedom, freedom of expression and open public debate in Nigeria, especially in the online space, which plays a key role in the sharing of information in Nigeria", IPI Director of Advocacy Ravi R. Prasad said. "The use of vague concepts without clear definitions, combined with draconian penalties, is out of step with international standards on freedom of expression. These measures lack necessary safeguards to ensure they will not be used to silence critical views and

[104] International Press Institute (IPI), 'Nigeria must amend vague 'hate speech' bill', (11 December 2019), available at https://ipi.media accessed 10 August 2025
[105] Ibid

voices." "We echo the concern expressed by IPI's Nigerian National Committee about these bills, which should not be passed until they fully align with the requirements of international human rights law and have been amended to reflect the concerns of Nigerian civil society."[106]

The government has stressed that the two bills are aimed at more forcefully regulating the country's internet and social media landscape to stem an increase in online hate speech and ethnic discrimination, which it argues pose major risks for peace and stability in a country of more than 190 million people and 30 million social media users. But the latest proposals are facing strong criticism within the country, where rights groups and free speech activists have raised serious concerns that the vague definitions of the two bills mean they could potentially be used to gag the press and criminalize criticism of the of the then (late) Buhari government. To make things worse, the concerns come against a backdrop of a deterioration of press freedom in Nigeria in recent months caused by a pattern of arrests, the heavy-handed use of existing state security, terrorism, cyber security, and defamation laws against critical journalists. In October, IPI documented the use of these laws against independent journalists in 2019, highlighting a worrying pattern of arrests of reporters covering issues such as alleged corruption, state security and terrorism. An anti-hate-speech bill similar to the current proposal was thrown out in June 2019 after strong criticism. However, it was reintroduced in the Senate in November. The first draft included the death penalty by hanging as the maximum punishment for offenders. This clause was removed after a major public outcry. Meanwhile, a bill to regulate social media was considered in 2015 but that, too, had failed to pass into law after similar public pushback.[107]

It seems to be evident that no matter the government's attempt to pass bills that address issues on hate speech in the digital sphere, they do not seem to grasp the delicate, fine line of enacting such bills while still protecting the rights of the people but without infringing on them.

4.2 Is Freedom of Expression Absolute?

The grundnorm of the nation has it couched in section 39 (1), as earlier posited in this study, the right to freedom of expression, however it also buttresses the limitations of this right, meaning the right is far from being absolute. The limitations are couched in section 45 (1) (a) to (b) of which states:

[106] Ibid
[107] Ibid

1) Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society

a) In interest of defence, public safety, public order, public morality or public health; or

b) For the purpose of protecting the rights and freedom or other persons[108]

Hence in this digital age, Nigerians are permitted to express their feelings, ideas, and opinions as long as they are not repugnant to public safety, public order, public morality, public health and national defence.

4.3 Politics & Hate Speech

The heterogeneity of Nigeria has arguably sparked the generational problems it faces in the political space today.

Although this diversity is a source of pride, it has also caused rifts rooted in ethnic divides, with some dating back to pre-colonial times. The 1967-70 civil war did not make the case any better. It deepened these divisions, which remain evident during elections. These ethnic divisions permeate not just national politics but also interstate dynamics. In many instances, political actors have exploited these divides, using hate speech, misinformation, and disinformation as tools to sway public opinion and seize power. While hate speech is regularly discussed, especially in the lead-up to elections, there remains no clear and universally accepted definition of the term in Nigeria. This ambiguity leaves room for personal interpretation and abuse.[109]

Despite several attempts by Nigeria's legal system to address hate speech and disinformation, implementation of the law remains weak. Section 123 of the 2022 Electoral Act, which targets false publication and defamation of electoral candidates, is a key example of this. Since its enactment, despite the spread of numerous false claims through social media akin to hate speech, no significant prosecutions have been carried out under the law. This gap between legislation and enforcement continues to allow hate speech to flourish during critical political moments. The

[108] Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap. C23 Laws of the Federation of Nigeria 2004 (CFRN) 1999 s. 45.

[109] C. Iruke, 'The Politics of Hate Speech in Nigerian Elections' (2 October 2024), available at https://www.cddwestafrica.org accessed 26 August 2025

2023 general elections and the recent Edo gubernatorial elections showcased the pervasive use of hate speech to incite ethnic and political divides.[110]

Hate Speech in the 2023 General Elections

Hate speech reached new heights during that period, particularly in Lagos, where the gubernatorial election was defined by ethnic divisions. Political chieftains played key roles in perpetuating these divides, with former Minister of Aviation Femi Fani-Kayode being a prominent figure in pushing an Igbo vs. Yoruba narrative. The use of ethnic-based hate speech was not limited to Lagos. PDP presidential candidate Atiku Abubakar also contributed to the rising ethnic tensions. Speaking at an Arewa town hall in Kaduna, a region predominantly populated by Hausa and Fulani people, Atiku said the country did not need an Igbo or Yoruba president but rather "someone from the north." While some may argue that this statement did not directly incite violence, it reinforced the ethnic divides that have long plagued Nigeria. It was an example of the "I did not start the fire, I only gave free fuel" approach to ethnic bigotry in politics.[111]

