

## Flattening the Hate Speech Curve in the Digital Age: An Appraisal of Regulatory Frameworks in Nigeria

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### Abstract

The internet and its emerging technologies have expanded global communication landscape to the extent that citizens have unbridled access to social media, just as the mainstream media integrate them into their operations. Despite the productive and interactive potentials of social media, there has been a rise in the cases of hate expression as one of the pitfalls of the digital revolution. Nigeria has had her share of the menace of hate expressions among its citizens, prompting legal and regulatory measures to check the menace. This paper discusses the recent efforts of the Nigerian government in the areas of legislation and regulation in checking hate speech. It critically examines the extant Cybercrimes (Prohibition, Prevention, etc.) Act of 2015; the Independent National Commission for the Prohibition of Hate Speeches Bill introduced in the Nigerian Senate

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in November 2019; and the Reviewed Broadcasting Code as recent regulatory measures. It observes that while the Cybercrimes Act partly addresses hate speech in its provisions against racist and xenophobic contents on computer systems and networks, the proposed hate speech bill is a duplication which wrongly includes abusive and insulting words in its determination of hate speech. The Reviewed Broadcasting Code, which places a penalty of N5million on any erring broadcast station derives no legitimacy in extant laws. The paper recommends a holistic legislation derived from the Constitution, strengthening of the judicial system, socially responsible media practice and citizens' ethical revolution to check hate speech.

**Keywords:** *Hate speech, Digital age, Social Media, Legislation, Regulatory framework*

## **Introduction**

The digital revolution witnessed by the world the turn of the 21<sup>st</sup> century has continued to advance, opening new frontiers and opportunities in all spheres of human endeavour. Propelled by the internet, the emerging digital technologies have opened up productive capacities for individuals, groups and societies 20 years into the century. The Economic Commission for Latin America and the Caribbean (ECLAC) (2018) identifies the digital technologies that drive the global trajectory to include the internet of things (IoT), big data analytics, mobile broadband and cloud computing, increased social media penetration, enhanced connectivity and ubiquity, low latency ultra-fast broadband, and industrial internet. These advancements have opened up new communication frontiers for individuals, groups, firms, industries, nations and the global community at large. As citizens utilise the potentials of advanced technologies for a wide range of communicative purposes, the media industry also strives to utilize the full potentials of the emerging technologies to improve their operations (Oriola, 2019). As digital technology continues to advance, competition between the new digital platforms and traditional media becomes more intense. Responsively, traditional media have embraced media convergence—the practice of incorporating new media technologies into traditional news production practices (Dominick, 2011)—in order to

strengthen their news operations. Thus, apart from their organisational online presence, traditional media now incorporate social media platforms into their news operations and encourage citizen journalism practice.

The digital media platforms possess great communication potentials, which account for the challenge they pose to traditional news media. McQuail (2010) identifies interactivity, co-presence of vertical and horizontal communication models, disintermediation, low cost of media usage, great speed of transmission and narrowness of information boundaries. Despite these merits, there are pitfalls associated with the use of digital media for information dissemination. These include preference for speed at the detriment of accuracy, preference on entertainment and sensationalism, limited access to authoritative news sources, poor production quality of contents, low credibility of news materials and the possibility of manipulating contents (Ojomo & Oriola, 2016). Arising from these pitfalls is the possibility of dissemination of hate speech, the prevalence of which is notable on social media in recent times.

Hate speech, according to Foxman & Wolf (2013) refers to expression of hatred directed to an individual or group resulting in certain consequences based on social interaction. The dissemination of such expressions is inimical to victims' rights as it could debase their sexual orientation, gender, disability, religious belief, race or ethnicity, health status, age limitations, language and political affiliation (Hernandez, 2011). In the words of Hernandez (2011), "when hate speech is permitted to be propagated, it encourages a social climate in which particular groups are denigrated and their discriminatory treatment is accepted as normal" (p. 808). As a reprisal, such denigrated groups could resort to violence – ethnic, religious or ideological – the sort that has become prevalent in Nigeria. The rise in the hate speech curve, noticeable in the multi-ethnic Nigerian society, especially on the digital media platforms that are so pervasive, has been attracting concerted debates among media scholars, social crusaders, rights activists and the government in Nigeria. Government has even taken the crusade against hate speech from the level of administrative regulation to legislation, the recent of which are the moves to pass bills against the menace into laws in the National

