

CHALLENGES OF REGULATING SOCIAL MEDIA IN NIGERIA AND ITS IMPLICATIONS ON FREEDOM OF EXPRESSION

Arikenbi, Peter Gbenga*, Timothy Omobude**, Tracy Obehi Oigiangbe***

*Edo State University, Uzairue

**Edo State Polytechnic, Usen

***Well Spring University, Benin-City

Abstract

This paper analyzes the challenges of regulating social media in Nigeria and its implications on freedom of expression. The objectives of this paper are to ascertain the need for the regulation of social media and examine the challenges in the regulation of social media and its implications on freedom of expression. Based on the objectives of this paper, two research questions were formulated to serve as a guide for this paper. This paper is anchored on the authoritarian theory. Findings show that the nature of the Internet is one of the biggest obstacles to social media regulation as the internet has no geographical bounds, which presents enormous difficulties for authorities. This paper also reveals that social media regulation will put the right to free speech in jeopardy as the regulation has been decried as abhorrent because they restrict the right to free speech.

Keywords: social media, Freedom, Regulation, Nigeria and Communication

Declaration of conflicting interests: The Authors declare that there is no conflict of interest.

1. INTRODUCTION

The way individuals communicate is changing as a result of the technological revolution. Social media became popular at the beginning of the twenty-first century. As a result, a number of social media communication platforms started to emerge. As soon as these platforms announced their entry into the communication space, growth and adoption followed swiftly, making them some of the most well-liked communication platforms in contemporary times. It is interesting to note that these platforms offer advantages since they have altered how people communicate, network, and connect.

Although the Canadian communication expert, Marshall McLuhan foresaw the development of the Internet and the influence it would have, no one could have foreseen how it would develop, cross boundary

and become a commonplace (and expected) part of daily life (Paslawsky, 2017). The aforementioned accurately captures the speed of the Internet's global acceptance and spread. It may be viewed from the perspective of cutting-edge opportunities made possible for cross-border communication and information sharing. In the twenty-first century, the Internet connects people from all over the globe so they can converse in the form of a virtual room. The volume of communication subsequently grew, and it also helped to close the communication gap. One of the most intriguing features of the innovation has been regarded as the option it offers users. Social media and the growth of the Internet have changed how individuals communicate internationally.

Social media platforms have transformed society in a world where mediated communication is quickly becoming accepted, valued, and useful. Social media platforms have become a driving force in bridging gaps

and enabling information sharing. Paslawsky (2017) provides support for the claim that social media platforms have changed society at both the micro and macro levels by enabling constant contact. Social media platforms give users the chance to interact efficiently and cheaply, regardless of their location or social standing. Social media platforms like Facebook and Twitter give citizens the chance to build platforms that can be utilized to engage their leaders in politics in the 21st century like never before. People are now taking on greater responsibility and participating in government, which is a result of social media platforms' expansion of communication options.

However, it is concerning how liberal media outlets are being abused. Anderson and Rainie (2020) offer a more comprehensive justification for seizing the moment. They claim that the benefits of social media have been widely publicized recently, as well as during the 'techlash' era, when a number of users expressed worry that some actors were (inappropriately) using the chances provided by their speed, reach, and complexity. It is interesting to note that social media have been linked to platforms that support terrorism and foster unrest in different regions. According to Biyere (2019), a number of terrorist organizations, including ISIS, use social media platforms for recruiting and propaganda purposes. Boko Haram aggressively uses social media platforms in Nigeria to disseminate propaganda, and the reach is unfathomably broad.

Despite social media's many advantages, problems around regulation and how it affects people's rights to free expression remain sensitive. Social media usage and the risks it brings to others continue to appear to be major concerns. According to Biyere (2019), there is a thin line between exercising one's right to free speech and abusing it. People have also questioned how social media and the associated freedom of expression let people incite violence, propagate hatred, and breach the privacy of others.