4.4 The SERAP v Federal Republic of Nigeria Case

The Community Court of Justice of the Economic Community of West African States (ECOWAS) determined that Nigeria violated Articles 5 and 6 of the African Charter on Human and Peoples' Rights by subjecting journalist Agba Jalingo to arbitrary detention for 34 days and acts of torture during his imprisonment. Jalingo, a journalist and publisher, was subjected to arbitrary detention and torture following his exposé on corruption within a government agency. This case was brought to the regional Court by the Socio-Economic Rights and Accountability Project (SERAP), a Nigerian Non-Governmental Organization. While the Court did not accept the allegations of a violation of Jalingo's freedom of expression due to insufficient evidence, it ruled in favor of Jalingo on the unlawful arrest and torture claims, noting that Nigeria failed to contest or dispute these allegations. The Court ordered the Nigerian government to pay Jalingo a lump sum of thirty million naira (N30,000,000) as compensation. Furthermore, the Court directed the government to provide a report within three months outlining the steps taken to

[110] Ibid
[111] Ibid

implement the Court's orders, underlining the significance of upholding human rights and accountability in the region.[112]

Facts of the Case

On August 22, 2019, Agba Jalingo, a journalist, was arrested in Lagos by the Nigerian Police. This arrest was based on allegations that he had committed offenses under the Cybercrimes (Prohibition, Prevention, etc.) Act of 2015, the Terrorism (Prevention Amendment) Act of 2013, and the Criminal Code Act. The accusations against him were linked to an article he had published on his media platform, Cross River Watch. In the said article, he made claims that the Cross River State Governor had illegally diverted a substantial sum of 500 million Naira from the Cross River Microfinance Bank. Jalingo's arrest concerned a series of events, wherein a team of eight police officers was involved, four of whom forcibly entered Jalingo's residence, arrested him, and swiftly transported him to a waiting vehicle, where four additional police officers were stationed. Jalingo was accompanied by his wife during this arrest, and they were both taken to the Inspector General of Police Intelligence Response Team (IGPIRT) located in Ikeja, Lagos State.[113]

After reaching IGPIRT, Jalingo was confined to a Police Cell in Ikeja, where he remained until 4:00 AM on August 23, 2019. At that point, he was taken out of the cell and placed in the trunk of a car, with his hands and legs cuffed. He was then subjected to a long six-hour journey to Calabar in Cross River State. Throughout this extended trip, Jalingo was cruelly denied the opportunity to relieve himself, which resulted in him urinating and defecating on his own body. Upon arriving in Calabar, Jalingo was taken to the Anti-Cultism and Anti-Kidnapping Unit of the Cross River State Command of the Nigerian Police. He was handcuffed to a deep freezer in a room referred to as "The Charging Room". He remained there for about 34 days without being presented before a Court of law. During this period, he was physically restrained and the only time his right hand was uncuffed was when it was necessary for him to eat, after which it would be immediately cuffed again.[114]

[112] Global Freedom of Expression | Columbia University, 'SERAP v. Federal Republic of Nigeria (Case of Agba Jalingo)', available at https://globalfreedomofexpression.columbia.edu accessed 27 August 2025
[113] Ibid
[114] Ibid

While in detention in the so-called "Charging Room", Jalingo was confronted with a settlement proposition called 'Terms of Settlement', which essentially required him to cease his criticism of the Governor. In return for complying with these terms, he would be released from detention and offered some financial compensation. However, Jalingo declined to sign these terms. In response to his refusal, the Officer-In-Charge of the Legal Unit (O/C, Legal) informed Jalingo that unless he agreed to the terms, he would be charged and brought before a judge, facing accusations of treason, felony, and terrorism. On September 25, 2019, Jalingo was presented before Justice Tamulgede, Federal High Court of Calabar on the alleged charges of Treasonable Felony, Terrorism, and Cultism, and an attempt to overthrow President Buhari and the Governor of Cross-River State. Jalingo pleaded not guilty to all the offences, and he was remanded in ACO Camp correctional, wherein he spent 119 Days in ACO Camp. On October 4, 2019, Justice Tamulgede heard Jalingo's bail application and dismissed the same on the account that one of the alleged offences attracted the death penalty. On February 22, 2020, Justice Shuaibu heard Jalingo's second bail application and granted the bail to Jalingo.[115]

On February 7, 2020, the Applicant, the Socio-Economic Rights and Accountability Project (SERAP), a Nigerian NGO, filed the Original Application against the Respondents, the Federal Republic of Nigeria and the Government of Cross River State, before the Community Court of Justice of the Economic Community of West African States (ECOWAS). In its application, the Applicant challenged the legality of the use of the Cyber (Prohibition, Prevention, etc.) Act, 2015; Terrorism (Prevention Amendment) Act, 2013, and the Criminal Code Act for charging Jalingo before the Federal High Court of Calabar, on the publication of an article.[116]

The Decision of the Court

Justices Edward Amoako Asante, Dupe Atoki, and T. Silva Moreira Costa delivered a unanimous decision. The central issues presented before the Court encompassed several key aspects. Firstly, it addressed the question of whether the Court had jurisdiction to preside over the matter under Article 9(4) of the Supplementary Protocol. Secondly, it examined whether there had been a violation of Jalingo's rights, including his freedom of expression, information,

[115] Ibid
[116] Ibid

opinion, and media freedom, unlawful arrest & detention, and torture, protected under the International Human Rights treaties.[117]

