

THE NEGATIVE IMPACT OF SOCIAL MEDIA ON THE NATIONAL SECURITY OF NIGERIA: AN APPRAISAL OF THE LEGAL FRAMEWORK NIGERIA VIS-A-VIS THE CURRENT DEMOCRATIC DISPENSATION IN NIGERIA

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Abstract

The emergence of social networking sites such as blogs, Facebook, WhatsApp, Twitter, Telegram, Instagram that revolutionized communication have in another sense constituted vital catalysts, paving way for protest activism through the mobilization of youth, that challenge the corporate existence and national security of Nigeria. The recent incidence that occurred in NEPAL was as a result of a young person who initiated the process through social media has resulted to the overthrown of the government. In Nigeria, the agitations for scrapping of the police Special Anti-Robbery Squad (Endsars) have resulted in inciting youth across the country who would have gone on rampage, destroying lives and properties of the citizens of Nigeria. Nigerians in the exercise of their right to Freedom of Expression as guaranteed by the Constitution, express their opinion through various social networks and platforms on issues that affect or impact on their lives either directly or indirectly.¹ This article is set to highlight the issues surrounding freedom of speech on social media and its impact on the national security vis a vis the legal framework in Nigeria. The research intends to employ the doctrinal methodology. The findings of this work is that the Nigerian legal frame work on social media is inadequate to curb and protect the citizens from the menace of social media given the jurisdictional challenges where one may pose a content from a particular country while those that lives comment are from other countries or jurisdiction.

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1.1 Introduction

The Right to Freedom of Expression is a Fundamental Human Right recognize not only by the Constitution of the Federal Republic of Nigeria but also by the International Instrument.² Nigerians in the exercise of their right to Freedom of Expression as guaranteed by the Constitution, express their opinion through various social networks and platforms on issues that affect or impact on their lives either directly or indirectly.³ An individual can now pick up and contribute to media contents with as simple as a devise as a mobile phone, using the available platforms like News blogs, Facebook, Twitter, You tube, linked In, Whatsapp, Snap chats, Tiktok, Badoo, Instagram, Telegram, Skype, and mainstream media organizations to reach broader audience with news and other contents at little or no cost. For instance, the use of social media platforms by political parties and candidates in educating and mobilizing public support as well as its use particularly in the collation centers and announcements of results during the 2015 General Election⁴.

Social Media platforms have far-reaching Social and Security implications for the people, government, corporate existence and national security of Nigeria.

This new media eliminates the gate keeping mechanism of traditional media, which has allowed a large number of youth the freedom to communicate anonymously and this gave them rooms to post fake news, misinformation, defamatory statement, hate filled comments and breach of privacy rights of other social media users. For example, some people often ditch into the profile of users on social media without their consent, secure their private information and sold out while the government officials intercept people's private communication even when the content is encrypted for private consumption. Such actions could generate into breach of privacy rights of citizens and fuel hatred between the people and government officials which could lead to acts of individual and

² Section 39 of the Constitution of the Federal Republic of Nigeria, 1999 as amended; Article 19 (2), International Covenant on Civil and Political Rights, 1966 (ICCPR); Article 19, Universal Declaration of Human Rights, 1948 (UDHR); Article 9 of the African Charter on Human and Peoples' Rights (AFCHPR).

³Ahmad, M.A., Social Media and Hate Speech: Analysis of comments on Biafra agitations, Arewa Youths. Ultimatum and their implications on peaceful co-existence in Nigeria, MCC, June, 2018. Vol. 2 No. 1.

⁴Santas, S. (2017), Social Media and Good Government in Nigeria's Fourth Republic. In T.Wuam, B, Ezonbi& C.E. Jonah (ED). The Fourth Republic of Nigeria: Politics, Elections and Civic Society (PP.59-79), Democracy in Nigeria series No. 4 Lagos: Bahiti and Dalila Publishers.

collective violence which may pose significant threats to the corporate existence of Nigeria and its national security.⁵

The recent incidence that occurred in NEPAL was as a result of a young person who initiated the process through social media has resulted to the over thrown of the government. The first notable event marking the empowering effect of the social media in Nigeria was the 2012 Anti-Subsidy Protest – tagged occupy Nigeria Movement, the kidnap of over 250 Chibok School girls by Islamist group Boko Haram in 2014 marked other examples of digital activism in Nigeria, the inciteful statement of Nnamdi Kanu of Independent People of Biafra (even though a Proscribed group) on Social Media Platforms, The agitations for scrapping of the Police Special Anti-Robbery Squad (SARS) over allegations of extra Judicial killings of civilians, the controversy leading to Twitter banned in Nigeria, the scandal of the Kano State Governor over allegation of bribery which went viral on social media, the allegation of defamation of Character by Ganduje against two youth from Kuru Local Government of Kano State, the Arab Spring issues, the calls for action against the slave trade in Libya, the curbing of several causes and cases of Human rights abuse and even the recent xenophobic attacks in South Africa, among others are all effect and impact of social media activism⁶.