Nigerians are increasingly using social media as they discover ways to connect with one another at prices that are more affordable than voice calls. Social media provides citizens with a forum to engage with government, discuss issues, band together for a cause, and hold officials responsible (Chakrabarti, 2018). Chakrabarti contends further that social media's

significance in the Arab Spring has led to its designation as a tool for emancipation. When it comes to the subject of how social media affects democracy, Chakrabarti has brought up a number of issues, including foreign meddling, fake news, echo chambers, political harassment, and unequal participation. The most exciting part of social media is that it promotes and gives space for the democratic concept of free expression. Governments have since jumped into action with attempts to regulate it due to concerns that the platforms give citizens too much power, despite democratic principles like freedom of expression. As a result, it is crucial to look at the difficulties in doing so in Nigeria.

There have been many discussions about the ideal type of internet governance that may be implemented to prevent misuse. Palawski (2017) claims that observers have questioned whether national governments in various nations will pursue social media regulation independently or whether such initiatives would call for a global strategy. Additionally, Palawsky (2017) asserts that it is extremely difficult to develop a complete system of regulation for social media platforms because of the various laws that already exist in various nations.

Nigeria, which has seen both military and democratic governments, values democracy and the freedom of its people, but ever since democracy was restored in 1999, the right to free speech has played a significant role in intellectual debate. Nigeria has traditionally resisted restrictions on freedom of speech with vigor. Freedom of expression is seen as a pillar of democracy that ensures the consolidation and growth of democracy (Attoh, 2016). Recent regulations passed by the Nigerian legislative branch of government have challenged freedom of expression, even in the middle of democratic rule.

Cummings (2018) claims that one of the issues with social media regulation is that there is a conflict of interest because social media is mostly private and can set its own regulations. Further, Cummings contends that even while some social media platform owners have participated in self-regulation, some of them promote free expression. Similar to this, Ghosh (2021) observes that one of the difficulties in regulating social media is that it differs fundamentally from traditional media, which makes the separation of platforms more difficult.

The ambiguity of the term is one of many issues with

regulatory language to conduct actions that might be seen as punitive. Similarly, Amnesty International (2019) considers that Nigeria's media laws are seriously dangerous to freedom of expression because they are relatively ambiguous or vulnerable to varying interpretations. According to Crews (2020), certain policies may be ambiguous and mostly uninterpreted in their ordinary forms, which might result in a variety of interpretations and misunderstandings.

The primary implication is where social media regulation and free speech overlap. Additionally, some legal provisions encourage freedom of expression and that any restrictions on this freedom must be justified and reasonable. Free speech and infringing on others' rights to enjoy it must coexist in a delicate balance that is easily tipped in any direction.

2. STATEMENT OF THE PROBLEM

It is important to remember that despite the enormous advantages of social media, not all of the benefits that can be obtained from the platforms are advantageous for everyone. For instance, the freedom offered by social media platforms is responsible for the spread of false information, fake news, half-truths, and many other vices (Inobemhe, Ugber, Ojo & Santas, 2020). Similar to these instances, trolling, spamming, cyber-bullying, stalking, and other fraudulent behaviors are reasons for calling for new media legislation. Along with this, propaganda is being disseminated every day via social media (Osuigwe, 2018).

Numerous things have happened in Nigeria that has given the government and people of the nation fresh viewpoints from which to view social media platforms. While some consider it to be the ideal setting and platform for civic engagement, others only see it as an evil force. Hate speech, misinformation, and cyber-bullying are a few issues that can warrant social media regulation in Nigeria. Although, a lot of persons believed that regulating social media could limit the freedom of expression of Nigerians as the platforms have become veritable tools whereby citizens could air their opinions. Based on this, one may begin to ask, what are the challenges of regulating social media in Nigeria? What implications do the regulation has on freedom of expression and our nascent democracy? These and many more this paper hope to dissect.

3. THEORETICAL FRAMEWORK

This study is anchored the authoritarian theory. This theory is generally recognised as the oldest of the press theories, and it dates from the 16th century. It is derived from the philosophy of absolutism, in which "recognition of the truth" was entrusted to only a small number of elites or 'sages', able to exercise leadership in a kind of top-down approach. Whether the ownership was private or public, authoritarian media existed to service the government of the day, and were forbidden to criticize it or its functionaries.