- On the issue of jurisdiction, the Applicant contended that the matter concerned the violation of the human rights of Jalingo under Articles 4, 5, 6, and 7 of the African Charter and also under ICCPR & UDHR in pari materia. The Court referred to its previous decision of Bakare Sarre v. the Republic of Mali, (2011), to stress that once human rights violations involving international or community obligations of a member state are alleged, the Court has jurisdiction over the matter. Thus, the Court held that it had jurisdiction over the matter.[118]
- On the issue of admissibility, the Respondent contended that criminal proceedings were pending against Jalingo in a domestic Court, and initiating another lawsuit before the ECOWAS Court would constitute an abuse of the judicial process. The Applicant contended that the ongoing domestic criminal case against Jalingo did not constitute a legal impediment to the prosecution of this matter. The Applicant further asserted that the essential issues and remedies sought in these two cases are fundamentally dissimilar and, therefore, did not give rise to any conflicting interests or legal constraints. The Court held that, instead of the Lis Pendis Doctrine, the only instance wherein the Court will not entertain an application for the violation of human rights is when the same matter is before another international court, not when it is before a domestic court. The Court referred to Hans Capehart Williams v. the Republic of Liberia, (2015), wherein it held that Article 10(d) of the Supplementary Protocol, which governs the admissibility of human rights violation cases, stipulates specific conditions, including that cases must be filed by victims, not be anonymous, and not be pending before another international court. Furthermore, the Court acknowledged that the claims of human rights violations and the legal arguments presented in the case were straightforward and well within its jurisdiction; thus, the existence of a separate criminal case against Jalingo in a domestic court did not constitute an abuse of court process.[119]

This distinction is crucial because the two points serve different purposes, one being civil in nature and the other criminal. The Court referred to Dr. Sam Emeka Ukaegbu v. the President of the Federal Republic of Nigeria, (2016), wherein it had outlined the criteria to determine whether

[117] Ibid
[118] Ibid
[119] Ibid

an action constitutes an abuse of the Court process. These criteria inter alia include a multiplicity of suits, involvement of the same parties, concerning the same issue, and consideration of the content of both suits to determine if they aim to achieve the same purpose. The Court further referred to Private Alimu Akeem v. the Republic of Nigeria, (2014), and emphasized that the criminal nature of the offense instituted against the applicant in Nigeria cannot be a ground for declaring the application before the Court as inadmissible. In light of these legal principles and precedents, the Court held that the prosecution of the instant suit did not amount to an abuse of the Court process, despite the existence of a mutual domestic suit against the principal beneficiary, Jalingo.[120]

On the issue of the violation of human rights of Jalingo, the Court referred to Hemabadoon Chia v. the Federal Republic of Nigeria, (2018) to observe that the allegation of violation of human rights must be substantiated with some concrete facts, and the burden of proof is on the person alleging that his/her/their right is violated. The Court identified three broad allegations of human rights violations, i.e.,

- Allegation of violation of freedom of expression, information, opinion, and media
- Allegation of unlawful arrest and detention
- Allegation of torture[121]

The Appellant asserted that the Respondent while utilizing the Cybercrime Act and Criminal Code Act, violated the Appellant's right to freedom of expression, as enshrined in international human rights treaties. Specifically, the Appellant referred to Article 9 of the African Charter on Human and Peoples' Rights and Article 19 of the International Covenant on Civil and Political Rights (ICCPR) as provisions safeguarding the freedom of expression. The Appellant contended that the utilization of the Cybercrime Act and Criminal Code Act to harass, detain, and intimidate him for disclosing corruption on an online media platform constituted a breach of his freedom of expression rights as delineated in these international human rights treaties. On the contrary, the Respondent denied the violation of freedom of expression and contended that

[120] Ibid
[121] Ibid

Jalingo was charged under the ambit of law for the offences he was alleged to have committed.[122]

In considering the alleged violation of freedom of expression in this case, the Court examined the relevant provisions of international and regional human rights instruments, including Article 9 of the African Charter, Article 19(1) & (2) of the ICCPR, and the Declaration of Principles on Freedom of Expression in Africa, 2002. The Court noted that these provisions are in pari materia, and thus, the determination of the Applicant's case under Article 9 of the African Charter applies mutatis mutandis to the other cited human rights instruments. The Applicant claimed a violation of Jalingo's fundamental right to freedom of expression, information, privacy, and opinion/media freedom. However, the Court found that the Applicant has failed to provide sufficient evidence to demonstrate precisely how the Respondent violated these rights.[123]

The Court further noted that, while it is established that Jalingo was arrested and detained, and subsequently brought before the Court on charges grounded in the extant laws of the Respondent State, particularly those referred to by the Applicant, the Applicant's main contention was that these laws were promulgated ostensibly to harass and intimidate journalists, including Jalingo, and that they were used to silence him. The Court held that the Applicant's reference to Section 24 of the Cybercrime Act, 2015, which provides for the offense of "cyber stalking", was capable of tangible proof. However, the Court held that the Applicant failed to provide concrete evidence regarding the specific journalists affected, their names, and the circumstances surrounding the violation of their rights through the instrumentalities of the impugned laws. The Court emphasized that it was not sufficient to merely make a blanket statement alleging rights violations; every allegation must be substantiated. The Court consistently expressed its preparedness to act, but it required well-substantiated allegations with a clear focus for action.[124]

The Applicant also maintained that this was not the first instance where the Respondent attempted to harass, intimidate, and suppress journalists through trumped-up charges brought under unjust laws. The Applicant referred to Sections 4, 1 & 59 of the Criminal Code Act and Sections 1 & 17(2)(a) & (b) of the Terrorism (Prevention, Amendment) Act to emphasize the