Assembly. In view of the issues associated with hate speech dissemination and the potentials of the digital media to spread it fast, this paper examines the adequacy of extant and proposed laws as well as regulations in flattening the curve of the scourge in Nigeria.

### **Statement of the Problem**

One of the digital revolutions that characterise the global communication landscape is increased social media penetration. Ogbuoshi, Oyeleke & Folorunsho (2019) assert that social media operate with limited institutional guidelines and ethical regulations, which allows the dissemination of all manners of content, some of which could portray hatred of targeted individuals or groups in society. According to McQuail (2010), one of the strengths of the digital space, which social media users exploit, is narrowness of information boundaries in which citizens can partake in the information production-consumption chain. The fact that professionalism is not a necessary requirement in the usage of social media makes the digital platform an all-comer affair. Lack of ethical concern, manipulation of contents, limited access to authoritative information sources, the urge to disseminate contents in a rush and preference for sensationalism, to mention a few, could result into dissemination of hateful expressions either intentionally or inadvertently (Oriola, 2019). Once an expression of hatred is disseminated on the digital space, it spreads like wildfire and the extent of its transmission could determine the extent of harm on the victims. Hate speech denigrates individuals and groups targeted. Such denigration could have negative consequences which include alcoholism, smoking, high blood pressure, anxiety, depression, post-traumatic stress disorder, crime and violence (Nielsen, 2017). It could breed disaffection between or among groups in a culturally sensitive society like Nigeria, leading to conflicts and violence. Also, it is a violation of gender, sexual, racial, religious, social and political rights and equality of people in the society. In a society where expression of hatred is allowed to flourish without ethical measures to curb the scourge, violent conflicts could hold sway. In the light of the problems associated with dissemination of hate expressions, this paper examines the Nigerian digital communication space within the context of the rise

in the curve of hate speech. It analyses relevant existing and proposed laws and the regulation as measures to check the scourge of hate speech.

### **Purpose**

The purpose of the discourse in this paper is to situate the rise in the curve of hate speech in Nigeria within the pervasiveness of digital media. On the one hand, increased social media penetration has broadened the communication landscape among citizens through improved devices, broadband and connectivity. On the other, the competition that mainstream media face in the wave of the ongoing digital revolution has led to media convergence, which in turn has integrated newsroom operations into the digital space. At the level of the citizenry, there have been a prevalence of hate speech dissemination on social media while at the mainstream media level, such is controlled through institutional and ethical guidelines, though hate expressions still occur occasionally due to ethical laxity and poor fact-checking on information from the digital space. This paper aims to examine Nigerian government's recent legislative and regulatory measures to check hate speech dissemination, with a view to determining their strengths and weaknesses in checking the menace within the confines of democratic ideals.

## **Review of Literature**

### **Internet and Digital Communication: Social Media in Perspective**

Since the discovery of the internet in the 1960s, several innovations have emerged from what the world considers the most expansive and ever-dynamic invention. The emerging innovations have in turn shaped all spheres of human endeavour globally. The initial invention has been further developed into new features and technologies, leading to a digital revolution that has greatly impacted the post-modern world - the present era of "information superhighway" (Andrews, 2019). Henry-Nickie, Frimpong & Sun (2019) asserted that the digital technologies of today have become prominent and critical propellers of economic growth, national security and international competition in various spheres. The

world economy has become a digital economy, societies with more digital technologies are wealthier, private consumption is greatly impacted by the internet, social interactions are shaped by digital technologies, to mention a few (ECLAC, 2018). One area of lasting influence of the digital revolution that characterises the invention and advancements of the internet is communication.