The most notable International Instruments on Human rights dwell on the necessity of guaranteeing each individual's right to freely express, seek, receive or impart information while interacting with other individuals.⁷Regulating social media by the government has great possibility of negative impact on freedom of expression, information dissemination and right of access to information even with Freedom of Information (FOI) Act in place.⁸ Access to information will be hampered as people will be fed on sterilized and approved information. This would be anti-democratic and against the UN Charter on Human Rights. For example, the 2012 anti-fuel subsidy protest which started in the social media yielded positive result because the government was mounted under pressure even from international perspectives and they ended up reducing the price of the premium motor spirit. If the social media through which the public were informed, sensitized

⁵Social Media and National Security: The Nation, Oct. 5, 2018. <https://thenationonline.net>.

⁶Ngige, C.V. Badekale, A.F. Hamman, J.I. (2016), The Media and Boko Haram Insurgency in Nigeria: A content analysis and review, International Journal of Peace and Conflict Studies (IJPCS), 3 (1) 58 – 65.

⁷Puddephat, A., The importance of self-regulation of the media in upholding freedom of expression, (2011). Retrieved from: www.unesco.org/new/en/communication-and-information/resources/

⁸ Ibid.

as well as mobilized is censored to restrict this kind of positive movement, this will negatively affect the citizen's right to freedom of expression. How to strike a balance between safe online environment and free unfettered dissemination and access to information is important to be determined.⁹

2.0 Legal Framework of Social Media in Nigeria

There are various laws and regulatory instruments on social media in Nigeria. Some of these laws regulate general areas of communication, others represent some of Nigeria's policy focus on social media/digital infrastructure and service including: telecommunications, online broadcasting, content regulation, data protection, cyber security, competition and artificial intelligence. The laws and regulation discussed below spread across these thematic areas.

The constitution of the Federal Republic of Nigeria, 1999 (as amended). The right to privacy is a fundamental right which is relevant to information and communication technology. Section 37 of the 1999 constitution (as amended) guarantees the privacy of citizens their correspondence telephone conversations and telegraphic communications. This constitutional protection of privacy is more or less an encouragement for individuals to use social media and communication with interference from the authority or anyone and has been further strengthened by specific legislation on data protection such as the Nigerian Data.¹⁰

2.1 Wireless Telegraphy Act 1961

The wireless Telegraphy Act essentially regulates the licensing location and operation of wireless telegraphy services in Nigeria. Section 2 of the Act defines wireless telegraphy as the emitting and receiving over non-physical paths constructed for such purpose electro-magnetic energy of a frequency not exceeding three Million megacycles in a second. This either serves the purpose of conveying a message or determining the purpose bearing and distance for gaining of information under the Act. It is an offence to use establishes any station for wireless telegraphy or use any approaches for that purpose except with a license issued from the Nigerian Communication Commission and the National Broadcasting Commission.

⁹ Ibid.

¹⁰ Section 37 Constitution of the Federal Republic of Nigeria 1999 as amended.

National film and video censors Board Act and National Film and Video Censors Board (Amendment) Act.¹¹ The National film and video censors board Act gave birth to the National Film and Video Censors Board which is charged with the object of regulating the films and video industry in Nigeria. The Act empowers the Board to censor films and videos whether imported or made locally. The board is equally responsible for registering the film outlets in the country and keeping a register for record purpose. It is the writer's personal opinion that the Act is currently outdated. It is important to note that the growth of social media is fast making the world a global village. Information is transmitted with the speed of light and it is the duty of a fast developing economy to keep up with the global trends. The new development includes video games virtual realities and online platforms with video contents. These new developments are currently in circulation in the nation with no censorship or regulations. Films have also overstretched the boundaries of the outdated Act which goes to show that it is time to amend the Act to bring its provision up to date bearing in mind the development and innovations in the industry.