[122] Ibid
[123] Ibid
[124] Ibid

vagueness and diverse subjective application of these laws. However, the Court held that "Applicant's failure to particularize the ambiguity and void nature of these provisions has compelled the Court to pursue the said provisions are not violative of international standard". Furthermore, the Court emphasized that while freedom of expression and press freedom are fundamental human rights; they are not absolute and can be subject to limitations within the boundaries of the law (Deyda Hydara v. the Republic of the Gambia). The Court noted that the criminal justice system allows for fair trials, and Jalingo had not demonstrated any improprieties in his trial that would infringe upon his rights. Additionally, the Court addressed the claim of a violation of the right to information and found that the Applicant had failed to provide evidence of individuals being denied access to public records as alleged. Ultimately, the Court concluded that the Applicant had not met the burden of proof required to substantiate its claims, and therefore, the allegations of violations of freedom of expression were dismissed.[125]

On the allegation of unlawful arrest, the Court noted that it is undisputed that Jalingo was arrested on August 22, 2019, from his home and detained for 34 days until he was finally arraigned before the Federal High Court, Calabar. The Court acknowledged that law enforcement agencies have the authority to arrest, detain, investigate, and arraign individuals suspected of crimes, but sometimes these actions can infringe upon the human rights of the suspects. Furthermore, the Court referred to Noel Mian Diallo v. the Federal Republic of Nigeria, (2019) to emphasize that arrests and detentions conducted within the confines of domestic laws and international agreements are not considered arbitrary. The Court also referred to Assima Kokou Innocent v. the Republic of Togo, (2013) wherein the Court held that "the Arrest of Applicants, which measure was taken within the framework of a judicial procedure on grounds of offenses provided for and punished by the Criminal Code of Togo, is not arbitrary". The Court noted that Jalingo's claim of detention for 34 days without trial is unchallenged by the Respondent, and uncontroverted evidence established the case of 34 days detention without trial. The Court referred to Benson Olua Okamba v. the Republic of Benin, (2017), to establish that the burden of proof in cases of detention falls on the defendant to prove that it was not arbitrary, and in this case, the Respondent did not offer any justification for the prolonged detention.[126]

[125] Ibid
[126] Ibid

The Court referred to Khalifa Ababacar Sall v. The Republic of Senegal, (2018) and held that arbitrary detention is any deprivation of liberty by the State or its agents lacking a legitimate or reasonable basis and violating legal provisions. It further referred to Article 6 of the African Charter on Human and Peoples' Rights, which guarantees the right to liberty and security of a person and prohibits arbitrary arrests or detentions. While the Applicant did not specify any particular legislation that had been violated in connection with the alleged arbitrary detention of Jalingo, the Court regarded Jalingo's evidence as credible. Additionally, the Court noted that the Respondent did not offer a denial or justification for the detention. Consequently, the Court held that the Respondent's failure to contest the allegation of arbitrary detention and the unusual circumstances of Jalingo's detention violated his right to protection from unlawful arrest and detention under Article 6 of the African Charter on Human and Peoples' Rights.[127]

On the allegations of torture, the Court observed that during both his examination-in-chief and cross-examination, Jalingo consistently asserted that he had been subjected to handcuffs for 34 days. The Court noted that the Applicant's failure to present concrete evidence to substantiate these allegations was justified, taking into account the "clearly evident impediments" that hindered Jalingo's ability to gather concrete proof of the alleged torture. The Court recognized that the burden of proof typically rests on the Applicant in such cases. However, the Court held that under specific circumstances, this burden may shift to the Respondent. The Court referenced the case of Assima Kokou Innocent v. the Republic of Togo, (2013) to support its position. In that case, it was established that when allegations of torture are made against authorities responsible for the investigation and prison administration, the Court takes into account whether the applicants had genuine opportunities to collect evidence. Given their vulnerable situation, it can be reasonably assumed that the applicants might face significant challenges in gathering proof of the abusive acts they endured. As a result, the burden of proof is shifted to the Republic of Togo to demonstrate that there were no acts of torture or actions akin to torture.[128]

In conclusion, the Court found in favor of the Applicant, Jalingo, in the matter of the allegations of torture. The Court determined that the act of handcuffing Jalingo to a deep freezer for thirty-four days resulted in severe pain and suffering, along with a significant restriction of movement

[127] Ibid
[128] Ibid

and attendant discomfort. This treatment amounted to torturous conduct, as defined by the Convention Against Torture (CAT), and was contrary to Article 1 of the African Charter. The Court noted that, importantly, the Respondent did not contest or dispute the allegations. Therefore, in light of the compelling evidence presented and the absence of any denial from the Respondent, the Court upheld the Applicant's claim of torture and held that the Respondent violated Jalingo's right to be free from torture under Article 5 of the African Charter on Human and Peoples' Rights. Having determined that Jalingo's detention was arbitrary and that he had been subjected to unlawful acts of torture, the Court awarded Jalingo compensation for thirty million (3,000,000) naira to address the moral and psychological trauma he endured. Additionally, the Court ordered the Respondent to provide a report of their compliance with the Court's directives, which includes the payment of the thirty million naira compensation. [129]

This case is just one out of a plethora of others were a journalist will be engaging in the normal activities among his job description and will be killed, maimed, unlawfully arrested and tortured as a result.

4.5 The Fine Line Between Government Criticism, Hate Speech &Treason

To understand the intricacies of the relationship between criticisms of the government hand, hate speech and also treason, we have to properly define etymologically, the meanings of these concepts. We also have to define the fine line between these concepts.