The popularity of the internet can be associated with the invention of the World Wide Web in 1990 by Tim Berners-Lee through which the global community accesses a wide range of information (Andrews, 2019). Hence, the nomenclature of information and communication technology describes an array of internet-driven applications, platforms and devices. Communication is the nucleus of the digital revolution era from which numerous fields of endeavour derive their leverage and productive opportunities. Digital platforms create fora of communicative interaction at formal and informal levels. These interactions facilitate commerce and other productive exchanges on the one hand, and social interaction necessary for the functioning of society as a web of social relations, on the other (Ireton & Posetti, 2018). Notable among the digital platforms that perform this function are the various social media, which have now become easy means of production and dissemination of news and information.

As a result of the growth and penetration of digital communication technologies, social media have become avenues for sharing and receiving news and information about events in society by both citizens and mainstream media organisations. Citizens participate in the production-consumption chain of news through citizen journalism, blogs, news sites and other forms of digital communication avenues. Mainstream media organisations, realizing the potentials of digital communication technologies, integrate social media into their news operations in a practice termed media convergence (Dominick, 2011). The relative advantages of digital media over the mainstream media that make the former a veritable resource for news and information are identified in Oriola (2014) to include audience segmentation, convergence, audience control, multiple platforms, user-generated content and mobility. These unique features make digital communication media, especially social media, exert pervasive

surveillance effect. News and information thus spread at a fast pace and possibly globally because the digital space is without geographical boundaries.

Oriola (2014) explained that social media possess certain strength as regards the performance of the surveillance function. They (social media) create a surveillance culture among citizens as many events that may have gone unnoticed are brought to limelight. Ease of usage is a merit of social media because no technical or professional skill is required. Generation of news and information is less cumbersome on social media and this makes information dissemination immediate. The other strengths are high accessibility to means of information dissemination; low cost of usage; interactivity in forms of participation, conversation and sharing; creative opportunities and flexibility in the use of graphics, language, pictures and videos; and absence of institutional influences on news contents (Oriola, 2014). Above all, the limitless size of the social world created by digital communication technology also attests to their powerful surveillance influence. According to Dunbar, Arnaboldi, Conti & Passarella (2015), “the implicit promise of the new technologies was that they would open up a new vista of social world that was intrinsically unlimited in size” (p. 39). Going by the scenario of the present-day world, social media are living up to this promise as digital communication platforms. Ogbuoshi, Oyeleke & Folorunsho (2019) attested to this fact that “social media have democratized, and personalized acquisition, purveyance and distribution of information aided by the powerful networks of internet communication” (p.46).

Despite the potentials of the digital communication media in information dissemination, there are certain limitations associated with their usage at both the levels of the citizenry and converged mainstream media. Social media news contents are of low quality due to the absence of professionalism and institutional guidelines (Foxman, 2013). There is decentralization of the digital communication platforms due to the existence of multiple platforms through which information can be produced, shared and received. News and information shared are prone to manipulation and /or alteration, and no professional skill is required to use social media for news production. Associated with lack of professional skills on

the part of citizen journalists are low quality of contents and low credibility of news materials. Other weaknesses of the digital communication media include lack of good regulatory frameworks to discourage dissemination of unwanted information such as fake news and hate speech, information overload, absence of filtering mechanism, low accuracy of information, large volume of indecent or immoral contents, non-cognizance of, or insensitivity to cultural context of certain societies (Oriola, 2014).

According to Ojomo & Oriola (2016), certain ethical and normative challenges are associated with the use of digital communication technologies as tools of citizen journalism. The ethical issues include inaccuracy of news contents, the indefinite archive of photographic contents on the digital space with the potential of making ethical breaches globally impactful, sacrifice of the principle of editorial independence, the use of hyperlinks in multimedia productions, which may link users to web pages and contents that are offensive and inappropriate, and plagiarism (Oriola & Ojomo, 2016). The normative challenges include conflict between speed and accuracy, preference on entertainment and sensationalism, limited access to and interaction with authoritative news sources by citizen journalists, poor quality of production, low credibility of news materials and the possibility of manipulating contents.