Obaze (2004) assert that authoritarian governments operate their media for the purpose of controlling the flow of information, shaping public opinion and providing approved collective interpretations. The instruments of control of the media are: direct state control of production, enforceable codes of conduct, heavy taxation and other kinds of economic sanctions, controlled import of foreign media, government right of appointment of editorial staff and suspension of publications. There is the lack of true independence to journalists who are subordinated to state authority. It justifies advance censorship and punishments for deviants.

Obaze, Ogbiti and Omosotomhe (2018) noted that the main principles of the authoritarian theory are:

- Media should do nothing which could undermine established authority or disturb public order.
- Media should also (or ultimately) be subordinated to established authority.
- Media should avoid offence to the majority or dominant moral or political values.
- Censorship is justified to enforce the principle of authoritarianism.
- Attacks on authority are unacceptable. Deviation from official policy or offences against moral codes should be criminal offences.
- Media professionals should have no independence even within their media organization.

The relevance of this theory to this paper lies in the fact that the nature of control exacted on the operations of social media platforms determines the level of performance based on the canons of journalism. Thus, government domineering influence can constrain the operations of social media platforms such as when the

our contemporary society are many and varied, and they are employed in various combinations by different authoritarian governments. They include repressive legislation, heavy taxation, licensing, censorship etc. The degree of authoritarianism with reference to social media regulation tends to vary inversely with the level of a country's liberal democracy but directly with the level of primitive genius of the leadership to acquire and hold on to power, as well as the degree of sycophancy and disagreement within the press itself.

4. LITERATURE REVIEW

Concept of social media

When we refer to social media, we mean those web-based applications and services that let users interact with one another, create material, share it, and conduct online information searches. In other words, social media are interactive web-based media platforms that give people a way to communicate, share ideas, contacts, knowledge, and skills, as well as other things like advice for finding a job or a profession. They are a part of a new media genre that emphasizes social networking and gives users more freedom to express themselves, communicate with friends, share information, and publish their opinions online. According to Chatora (2012), these instruments are social because of this participatory or collaborative aspect of them. These media are referred to as online venues that promote involvement, openness, dialogue, and connectedness. They are viewed as social vehicles of communication that are different from the typical instruments like newspapers.

The World Wide Web and the internet's development ushered in the era of social media. They are frequently connected to the concept of "web 2.0," which refers to websites that enable user interaction with message senders. In contrast to "web1.0," which defines the status of the web before 2004, Nwabueze (2012) notes that "Web 2.0" refers to the condition of the web as of today, which was the time when interactive websites first appeared. Examples of web 2.0 sites include online communities, social networking sites, video-sharing websites, wikis, and blogs (Allen, Ekwugha and Chukwulete, 2011).

The social media platforms offer ways for users to communicate online, typically via email and instant messaging. Users of social networking sites can communicate with others in their personal networks

about ideas, pursuits, and events. Thousands of people with internet access can access most of the content on social networking sites (Okunna and Omenugha, 2012).

Gevertz and Greenwood (2010) defined social media as a means of disseminating information through highly accessible publishing techniques (web and mobile) that enable individuals to shift from being content consumers to producers of content. Social media represents a shift from a unidirectional to a multidirectional style of communication, where viewers actively participate in the dialogue and are not just information consumers (Thackeray and Neiger, 2009). Some popular social media platforms include Facebook, Twitter, Instagram, WhatsApp, Skype, Zoom, LinkedIn etc.

Social Media Regulations in Nigeria

In Nigeria, laws governing social media are not particularly recent. In reality, requests for regulation of the platforms have been made ever since the Nigerian general elections of 2015 put to the test the influence of social media platforms. The Anti-Social Media Act, also known as the Frivolous Petitions Bill, was sponsored in the Nigerian Senate in 2015 and even passed through a second reading before being finally discarded after proper examination as a consequence of recommendations (Osugwe, 2018). Nigerians were concerned that the measure was an attempt to restrict free speech.