2.2 National Identity Management Commission Act 2007

This Act establishes the National Identity Commission. The main purpose of the Act is to establish the National Identity database and the commission. The functions of the commission is basically to undertake the registration of citizens the issuance of the National Identity Cards for those that comply with the requirement of the commission. The essence of the commission's exercise is to supply a national identity card to whoever satisfy the rules and regulation stipulated by the federal Republic of Nigeria and the national identity card is a symbol indicating the bearer's status of citizenship of the country and may be use to trace whoever commit an internet or social media offences.

2.3 Evidence Act 2011

Under the Evidence Act 2011 computer generated evidence is admissible in a court of Law.¹² However, it important to note that the definition of document provided under section 258 of the Act is that a document includes any devices for storing and processing information is recorded stored or retrievable including computer output. This section equally defines a computer as any

¹¹ National Film and Video Censors Board Act 2016 (amended)

¹² Evidence Act, 2011, Section 84

device for storing and processing information. It is worthy to note that the admissibility of computer generated evidence is limited to conditions provided in section 84 subsection 2. The conditions are that:

1. the documents containing the statement was produced by a computer during a period over which the computer was used regularly to store or process information for the purpose of any activities regularly carried on over that period whether for profit or not by anybody whether corporate or not by any individuals;
2. over the period there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind contained in the statement of the kind from which the information so contained is derived;
3. throughout the material part of that period the computer was operating properly or if that in any respect in which it was not operating properly or was not such as to affect the production of the document or the accuracy of its content; and
4. the information contained in the statement reproduces or is derived from the information supplied to the computer in the ordinary course of those activities.

2.4 Copy Right Act

A copy right grants exclusive rights to originators of creative works to make copies of their works of art or to give permission to another person to make copies of their works.¹³ The copyright Act of 1988 governs the protection provision, transfer and infringement of these rights. It also oversees the remedies available to the authors and the procedures to obtain it. This Act was repealed in 1992 and 1999 respectively and the final amended done in 2010.

2.5 Freedom of Information Act 2011

This Act is charged with making public records and information more available and accessible online to the extent consistent with public interest and protection of personal privacy. It ensures that information about public servants are available to the public. This Act removes the air of mystery surrounding their activities and background. It also protects public servants from the adverse consequences of revealing their personal information and sets the procedure for achieving

¹³ Baird, L, Copyright Law Definition and Examples; 2021. Available at <https://study.com/academy/lesson/what-are-copyright-laws-definition-lesson-quiz.html>. accessed 22nd, February, 2025

its set objectives. The Act further regulates conflicts between its provisions and those of other legislation. For example, the criminal code, penal code or official secret Act that prescribe criminal penalties for actions connected to the disclosure of information. OSa-Oghogho argues that the freedom of information Act, effectively gives the right to know to every Nigerian. This is legally enforceable.¹⁴

2.6 Nigerian Data Protection Regulation (NDPR).

The Regulation is made pursuant to section 6 (a) and (c) of the NITDA Act, 2007 and section 37 of the 1999 constitution of the Federal Republic of Nigeria, 1999 (as amended) which especially dealt with the privacy right of the citizens of Nigeria. The Act is at present the most comprehensive regulatory guideline on data protection in Nigeria. The Act through a stakeholder model has developed this Nigerian Data Protection Regulation implementation framework as a guide to assist data controllers and data administrators/processors understand the controls and measures they need to introduce into their operations in order to comply with the Nigerian Data Protection Regulation. The Act was made in recognition of the fact that many public and private bodies have migrated their respective businesses and other information system online. These information systems have thus become critical information infrastructure which must be safeguarded, regulated and protected against personal data breaches. The government further takes cognizance of emerging data protection laws and regulations within the international community geared towards protecting privacy, identity, lives and property as well as fostering the integrity of commerce and industry in the data and digital economy and has realized the imperative importance of developing data protection rules and regulations to protect the personal data of Nigerian citizens.

2.7 Cybercrimes (Prohibition Prevention etc) Act 2024

The cybercrimes (prohibition, prevention, etc) (Amendment) Act 2024 was signed into law in Nigeria on February 28, 2024 to enhance the country's legal frame work for combating evolving cybercrimes. The cybercrimes Act serves as the regulatory provision to fight the menace of cybercrime. It was enacted recently in 2024 by the National Assembly of Nigeria. This is in an attempt to solve the menace of social media abuses and indiscriminate use and hacking of other

¹⁴ Osa-Oghogho, M., *The Freedom of Information Act and its impact on the Nigerian Policy*, 2015. <http://nigerialawtoday.com/the-freedom-of-informtion-act-and-its-impact-on-the-nigerianpolity/>

peoples systems popularly known as “Yahoo boys”. This is a development that aims at sanitizing the industry of digital age including cyber bullying.