The weaknesses of the digital communication technologies, especially the issues of inaccuracy, manipulation, lack of professionalism and limited presence (if any) of institutional and regulatory frameworks, potentially make the dissemination of unwholesome contents on the digital space easy. Ireton & Posetti (2018), cited in Owens-Ibbie (2019), observe that:

*Powerful new technology makes the manipulation and fabrication of content simple, and social networks dramatically amplify falsehood peddled by states, populist politicians and dishonest corporate entities, as they are shared by uncritical publics. The platforms have become fertile ground for computational propaganda ‘trolling’ and troll armies’;*



*‘sock puppets’ networks and ‘spoofers’*  
(p. 9).

This suffices to state that the invention, advancements and penetration of digital technologies present the case of the good and the bad as regards communication. One of the manifestations of the issues in digital technological advancements, especially social media, is the menace of hate speech. Hate expression is currently attracting debates in the Nigeria public sphere as in other climes. Scholars, social crusaders, rights groups and different arms and levels of government in consensus that social media have contributed to its spread (Ogbuoshi et. al., 2019).

### **The Meaning, Characteristics and Effects of Hate Speech**

Hate speech is both a legal and technical term the definition of which is elastic, accounting for no universally accepted definition of the concept. The elasticity in its conception is further stretched by differences in cultural contexts of societies of the world to the extent that what accounts for hate expression in one society may not be so considered in another. The word ‘hate’ is defined in Webster’s Universal Dictionary and Thesaurus (2016) as a feeling of intense dislike or contempt for something or somebody. Hatred refers to extreme dislike – overt or covert - of persons or groups on the ground of their racial, ethnic, religious or gender orientation or affiliation (Foxman & Wolf, 2013). This means that hate is psychological: a strong feeling of dislike, contempt or that associated with enmity. The feeling is provoked or aroused by what the hater perceives to be deserving of the victim based on the latter’s orientation or affiliation: gender, ethnic, racial, religious, cultural, ideological or political.

Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR) in its described hate speech as any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence and provides for prohibition of such expressions. Article 19 of the ICCPR recognises and protects the right to free expression but the United Nations, through its Human Rights Committee, asserts that the right to free expression is not absolute. It sets limits to expression by prohibiting offensive and discriminatory expressions, one of which is hate speech.

According to the US Legal (2016), hate speech refers to any communication carrying no other meaning than the expression of hatred or incitement to hatred against some individuals or groups who are defined in terms of their race, ethnicity, religion, national origin, gender or sexual orientation, especially in circumstances in which the communication provokes violence. The definition considers hate speech beyond the literal meaning of speech and extends it to any communicative expression – verbal, non-verbal, written, graphical, express or implied. Such communication is targeted at persons or groups on the basis of their orientation. The definition also recognizes the possibility of violence resulting from expression of hate. Victims may respond and their responses may lead to conflicts or violence.

Waltman & Ashely (2017) described hate speech as an intentional discourse, the aim of which is to call public attention to social differences in groups and manipulate such differences to the benefits of certain groups but the detriment of others. By implication, expressions of hatred could be on purpose, especially when it persists. Waltman & Ashely (2017) affirmed that hateful communicative activities are usually deliberately aimed at highlighting and exposing social differences against certain persons or groups to the benefits of the persons or groups making the expression. They posted that at the center of such expressions of hatred is manipulation – the act of skillfully or tactfully handling social differences in ways that are unfair to victims of hate speech – for the benefits of the source of such communication. Such benefits may be gender, economic, religious, political, social or cultural.

In furtherance of the global convention on limits to free expression, the ICCPR in Article 19(3) provided that a state may limit the right to free speech through legislation in order to pursue legitimate aim necessary in a democratic society. To this end, countries of the world are domesticating the hate speech laws, part of which are definitions of the concept. In Nigeria, a bill for the prohibition of hate speech, called the Independent National Commission for the Prohibition of Hate Speech Bill, was introduced in the Nigerian Senate on November 5, 2019 by Senator Muhammed Sani Musa.