Modern-day citizens have a chance to express their rage about matters that are bothering them through social media. Furthermore, the provisions of the 2015 Frivolous Petition Act threatened to curtail citizens' freedom to petition for serious wrongdoing or corruption through the use of social media. The Senate Committee on Judiciary, Human Rights, and Legal Matters had recommended that the Nigerian government's legislative arm consider rejecting the law since several of its provisions already addressed the issues made by the bill (Olaniyi, 2016; Omilana, 2019).

After EndSARS protest in 2020, Nigeria's executive arm of government, represented by the Minister of Information, officially advocated for the regulation of Facebook, Twitter, and Instagram. The Protection Against Internet Falsehoods and Manipulation and Other Related Matters Act, 2019 was revised, and just a few weeks after the minister made the call—on November 20, 2020, to be exact—it reappeared and passed Second Reading, which is a step in the legislative process for passing a bill (Egbunike, 2020).

nevertheless, this was not the first time it was discussed. The bill's provisions cover a number of topics that touch on security, safety, and other relevant issues. In accordance with the proposed legislation, it is unlawful for anybody to use social media or other new media platforms to spread false information. The bill also states that sending such statements constitutes an offense punishable by Nigerian law if they have a negative impact on Nigeria's security, public health, public finances, or public security or its relations with other nations, influence election outcomes by endorsing a candidate, or incite hatred or animosity toward a specific person.

The Internet Falsification and Manipulation and Other Related Matters Act, according to the Policy and Legal Advocacy Center (PLAC) (2019), an NGO, covers things like making false claims on social media sites like Facebook, Twitter, and Instagram in addition to disseminating false information via SMS and MMS. For criminals found guilty of creating false remarks on social media, it suggests prosecution and the imposition of suitable punishments. The legislative document also gives the police or other law enforcement organizations the authority to direct service providers to impose access restrictions on websites that publish false information or even to direct the Nigerian Communications Commission to order the removal of online content that poses a threat to the public interest. The bill proposed NGN300,000 or three years imprisonment for individual offenders and up to NGN10 million for a group of individuals or an organization that commits the same offence. According to PLAC, the same penalties apply if an individual or group uses pseudo or inauthentic social media accounts to transmit or amplify their transmission. Similarly, the Independent National Commission on Hate Speech seeks to criminalize what it calls "hate speech". The provisions of the law criminalize any form of insulting or offensive statement, visual or textual material capable of inciting ethnic hatred. The punishment for the offender is death by hanging, especially if such person's actions resulted in the death of another. Eke claims that the legislation addresses issues like victimization as a form of discrimination, hate speech, any form of harassment based on ethnic origin, ethnic or racial contempt, and ethnic discrimination. It also creates the Independent National Commission for the Prohibition of Hate Speech.

The hate speech law in Nigeria has also drawn criticism from a number of sources. Amnesty International, a civil society organization, took a strong stance against the bill's supporters (Sahara Reporters, 2019), but Nigerians also voiced their opposition. The Hate Speech Bill, according to Omole (2019), targeted harassment based on ethnicity but neglected to take into account other reasons for discrimination and harassment that are generally accepted, such as religion, a disability, or gender. For example, harassment based on a person's religious beliefs, harassment based on a person's physical or mental disability, and harassment based on a person's gender, which has the potential to escalate into what is known as gender-based violence, are all examples of grounds for harassment that are globally acknowledged or recognized.

Challenges of Social Media Regulations in Nigeria

The proposed legislation themselves are where the primary issue with social media regulation in Nigeria begins. First, the Hate Speech Act refers to offensive remarks that frequently incite violence or pit one ethnic group against another, which can pose a severe threat to the country's current state of harmony among its numerous ethnic groups. People are protesting, though, claiming that the bill's contents may be ambiguous. Thus, a few inquiries come up. How is hate speech defined? Who's to define the precise meaning of hate speech? Hate speech is still debated and debatable, and there doesn't seem to be a single, agreed-upon definition of what it is (Uzoka, 2019). Similar to this, Adibe (2018) contends that the definition of "hate speech" is one of the objections to the Nigerian Hate Speech Bill. Adibe adds that there is a distinction between provocative speech and hate speech, with the latter falling within the umbrella of free speech, which is regarded as one of the tenets of democracy. It's also likely that the idea of fake news is understood differently in other nations. Freedom of expression could therefore be at danger if people's speech is the target since different individuals have different interpretations of the same word.