2.8 Nigerian Data Protection Act 2023

The Act provides a legal framework for the protection of personal information and establishes the Nigeria Data Protection Commission for regulation of the processing of personal information of the Nigerians. This Act is a development which came after the Nigerian Data Protection Regulations in order to strengthen the commitment of the federal government in the protection of the personal information/data of the Nigerians.

2.9 Compliance and Enforcement: One of the novelties of the Nigerian Data Protection Regulation is its compliance framework. The Regulation creates a newly developed class of professionals – Data Protection Compliance Organizations (DPCOs). A data protection Compliance Organization is any entity duly licensed by the National Information Technology Development Agency for the purpose of training, auditing, consulting and rendering services and products for the purpose of compliance with the Regulation or any foreign data protection laws or regulation having effect in Nigeria.

3.0 Application

The Nigerian Data Protection Regulation applies to every Data controller and Data Administrator that processes the personal Data of natural persons residing in Nigeria or who reside outside Nigeria but are citizens of Nigeria. A data controller is a person who either alone, jointly with other persons or in common with other persons or a statutory body determines the purposes for and the manner in which personal data is processed or is to be processed. A data administrator on the other hand is a person or an organization that processes personal data on behalf of the Data Controller. Data administrator may be used interchangeably with data processor.

3.1 Exceptions to the Nigerian Data Protection Act

- (a) The use of personal data in furtherance of national security, public health, safety and order by agencies of the federal, state or local government or those they expressly appoint to carry out such duties on their behalf.
- (b) The investigation of criminal and tax offences;
- (c) The collection and processing of anonymised data; and
- (d) Personal or household activities with no connection to a professional or commercial activity.

The Nigerian Communications Act (NCA) provides the legal and regulatory framework for the telecommunications sector in Nigeria and established the Nigerian Communications Commission (NCC) as the regulatory body.¹⁵ The Nigerian Communications Act sets out the licensing and operational requirements for telecommunication services in Nigeria. It was enacted with the singular objective of creating a regulatory framework for the Nigerian Communications industry.¹⁶ This Act has 158 sections with an explanatory memorandum. The Nigerian Communications Act, provides the functions of the Nigerian Communications Commission, some of which include proposing, adopting enforcing and publishing technical specifications and standards for the importation and use of communications equipment in Nigeria, promoting infrastructural sharing amongst licenses, resolving complaints and objections filed by license operators etc. This Act also grants license to persons to operate a communications system in Nigeria.

National Broadcasting Commission Act and the National Broadcasting Code. The Act regulates the radio broadcasting activities in Nigeria. It aims to implement the National mass Communication policy of the Federal Republic of Nigeria and also sets standards with regards to the content and quality of materials being broadcast over the radio. The national Broadcasting set out details guidelines for operators in the broadcast industry in Nigeria.

4.0 Findings

The findings of this article is that the Nigerian legal frame work on social media is inadequate to curb and protect the citizens from the menace of social media given the jurisdictional challenges

¹⁵ Nigerian Communications Act (NCA), No. 108 of 2003.

¹⁶ Nigerian Communication Act, 2003, Section 1.

where one may pose a content from a particular country while those that lives comment are from other countries or jurisdiction. And the effects of social media could rapidly cause chaos and could pose a threat to the cooperate existence of Nigeria and its National Security.

4.1 Recommendations

It is recommended that the government should strike a balance between freedom of information and right of public to freely disseminate information or opinion which is in tandem with constitutional provision and other statutory provisions. It is also recommended that the government should not temper with the right of people in any way or manner so as not to incite public as was recently obtained in Nepal.

4.2 Conclusion

The issue of social media in Nigeria has brought a new development with regards to easy communication between people. However, it has created a means where people can be mobilize on a blink of eye to perpetrate violence across the country which may pose a threat to the national security of the country. The issue of ENDSARS is a practical case that almost claims the government of General Muhammad Buhari. The legal framework in place is not enough to curb the menace of social media and its abuses as its obtained in the contemporary European societies and other developed countries. The Nigerian government has adopted different measures in trying to control the issue of social media problems using different mechanism including enactment of Acts such as Freedom of Information Act 2011, Copy right Act, Cybercrimes (prohibition prevention etc) Act 2015, Wireless Telegraphy Act 1961 etc. all in the name of curbing the menace of social media with no positive result given the borderless nature of internet.