The bill, which is yet to be passed into law, described hate speech as:

*the use, production, publishing, distribution, presentation, or direction of the performance of any visual or written material which is threatening, abusive or insulting or involves the use of such words in order to stir up ethnic hatred or from which ethnic hatred is likely to be stirred up against such person from an ethnic group in Nigeria (Eke, 2020 p. 2).*

The definition explicitly encompasses various communicative activities through which hate expression could be made – written or visual materials, production, publishing, distribution, presentation or performance. It however stretches the boundaries of hate expressions to include abusive or insulting communication and suggests only ethnic orientation as the only possible basis for stirring up hatred. The definition broadly encompasses all communicative activities in defining hate speech which previous others did not consider. It however becomes elastic in scope with the inclusion of abusive or insulting communication. Firstly, instance, abusive words may not always amount to hate expression and what amounts to abusive expression may be difficult to determine in the Nigerian socio-cultural context. Secondly, ethnic orientation may not be the only ground for which hate expressions are made. A person or group may be attacked through hate speech on the ground of any social difference or characteristics such as gender, sexual orientation, religious or political affiliation or racial origin. The definition also fails to take into consideration the response of victims of hate speech, which may include but not limited to rights violation, denigration of personality or group, conflict and violence.

From these definitions, certain characteristics of hate expression can be deduced thus:

1. It goes beyond speech to include any of the communicative activities that can express meaning such as writing, publishing, verbal and non-verbal presentations, performances, artistic and other creative works;

2. It expresses (strong) dislike or contempt of persons or groups, provoke hostility, incite hostility or discrimination and promote stigmatisation;
3. It is often intentionally targeted at individuals and groups who can be defined in the society by their social characteristics or differences;
4. It involves manipulation of the defined/known social characteristics/differences of the target persons or groups in a way to portray them in unfair manners;
5. The social characteristics or differences manipulated include gender, race, ethnic origin, religion, sexual orientation, cultural orientation and political affiliation;
6. It is capable of denigrating the persons/groups targeted;
7. There are possibilities of responses from victims as results of the effects of hatred on them and such responses include reprisal hate expression, conflict and violence.

These characteristics indicate the areas covered by hate speech: communicative activities, expression of contempt, intentional targets, manipulation of social characteristics, denigration and responses from victims.

The effects of hate expressions are far-reaching, especially in the fast-paced era of pervasive digital communication. The popularity and wide penetration of social media make the dissemination of hate speech more damaging. Adelokun (2017) observed the damaging and disruptive effects of hate speech on the political system of Nigeria as experienced during 2015 electioneering campaigns in the country. He noted the rise in this menace evident in the use of vitriolic expressions among political actors during campaigns as propagated by mainstream media and shared on various social media. Similarly, Waltman & Haas (2011) observed that hate speech could be detrimental to social and political systems of any society as it can cause intimidation of members of an out-group attacked based on their social and/or political differences.

The US Legal (2016) calls attention to violence because of hate speech. This corroborates Waltman & Haas (2011) who stated that users and sponsors of hate expression usually intimidate target groups with the aim of promoting violence against them. In the real

sense, violence is one possible response of victims of hate speech, resulting from hostility or discrimination against them. Oriola (2019) further enunciates that hate speech is sometimes used to recruit members into certain groups. This is achieved when social differences are manipulated through teaching and orientation in a way to mentally and psychologically construct a collective form of belief system in people's memories. The various security crises Nigeria is facing – Boko Haram, banditry, herders-farmers' clashes, kidnapping – can be linked to the use of hate expressions against the Nigerian state and people by elements who recruit able-bodied youths into sects to foment violence. Thus, violence becomes the end result of the ideological manipulation of the groups achieved through teachings and orientation.