Government or political criticism refers to the act of expressing disapproval or analyzing the merits and faults of a particular policy, decision, or system. It plays a crucial role in the functioning of democratic governance by fostering accountability and transparency, ensuring that those in power remain responsive to the needs and concerns of the public. Through criticism, citizens and stakeholders can challenge existing practices, push for reforms, and promote justice and equality within various sectors. Criticism is essential for maintaining a healthy democracy as it encourages open discourse and debate about policies and practices. In the context of holding the bureaucracy accountable, criticism can take many forms, including media reports, public forums, and advocacy by interest groups. Constructive criticism is vital as it not only identifies problems but also suggests possible solutions or improvements. It serves as a vital mechanism for holding the bureaucracy accountable by allowing citizens and stakeholders to voice concerns

[129] Ibid

about inefficiencies or misconduct in the government. When bureaucratic actions are publicly scrutinized, it prompts officials to respond and justify their decisions. This accountability is essential for fostering trust between the government and the public, ensuring that the government act in ways that align with democratic principles.[130]

The rationale and significance for criticism is to stimulate the development of society by pointing out the faults of the government so as to hold them accountable publicly, which will cause them to consider answering said criticisms by proposing reforms or amendments of faulty laws and thereby promoting a democratic harmonious government. However, for this to happen, there needs to be the existence of a right to freedom of expression and freedom of the press and media in the grundnorm. The government must allow public opinion to thrive in order to get feedback from the electorates that elected them into power. Only from constructive issues raised can reforms be made.

Treason or a person that commits the act of treason, as avidly couched in the Nigerian Criminal Code, is any person who levies war against the State, in order to intimidate or overawe the President or the Governor of a state, and is liable to the punishment of death.[131] Any person conspiring with any person, either within or without Nigeria, to levy war against the State with intent to cause such levying of war as would be treason if committed by a citizen of Nigeria, is guilty of treason and is liable to the punishment of death.[132] Also any person who instigates any foreigner to invade Nigeria with an armed force is guilty of treason and is liable to the punishment of death.[133] In essence, treason is any act or omission that aims at negating or destroying a State's authority.

Then, as been already defined thousands of times in this study, and of which this concept is subject to many interpretations, generally, 'hate speech' can be defined as speech that carries no meaning other than the expression of hatred for some group, such as a particular race, ethnicity,

[130] Fiveable, 'Criticism – (AP US Government) – Vocab, Definition, Explanations', available at https://library.fiveable.me accessed 1 September 2025
[131] Criminal Code Act Cap. 77 Laws of the Federation of Nigeria 1990 s. 37 (1)
[132] Ibid s. 37 (2)
[133] Ibid s. 38

social status, gender, religion, etc., especially in circumstances in which communication is likely to promote violence.[134]

So, the fine line of these three concepts is what exactly is the rationale to differentiate between the three is. What is the differentiating factor? The fine line is often thin and therefore borders on the content and intent of the speech. If it is a statement raised against a group of people, ready to incite violence, hatred and discrimination, then it is more likely a hate speech. If it is a statement raising disapproval and involves constructively pointing out the faults of the government's actions and inactions, then it is more likely government/political criticism. If it is a statement raised in opposition or war against the State or governmental authority, it is most likely treason. The context of the statement shall also always be considered in any case involving online hate speech.

It is important to understand the fine line because often times, almost anything that sounds remotely like an 'attack' online against the government can been considered hate speech, which would lead to arbitrary rule.

4.6 Religious, Tribal and Ethnic Effects on Online Hate Speech

It is arguable to say that Nigeria is a diverse building that was built on a shaky foundation. That shaky foundation is arguably the colonial era's responsibility for amalgamating the Northern and Southern Protectorates, joining feuding neighbours to forever live together in harmony. Well, this has been the source of many Nigerian citizens' problems as it is seen in the very day chatter online. Many Nigerians will often prefer a particular politician, celebrity, public persona or influencer because that person is a member of his tribe, religion or ethnicity, or speaks his language. The reverse is the case as Nigerians can also dislike a public persona just because of their ethnicity or tribe or religion, without considering the content of their character or their meritorious achievements. And trust Nigerians to dish out their frustrations online by trash talking or insulting or using inciteful words towards such public figure or politician. Groups like IPOB (Indigenous People of Biafra), a separatist movement in Nigeria, are notorious and infamous for promoting ethnic division and hate among the populace.

[134] N. C. Uzoka, 'HATE SPEECH AND FREEDOM OF EXPRESSION: LEGAL BOUNDARIES IN NIGERIA' (2021) 4(1) *NAU Journal of Library and Information Science* 111-118

Such acts will be reduced once the government universally defines hate speech and proposes a new equitable bill and enforce such a bill by arresting those responsible, making them answer to the law, and to also deter others.

4.7 Hate Speech and its Impact on the Internet Today

The significance of hate speech on the internet is that, unlike day-to-day conversations among citizens, such statements are sent to millions of internet users in a space of minutes. This is definitely problematic in today's fast-paced online world where any single post, meme, tweet or re-tweet, story, video or comment can easily go viral for even the dumbest of reasons. And since there is always an audience for any type of content, offenders that perpetuate hate speech will definitely find their audience of followers. This will give the chance and excuse for said followers to promote such harmful content on their own platforms, of which will also be shared to millions of internet users in mere minutes. This really shows the importance for the responsibility of every internet user to be careful of what they share online because in this 21st century, the world is a global-village and is only developing further into a technological utopia. In the event of users promoting hate speech on social media, aside from the sanctions placed by the social media rules and community guidelines, such person could be socially marginalized or what the Gen Z refer to as 'canceled'.

A person being canceled on social media means the person has now been subject to criticism and backlash from fellow internet users online and also potentially the demographic or group that was affected by the hate speech statement. This is displayed by users reporting the person's account, commenting disapproving words on the person's personal page, avidly unfollowing the person's account like wildfire, and even some users using their own platforms or pages to post content about the offender, dissuading and discouraging other users from listening or subscribing to his views, and even calling him out on past offences he might have committed in the past, in which something called his 'digital footprint' should be thanked for.