The nature of the Internet is one of the biggest obstacles to social media regulation. It has no geographical bounds, which presents enormous difficulties for authorities. Due to the nature of the Internet, it is conceivable for there to be borderless virtual operations of a virtual environment, in which someone may run it in one nation while it is hosted in another, and the commenters may come from a whole

regulation of social media platforms and the virtual environment. Social media, as previously noted, offers a worldwide media perspective, which makes regulation a little more difficult than previously assumed or imagined. One of the tools of international law that states might use to exercise jurisdiction, or the right to act or regulate acts that have occurred on their territory, is the territorial principle. As a result, it is challenging to conduct enforcement action once the offense is done outside of the state's territorial authority.

The lack of international agreement on platform regulation is a problem that creates a challenging situation for nations interested in regulating social media. The risk at this time is that a user of social media could use the anonymity provided by the platforms and their widespread use to make remarks that could be seen as offensive and targeted at a population in another country. Finding these people can be challenging. Even while numerous organizations, countries, and individuals have urged technology companies to implement regulatory frameworks, it is important to remember that the problem is still complex.

Implications of Social Media Regulations on Freedom of Expression

Due to the fact that media outlets like newspapers, television, radio, and the Internet serve as the primary sources of information for people all over the world, it is inconceivable to envisage a modern civilization without mass communication. In a democracy, the media serve two fundamental purposes: first, they operate as a watchdog by continuously informing the public about political issues; second, they serve a horizontal purpose by offering a forum that reflects the diversity of contemporary cultures. As a result, the media are crucial to a democratic society's development and create the groundwork for democracy in today's advanced societies. Once more, social media gives people a forum to hold their government accountable and make things happen. Accordingly, the ramifications, which are covered in more detail below, have mostly centered on concerns about how social media regulation will affect both journalists and the general people who use the platforms.

Social media regulation will put the right to free speech in jeopardy. Social media regulation have been decried as abhorrent because they restrict the right to free

speech. The bills thus attempt to prevent people from speaking out. The bill's removal of freedom of expression is one of its effects (Egbunike, 2020). Egbunike adds that while the goal of the law appears to be to curtail the dissemination of untruths on social media platforms, as well as fake news and outright misinformation (based on a superficial understanding), its true aim appears to be to outlaw freedom of expression and criticism. As was previously mentioned, social media platforms give citizens the chance to engage with the government more actively. Some people use these platforms to freely or constructively criticize the government.

Also, regulation may tempt the government to silence critics. By regulating social media in Nigeria, the government and its agents will have legal cover to attack dissenting viewpoints. According to Mhaka (2020), it is becoming evident that regulations are intended to silence dissenting voices and keep them imprisoned permanently, but unlike military regimes, this time through the use of law, as evidenced by the ways in which public officials and governors have called for social media regulation in Nigeria and the regional effort led by the Southern African Development Community.

Laws against social media will also target journalists. According to Amnesty International (2019), Nigeria already targets media professionals and journalists with current legislation including the Cybercrime and Prevention (Amendment) Act 2013. Amnesty International reports that more than 19 journalists and media professionals were imprisoned, arrested, attacked, or made to disappear in Nigeria alone in 2019. Therefore, there are worries that as regulation increases, journalist harassment would also increase (this time with the backing of the law).

5. CONCLUSION

In this essay, the difficulties and results of social media regulation in Nigeria were examined. If everyone do not have access to the right to free expression in a government, it is regarded as a failing of the democratic ethos. Free speech is one of the ways that all citizens can engage in the political process in a democracy. We cannot possibly claim the existence of a democratic society whenever and wherever free speech is suppressed through any methods, legal or illegal, as this is one of the traits of authoritarian regimes. Despite not being specifically directed at the media, social media regulation bill will have a negative effect

function of meeting their information needs. Such regulatory efforts may be considered as a violation of democratic principles. It has been noted that social media platforms offer different ways or routes for the media to contact individuals in contemporary society. As a result, this study draws the conclusion that regulating social media is becoming a more difficult task because doing so implies stifling free expression, which could hinder the advancement of democratic principles, among which free speech is the most important.