Similarly, Ogbuoshi et. al. (2019) identified the widening of social distance among groups and ethnic nationalities as an effect of hate speech in Nigeria. They explain that hate expressions have exacerbated crisis in Nigeria with the attendant negative implications on nation building. They establish a connection among hate speech, ethnicity and the security crises of the country, stating that "hate speech is often the gateway to discrimination, harassment and violence as well as a precursor to serious harmful criminal acts" (Ogbuoshi et al, 2019, p. 50). Implied from this is that hate speech dampens the spirits of love and unity in a multi-ethnic society like Nigeria. It has serious consequences on national integration as social, cultural and political groups and ethnic nationalities highlight their differences for divisive purposes rather than see the strengths in their differences. Thus, it is no gainsaying that the fabrics of national unity in Nigeria that is being threatened in recent times can be attributed partly to dissemination of hate expressions. Social media as digital communication avenues have been more instrumental than any other media platform in fueling this menace.

## **Legal and Regulatory Frameworks in Flattening the Hate Speech Curve in Nigeria**

The pervasiveness of digital communication media (especially social media) and the integration of digital media into mainstream media operations have perhaps led to the rise in the curve of hate speech in Nigeria. As a multi-ethnic and culturally sensitive society, Nigeria has a political history of promoting ethnocentric agenda in place of national unity in the struggle for supremacy that characterized her polity immediately after independence. The mainstream media, which were united in the struggle for independence against British colonialism, became tools in the hands of political leaders for propagating ethno-political sentiments (Daramola, 2006). Such sentiments are akin to what is described as hate speech today because of the manipulation of social and cultural difference for the (political) benefits of certain ethnic group(s) but to the detriment of others – contained in the definition of Waltman & Ashely (2017) – and even national unity.

The global communication landscape has become more widened as a result of the internet and its numerous innovative technologies to the extent that digital communication has broken geographical barriers among countries of the world. The digital revolution that characterizes the world has made dissemination of hate expressions through social networks to have more far-reaching and damaging effects on persons and groups. According to Ogbuoshi et. al. (2019), the exacerbation of hate speech through social media is evidence of one of the destructive tendencies of the digital media to humanity, though expression of hatred has existed for long. In order to curb the menace of hate speech, countries of the world have domesticated the United Nations Convention on human rights as it relates to setting limits to freedom of expression, taking a cue from Article 20(2) of the ICCPR.

## **Findings and Discussion**

Nigeria, in the present democratic dispensation, has also been making legal and regulatory efforts to curb the spread of hate expressions. In 2015, the Cybercrime (Prohibition, Prevention, etc.) Act 2015 was passed and signed into law in Nigeria. The Act is

aimed to prohibit, prevent, detect, prosecute and punish cybercrime offenders in Nigeria; protect critical national information infrastructure; promote cyber security; protect computer systems and networks; and protect intellectual property and privacy rights (Cybercrimes Prohibition, Prevention, Etc. Act, 2015). Section 26 of the Act contains provisions against racist and xenophobic offences, which prohibit distribution of racist or xenophobic materials through a computer system; publicly insulting persons through the computer system or network on the basis of their race, colour, decent, ethnicity, nationality or religion. The Act stipulates that any person that commits such offences (related to hate speech) is liable on conviction to imprisonment of a maximum of 5 years or an option of fine of a maximum of N10,000 or both the fine and imprisonment. Though the Act does not expressly state or define hate speech, its provisions in Section 26(2), especially the description of racist or xenophobic material, include ingredients that characterize hate expressions on computer systems and networks, making it an appropriate law to check hate expressions through digital (social) media.