Owing to the wave of the 'woke movement' of the Gen Z and even the coming Gen Alpha in the United States, the owners of these companies (of which are mostly owned in the U.S.) have become very sensitive to the rights of users so as to promote a harmonious experience for internet users. In the Gen Z climate, discussions like racism, gender norms and roles and even the wave of the LGBTQ+ movement are very delicate discussions that have rocked the online community since the year 2020. Social Media companies like Meta have responded by revising

their guidelines to fit the tempo and tone of the global society today in a bid to be dynamic, which is of course to be expected. The Nigerian government should emulate the same actions and respond to the fast-growing digital world with news Bills and Laws governing the delicate topic of hate speech and all that it entails.

4.8 The Implications of the Twitter (X) Ban of 2021

The Twitter Ban showed Nigerians the extent at which the Nigerian government is willing to go to shun and impede the citizen's rights to freedom of expression. Some could arguably say the government could not legally arrest millions of citizens so they had to use their other option, to impede the citizen's means to speak; however, this is highly.

Unlike any other platform Twitter was used as a battle ground for Nigerians to offer their unsolicited opinions and criticisms of the Nigerian government and their activities, or lack thereof, for the past year, especially after the whole #EndSars debacle. The Twitter space was saturated with a lot of comments and tweets of Nigerians criticizing or out rightly 'yabbing', or 'cruising' around with the name of certain politicians and even the Nigerian President at the time, the late President Muhammadu Buhari. The Ban still didn't help matters as Nigerians would use VPNs to bypass the security and still be able to use the app, or would even go to other apps to continue what they started. It could be arguably said that the ban did not help matters as it may have only showed that the Nigerian government may not have the trust of its citizens and may evidently not have any other means by resolving the issue. Even with the financial loss derived from the ban, it could be arguable that a lot more was lost than gained from it.

4.9 Defamation Laws & Hate Speech

Defamation according to the Black's Law dictionary refers to a malicious or groundless harm to the reputation or good name of another by the making of a false statement to a third person. (Blacks law dictionary 10th edition). A defamation matter is also defined in section 373 of the Criminal Code. Such matter may be expressed in spoken words or in any audible sounds, or in words legibly marked on any substance whatever, or by any sign or object signifying such matter other than by words, and may be expressed either directly or by insinuation or irony.[135] Defamation, in law, is the act of communicating false statements about a person that result in damage to that person's reputation. A defamatory statement is one which tends to lower a person

[135] O. A. Adebayo, 'Defamation That Occurs Online' (22 March 2025), available at https://crystalitesolicitors.com accessed 12 September 2025

in the estimation of other members of the society; or to expose him to hatred, contempt or ridicule; Or to cause other persons to shun or avoid him or her; or to discredit a person's office, trade or profession; or to injure financial credit. The Nigerian Courts have defined defamation as any written or printed article published of and concerning a person without lawful justification or excuse and tending to expose him to public contempt, scorn, obloquy, ridicule, shame or disgrace, or intending to induce an evil opinion of him in the mind of right thinking persons, or injure him in his profession, occupation or trade is libelous and actionable, whatever the intention of the writer may have been. The word need not necessarily impute actual disgraceful conduct to the plaintiff; it is sufficient if they rendered him contemptible and ridiculous. In Nigeria, in order for a defamation lawsuit to proceed, the comment must be defamatory to the general public, not simply 'a certain portion of the public.' The plaintiff's reputation being lowered in the eyes of a particular segment of the public may not be considered defamation. In Egbuna v. Amalgamated Press of Nigeria Ltd. [1967] 1 All N.L.R. 25 at p. 30., the term 'a particular section of the public' was defined as:

> *"a body of persons who subscribe to standards of conduct which are not those of society generally."* [136]

Types of Defamatory Statements

- **Libel**

The dissemination of a defamatory comment in written or permanent form is referred to as libel. This could be an email, a blog post, a tweet, a text or WhatsApp message, a newspaper article, a television or radio broadcast, a video clip uploaded to the internet, or even a handwritten letter. Libel could be filing a false domestic violence action against a spouse or sexual harassment complaint against a coworker, which could lead to any of the conditions for defamation.[137]

- **Slander**

Slander on the other hand refers to non-permanent forms of expression that involve a defamatory accusation, such as spoken comments or gestures. This could be a derogatory statement made in

[136] Olisa Agbakoba Legal (OAL), 'Defamation and The Law in Nigeria' (6 July 2022), available at https://oal.law accessed 12 September 2025
[137] Ibid

public or a private remark that is later reported. For instance; if Mr. A in an interview says that Mr. C who is a branch manager to a bank is incompetent and a fraud, which causes the bank to suspend him. Mr. C knowing such a statement to be false can bring an action for defamation against Mr. A.[138]

Differences between Hate Speech and Defamation

- Defamation is directed to one person and concerns itself with the protection of individual reputation while hate speech is directed to people in a particular group.
- Vulgar abuse may not be defamatory if it is mere vulgar abuse. A vulgar abuse is an 'insulting' statement made in the heat of passion. For example, in Bakare v. Ishola [1959] W.N.L.R. 106, there was a fight between the plaintiff and the defendant. In the heat of passion, the defendant said in the presence of onlookers, "ole ni o, Elewon, iwo ti o sese ti ewon de yi." This in English meant, "You are a thief. Ex-convict. You who have just come out of prison." The court in this case held that the statement was mere vulgar abuse, and not defamatory.[139] As for hate speech, it is literally characterized with insults and abuse against persons of a particular race, gender, religion, tribal background or ethnicity, national origin, sexual orientation, disability or any other identity related factors etc.
- Defamation focuses on reputation while hate speech focuses on hatred, threats and discrimination.