REFERENCES

1. Allen, B., Ekwugha, V., & Chukwulete (2011). *An Assessment of the Readership Base for Nigerian Blog*. A Paper Presented at the ACCE, Covenant University, Ota, September, 2011.
2. Anderson, J. & Rainie, L. (2020). Many Tech Experts say Digital Disruption will hurt Democracy. *Pew Research*.
3. Attoh, N.S. (2016). *The Frivolous Petitions Bill and Permissible Restrictions on Freedom of Expression*. Retrieved from <https://dx.doi.org/10.2139/ssrn.2713169>
4. Bond, R. (2020). Social media: To Regulate or not to Regulate? *Lexology*. Retrieved from <https://www.lexology.com/library/detail.aspx?g=1518ccb4->
1. 4. Chakrabarti, S. (2018). *Hard Questions: What Effect Does Social Media have on Democracy?* Retrieved on 25th November, 2022 from <https://about.fc.com/news/2022/07/effects-social-mediademocracy/amp>
5. Chatora, A. (2012) *Encouraging Political Participation in Africa: The Potentials of Social Media Platforms*. <http://www.roleofsocialmediainencouragingpoliticalparticipationinAfrica>
6. Crews, C.W. (2020). *The Case against Social Media Content Regulation*. Competitive Enterprise Institute. Retrieved from <https://cei.org/studies/the-case-against-social-media-contentregulation/>
7. Cummings, B. (2018). The Pros and Cons of Regulating Social Media Influencing. *Entrepreneur*. Retrieved on 25th November, 2022 from
8. Egbunike, N. (2020). Nigeria's social media Bill will Obliterate Online Freedom of Expression. *Global Voices*.
9. Ewang, A. (2019). Nigerians should say no to social media bill. *Human Rights Watch*. Retrieved from <https://www.hrw.org/news/2019/11/26/nigerians-should-say-no-social-media-bill>.
10. Ghosh, D. (2021). Are we entering a new era of social regulation? *Harvard Business Review*. Retrieved from <https://hbr.org/2021/01/are-we-entering-a-new-era-of-socialmedia-regulation>.
11. Gevertz, D., & Greenwood, G. (2010). Crafting an Effective Social Media Policy for Healthcare Employees. *Health Lawyer*, 33(6), 28-33.
12. Inobemhe, K., Ugber, F., Ojo, I.L., & Santas, T. (2020). New Media and the Proliferation of Fake News in Nigeria. *Nasarawa Journal of Multimedia and Communication Studies*, 2(2), 155-169.
13. Nwabueze, C., (2012). Social Media, Native Media and Social Entrepreneurship Development in Nigeria. *EBSU Journal of Mass Communication*, Vol 1 (1)
14. Obaze, A. I; Ogbiti, C. A & Omosotomhe, S. I (2018). *The Mass Media and the Nigerian Society in Retrospect*. Benin City: ATC Technologies.
15. Okunna, C.S. & Omenugha, K. (2012). *Introduction to Mass Communication (3rd edition)*. Enugu: New Generation Book
16. Olaniyi, S. (2019). Social Media Regulation Will Free Speech, HURIWA Warns. *Guardian*. Retrieved from <https://guardian.ng/news/social-media-regulation-will-kill-freespeech-huriwa-warns/>.
17. Omilana, T. (2019). Nigerian Government to Regulate Social Media. *The Guardian*. <https://guardian.ng/news/nigerian-government-to-regulate-socialmedia/>.
18. Osuigwe, N.E. (2018). Social Media Regulations and the Library in Nigeria. *Library Research Journal*, 3(1), 15-24.
19. Paslawsky, A. (2017). The Growth of Social Media Norms and the Governments' Attempts at Regulation. *Fordham International Law*