The recent legal effort in checking hate speech was the sponsorship of the Independent National Commission for the Prohibition of Hate Speeches Bill popularly referred to as hate speech bill by Senator Muhammed Musa Sani. The bill was introduced in the Senate of the Federal Republic of Nigeria on November 5, 2019 and its passage remains inconclusive because of the controversies it has generated since its introduction. Eke (2020) observed that the bill “remains one of the most controversial Bills to be passed by the legislative arm of government in Nigeria” (p. 1). The bill was aimed at ensuring national unity by “outlawing unfair discrimination, hate speeches and the establishment of an Independent National Commission for the prohibition of hate speeches” (Eke, 2020 p. 1). As soon as the bill passed the first reading, it became a subject of public outcry because many considered its passage as an attempt by the government to violate the fundamental right of citizens to freedom of expression guaranteed in the Section 39 (1) of the Constitution of the Federal republic of Nigeria 1999, as amended. More controversial is the prescription of the capital punishment for offenders of hate expressions, generating serious agitations for the discontinuance of the process of passing the bill. Various

stakeholders such as lawyers, human rights activists, media scholars, media practitioners, social crusaders, civil society groups, bloggers and ordinary citizens have queried the morality of the bill as well as the death penalty prescribed as punishment for offenders.

Section 4 of the bill deals with hate speech which:

*prohibits the use, production, publishing, distribution, presentation, or direction of the performance of any visual or written material which is threatening, abusive or insulting or involves the use of such words in order to stir up ethnic hatred or from which ethnic hatred is likely to be stirred up against such person from an ethnic group in Nigeria” (Federal Republic of Nigeria National Assembly, 2019).*

The section prescribes life imprisonment as a punishment for offenders of hate speech and death by hanging for offenders who disseminate hate speech that led to the death of victims. It is noteworthy that the bill expands the scope to of hate speech to encompass visual and written materials, and prohibit the use, production, distribution, presentation, or direction of performance of such materials.

However, extending hate speech to include abusive and insulting words is to go beyond the limits. Nigeria is a multi-ethnic society and the cultural context of the use of language differs from one ethnic group to another. What could amount to abuse or insult in some cultures may not be considered so in others. The present world is a globalized cultural environment in which culture is dynamic to the extent of embracing some aspects of foreign cultural practices, including language use. Also, democracy thrives on free speech, which could include criticisms that could be termed abusive. The passage of such a law may thus be used by political leaders to suppress dissenting and critical voices, especially if such voices are not from the ethnic group of the targeted leaders.

Nigeria is yet to evolve an enduring spirit of national unity as ethno-centric agenda is usually highlighted over nationalism. Also, there are high levels of intolerance, leadership distrust, cultural



sensitivity and low level of political maturity in the country. There is thus the tendency for the proposed law to be used to target certain ethnic groups who are opposing to the views and ideologies of others, especially when a group is in leadership. Sunday (2019) observed that the bill was a war on people's voices, freedom and rights as it may be used to mute lawyers, journalists, other government critics and opposition to the status quo, describing it as a route to totalitarianism. Life imprisonment or death penalty prescribed as punishment for offenders could amount to killing a fly with a sledgehammer – one of the major concerns that led to public outcry against the bill. More heinous crimes such as corruption, banditry and terrorism have not been dealt with so seriously, suggesting some ulterior motives in the proposed legislation. Above all, setting up a Commission on the prohibition of hate speech is needless and wasteful because there are law courts in the country competent enough to handle such cases.

On the regulatory divide, the Minister of Information and Culture, Lai Mohammed, on Tuesday, the 4<sup>th</sup> of August 2020 unveiled the Reviewed (6<sup>th</sup> edition) National Broadcasting Code. Part of the Reviewed Broadcasting Code is the increase in the fine for hate speech from N500,000 to N5 million. The review was necessitated by a Presidential directive for an inquiry into the regulatory role of the National Broadcasting Commission and operations of broadcast stations before, during and after the 2019 general elections (Oyero, 2020a). The Minister added that the N500,000 fine was easy to pay and as such, the provision regarding hate speech was being violated at will. The first casualty of the reviewed code was Nigeria Info 99.3 FM purported to have been fined N5 million for allegedly breaching the code by transmitting a comment made by a former Deputy Governor of the Central Bank of Nigeria, Dr Obadiah Mailafia. In an interview he granted on the station's programme, 'Morning Cross Fire' aired on August 10, 2020 between 8.30am and 9.00am, Mailafia stated that he got revelations from repentant commanders of Boko Haram that one of the Northern Governors was the commander of the sect which was the same with bandits (Oyero, 2020b).