Differences between Hate Speech and Defamation

- Publication: Defamation and hate speech online is already a form of publication. Publication refers to making the defamatory content known to someone other than the person about whom it was written or calling the attention of someone else to it after it has been written. Any conduct by a person that conveys the defamatory connotation of the matter to third parties is also considered publication. In law, any defamatory communication to someone other than the person who has been defamed might be considered publishing.[140]

4.10 Is Social Media Regulation in the Exclusive or Concurrent List

[138] Ibid
[139] Ibid
[140] Ibid

The question that is begging to be answered is: Does the Nigerian government have the right to ban social media in Nigeria. Social media regulation in of itself is not listed in the Exclusive list and is not even explicitly listed in the concurrent list. Hence, the exact division of powers between the federal and state government is not clear.

Does the Nigerian Government have the Power to Ban Social Media?

There is no straightforward answer to this question raised. However the following points must be contended with.

- The Nigerian constitution guarantees freedom of expression, which includes the right to disseminate information and ideas through any form or medium. Does taking a medium or means of disseminating information and expressing opinions amount to stifling freedom of speech?
- The need for Nigerian to align its policies to fit the global legal landscape as it should raise its standards to international laws and conventions in order to avoid conflict.
- Since social media regulation is not found in the Exclusive list or Concurrent list, the federal and state government should work hand in hand in protecting online freedom of expression and work towards regulating hate speech on social media. Hence, is the federal government employing policies on its own like banning social media considered to be arbitrary?

4.11 Does Banning Social Media Amount to Breach of Freedom of Expression?

As lawyers we have to leave emotions out of this study and lean on the facts. Granted, social media has become an integral part of our lives in this modern, digital 21st century age. However, just taking social media away from the masses does not necessarily amount to a breach of freedom of expression. This is because Nigerians can always find other means to express their thoughts and opinions. There was a time before social media where the grundnorm of the country thrived and it still contained freedom of expression, so freedom of expression is not hinged on the availability of social media. Nigerians can choose to go on the news to express their thoughts, or on newspapers, or on radio stations, or on tabloids, or even by writing and publishing books and journals and articles.

Nonetheless, the argument can be made that once the Nigerian government is allowed to ban one social media platform today, tomorrow they could decide to ban even more social media platforms and may even migrate to banning the press and media outlets. This is what I call, the Slippery Slope Argument.

4.12 Press Freedom and What it Means for Freedom of Expression

Press freedom is freedom of speech but narrowed down to the media sector as they inform the public and act as a watchdog to the government. The press is tasked with the responsibility of exposing facts and truth so as to keep Nigerians informed and caution the government in areas where they might be delving into arbitrariness. This will promote and ensure the guarantee of democracy, human rights and the rule of law. The media should be able to do their jobs without fear of arrest or ridicule or intimidation. However, just like other rights and privileges, press freedom is not absolute as it is limited to offences like sedition, defamation, etc. Press freedom is a critical component for freedom of expression. If the press is intimidated and silenced, that could impact the notion that freedom of expression is fickle and can been reduced to a mere provision of the law that is not protected by those meant to protect us the citizens.

4.13 Hate Speech is Misrepresented

Hate speech is any attack on a group of people of a particular identity group, but lately, people have been attributing hate speech to mean criticisms of the government which is atrocious. This is why Hate Speech should be properly defined in Nigeria by an Act or legislation so as to solve the misconception.

4.14 Balancing Social Media Regulation and Freedom of Expression and Hate Speech

The crux of this topic is to find the balance in regulating online expression and harmful content. Those that post harmful content should have their platforms reported and/or banned, hate speech should be properly defined so that Nigerians can become conversant with its meaning and work towards avoiding committing the offence. Tiktok, Instagram, Facebook and Twitter have their community guidelines on their platforms. However, Nigeria should not be subject to the whims of the developers of such platforms because tomorrow they could determine something unjustifiable as part of their guidelines and then may enforce it against our fundamental rights.

4.15 Online Hate Speech is Different from Sedition and Defamation

While hate speech refers to harmful statements made directly or indirectly against a group of people based on their identity, Sedition is the spurring of rebellion against the already established government of a state by any importations or publications thereof, while defamation is the targeting of an individual by making false statements or claims that ends up being injurious to their reputation or social status. These offences seem similar but entail different target victims.

4.16 The Lacuna to be Addressed

The legal lacuna that should be addressed is the fact that there is no express definition, provision and distinction of online Hate Speech, from Sedition, Defamation (libel and slander included) and treason. The Nigerian citizens, without proper research, are mostly clueless about hate speech and what it entails hence would not be aware if they are violating such an offence. A Hate Speech Bill should be implemented and passed into law to define the term properly, to inform the public about its intricacies, to protect victims of hate speech and of course to sanction those citizens of Nigeria that feel they can attack or threaten a particular group of people just because they're from a certain tribe, ethnicity, practice a certain religion or even a different race in regards to aliens that reside in the country (for instance, Asians who are contracted by Nigerian companies and have to reside in Nigeria for long periods of time. This Bill shall also encompass non-Nigerians that may want to commit the offence of online hate speech.

CHAPTER FIVE
CONCLUSION AND RECOMMENDATIONS

5.1 Summary

The Nigerian government has had problems handling Nigerians' chatter online and may proceed to make faulty policies or decisions in order to handle such matters. Although there is no provision for 'hate speech' in any of the statutes, Nigeria already has ample statutory provisions in form of the Cybercrimes Act 2024, the Code of Practice for Interactive Service Platforms and even the Nigerian Criminal Code.