The development has generated another round of controversies about the hate speech debate. In the ensuing controversy, a human

rights lawyer, Inibehe Effiong has sued the Minister of Information and Culture, Lai Muhammed, the Federal Government, and the National Broadcasting Commission for arbitrarily amending the broadcast Code and hiking the fine for hate speech from N500,000 to N5 million. Also, the Socio-Economic Rights and Accountability Project (SERAP) – a non-governmental rights group in Nigeria – has sent an open letter to President Muhammadu Buhari to as a matter of urgency instruct the Minister of Information and Culture, Lai Muhammed and the National Broadcasting Commission to withdraw the Reviewed Broadcasting Code and Memo because it was illegal (Akinkuotu, 2020).

Regulating the dissemination of hate speech through the mainstream media is necessary, in view of the negative effects of the menace, though no such offence as hate speech is known to the Constitution of the Federal Republic of Nigeria. Also, the National Broadcasting Commission (NBC) Act of 1999 empowers the NBC to regulate and control the broadcast industry in Nigeria. However, the Act does not empower the NBC to place fines for offences committed by broadcast stations. Meanwhile, the Act provides for sources of funds for the Commission which are license fees, grants to the Commission by Federal or State Governments, gifts, loans, grants-in aid, testamentary disposition and other assets that may accrue to the Commission from time to time (NBC Act, 1999). There is no provision for fines or penalties as a source of funding the NBC in the Act, neither is the NBC empowered to place fines on erring broadcast stations. Also, it should be noted that while the Act empowers the NBC to monitor broadcasting for harmful emission and illegal broadcasting (Section 2 (1m), it is equally her duty to guarantee and ensure the liberty and protection of the broadcast industry with due respect to the law. Thus, placing such (heavy) fines on broadcast stations runs contrary to its powers as stated in the law. Therefore, the NBC should not be the accuser, prosecutor, judge and executor in a case of hate speech. Rather, it should refer cases of infraction to the law courts for prosecution. More importantly, the stipulated penalty relates to the broadcast media and this leads to the ambiguity of whether or not what amounts to hate speech in the broadcast media differs from the offence in the print media

## **Conclusions**

The dissemination of hate expressions needs to be checked through legislation and regulation in digital communication. The pervasiveness of social media makes the effects of hate speech more damaging and far-reaching now than ever. Also, the absence of institutional control of social media makes their usage an all-comers affair, leading to the dissemination of all manners of unwholesome contents on the digital communication space. However, the legal framework for checking hate speech in Nigeria is replete with ambiguity due to multiple laws that seek to address the issue. Two separate bills were introduced in the Senate of the Federal Republic of Nigeria in 2019 – one on hate speech and another on social media – while The Cybercrime Act of 2015 is still in force, part of which deals with racist and xenophobic expressions on computer systems and networks. The recently introduced Reviewed Broadcasting Code is in itself questionable as it puts to question the intention of the NBC as well as her legitimacy to accuse, prosecute, judge and execute in cases of hate speech. The absence of a clear-cut Constitutional provision for hate speech in the country suggests that nothing can be built on nothing in respect of its legislation.

There is a need to clearly define and situate what amounts to hate speech in Nigeria's extant laws, particularly the Constitution, without which the consideration of an offence as hate speech may be elastic and open to manipulation by those in political power against opposing groups. There is a need for a holistic legislation on hate speech derived from the Constitution. Regulatory agencies such as the NBC could then derive their codes from such extant laws. There should be conscious efforts at strengthening the country's institutions in order to promote socially responsible and ethical practices. The media institution should undergo ethical consciousness and embrace social responsibility that takes cognisance of Nigeria's multi-ethnic and culturally sensitive composition. The National Orientation Agency should step up its campaign against hate speech as part of efforts to revive the country's values among the citizenry.

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