The Nigerian government continuously failed to encapsulate the appropriate purpose of a hate speech bill in order to properly balance out the protection of the rights of the citizens as well as addressing concerns of 'hate speech' against official bodies, government officials, or others, or speech that incites violence, hatred, discrimination or slander. The Digital Age is here and now and is not going anywhere. It is here to stay and will only develop and progress more into a future of digital and technological aspiration and admiration globally. Hence, Law shall not remain stagnant while society continues to forge ahead to the future. Law shall be dynamic in response to the constant changes of society and its mechanisms. The 1999 Constitution of the Federal Republic of Nigeria as amended does not expressly give any provisions for 'hate speech', therefore did not define nationally the meaning of 'hate speech' in Nigeria because at the time, Nigeria had not caught up with the fast-rising global digital movement of social media and technological development around the world which would later turn to the modern day, 21st Century technologically saturated global landscape. Nigeria shall not be left behind and must come up with solutions and recommendations to catch up with the rest of the world.

5.2 Recommendations

It was seen with the two bills that the Nigerian government tried to pass in 2019, that is the proposed National Commission for the Prohibition of Hate Speech bill, and the Protection from Internet Falsehood and Manipulation and other Related Offences bill (often called the 'Social Media bill'). However, these bills were never passed to law because of a major reason; their provisions were inherently vague and were subject to various interpretations and definitions. Hence, the Nigerian government should diligently consider the purpose of a new proposed 'Hate

Speech Bill on Digital Spaces Act' meant to safeguard chatter online and to guard the rights to freedom of expression of citizens while still prohibiting 'hate speech' from offenders.

Before this, the Bill should first expressly define what 'hate speech' really means and any other related matters that may amount to hate speech. This definition should take into account its meaning as it pertains to the various ethnic, tribal and religious differences of the diversity of the people of Nigeria. The Bill should also state matters that do not amount to hate speech to clear up any vagueness and confusion. This is necessary because in the event of any question to the provisions of the Bill happens, judicial interpreters, legal jurists, the court system or lawyers alike would still go through the legal conundrum of investigating all the way down to the root of the problem and the main question: What is the meaning of Hate Speech? Hence, the proposed bill shall couch the meaning of hate speech online in Nigeria along with all its intricacies. This Bill shall also serve as awareness to Nigerian citizens, for them to be informed of a new offence that has been criminalized, leaving them to perform their duty to abstain from breaking the law. As the popular saying goes; ignorance of the law is not an excuse.

Equitable sanctions shall also be stipulated, sanctions that are commensurate to the offence. However these penalties must not stifle legitimate freedom of expression. The National Assembly should study closely the rules or community guidelines of Facebook, X, Instagram, and any other social media in question so as to influence the content of the new proposed 'Hate Speech on Digital Spaces Act' that I recommend. This proposed Bill may not account for offline hate speech, of which it is preferably termed as societal prejudice or discrimination, the Cybercrimes Act (2024 as amended) and the constitution of the Federal Republic of Nigeria cover those areas. It should be noted that the proposal of this bill with equitable sanctions and an express description of the offence of hate speech will definitely achieve the balance of protecting individuals' right to freedom of expression on digital spaces as well as protecting potential victims of hate speech in the near future.

The Nigerian government should also enforce justifiable sanctions towards officers of the law that unjustly or unlawfully arrest citizens or digital users for acts that may not amount to hate speech, thereby infringing on the victims' rights to freedom of expression. The reverse is the case to offenders of hate speech online in digital spaces. The government shall enforce the provisions of the new Hate Speech on Digital Spaces Act (HASODIS), the Cybercrime

(Prohibition, Prevention, etc.) (Amendment) Act 2024, the National Broadcasting Commission Act and the National Broadcasting Code, or the Nigerian Criminal Code, if broken by any Nigerian citizen, and will do this through the law enforcement agencies and will therefore implement sanctions through the judicial system on the said offenders. This is to deter other citizens from committing the offence of hate speech because ignorance of the law is not an excuse.

Section 24 of the Cybercrime (Prohibition, Prevention, etc.) (Amendment) Act 2024 is arguably one of the closest provisions to combat hate speech online. However, it focuses on messages, or materials sent to another person and does not account for a particular group or sector or class of people based on identity factors. I recommend a small amendment of the section by adding provisions that will encompass the intricacies of hate speech as well as its target victims. I recommend the expansion of the Laws of Defamation to include the intricacies of hate speech. I also recommend that case laws be more revered in this area of jurisprudence, because referring to judicial precedents can massively aid the judicial system lean more into interpreting the law with their own discretion of justice, instead of just adhering to the letters of the law at face value.

5.3 Conclusions

The average Nigerian citizen will likely live all his days on earth, while still having an online activity without facing the brunt of the law in the name of committing online hate speech, unless such average Nigerian decides to comment of certain politicians or electoral candidates or even the President of the Federation. In this scenario, Nigerians are warned to tread on dangerous waters because they will never know when they will get sunk. The Nigerian government, though it may not look like it, is always watching. Any arrest can be made of any citizen, no matter their status or wealth, in the name of hate speech. Hence, measures must be taken so as to prevent innocent lives, people’s privacy and reputations, or unnecessary run-ins with the law to take place. Equitable bills specifically regulating online hate speech must be enacted to law. Then the Nigerian courts must follow suit by independently implementing these new laws that will hopefully be enacted in the foreseeable future.

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