FREEDOM OF EXPRESSION IN NIGERIA: APPRAISING THE TWITTER BAN

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Abstract
Digitized communication media has become an effective and indispensable model through which important information and ideas can be conveyed, and in a short period of time such information can be spread across and beyond national borders and territories. This paper interrogates freedom of expression in the context of social media. It takes an expository examination of Twitter ban. From 5 June 2021 to 13 January 2022, the Nigerian government banned the use of Twitter. In recent years, severe measures have been taken by the developed and developing countries under the guise of national security to foist internet censorship. Fortunately, to many liberal and human rights activists, internet censorship has proven to be a serious threat to Internet freedom, most especially the freedom of expression. The fundamental goal of this paper is to investigate free expression in the digital era in terms of the Twitter ban in Nigeria. It also provides a critique on Twitter as a means of communication. Further, it interrogates the limitation of the freedom of expression in the context of social media. It also focuses on national and international legislations in respect of the right to expression. The study recommended that policy makers must demonstrate respect for Internet flexibility and principles by adhering to legislation in line with global human rights obligations. In addition, the paper recommendations that government should abstain from narratives that undermines these principles. The study also recommended that civil society groups must participate in ingenious campaigns that inform the general public concerning federal government censorship.

Keywords: Freedom of Expression, Internet, Human Rights, Twitter

Introduction

A popular aphorism of the defenders of freedom of expression is the famous quote from Voltaire: 'I do not approve of what you say, but I will defend your right to speak to the death'.[1] Civil liberties advocates often defend and support the view that the right to freely express critical opinions is the cornerstone of human rights, and should not be banned except in very limited circumstances.[2] Digitized communication media has become an effective and indispensable model through which important information and ideas can be conveyed. In a short period of time, information can be spread across and beyond national borders and territories. Social media has many benefits. It is well known that it also has many social disadvantages or undesirable effects on society. For example, a vast majority of the population in the world now have access to Internet facilities, on

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1 Evelyn Beatrice Hall, *The Friends of Voltaire* (London: Smith Elder & Co, 1906).
2 ibid

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the other hand, the spread of fake news, terrorism, cyber-crime, inappropriate information and virtual content continues to surge almost unabatedly, thus the need arises for regulatory policies.[3]

However, the regulation of digitized communication mediums should be balanced, rather than an act stifling creativity and the high-level of entrepreneurial spirit that has led to the success of social media tools or platforms.[4] Internet regulation has become indispensable in today's globalized world. Online platforms have become an important tool for implementing various forms of vices in recent years. Both democratic and authoritarian countries use this paradigm to ensure that their cyberspace remains morally fluid and responsive to some degree.[5] The consensus, however, remains that Internet censorship in most African states is more of a threat to the online freedom of disseminating information in many African countries. Thus, Internet censorship has not been to a large extent a panacea for controlling online abuses.[6] The paper takes an introspective look at national and international legislations, procedures and an appraisal of existent literature as a representation of free expression in the digital era. The article will analyze the Nigerian government's ban on social media (Twitter) and successive media exclusion attempts by the Nigerian government. The jurisdictional scope of this study is Nigeria, however, the scope, application and protection of the freedom of expression in Europe will be considered in order to shed to some light on the problematic of the paper.

The Right to Communicate Information

In general, free expression implies that everyone has the right to publicly debate on topics, hold opinions, and propagate ideas without constraint, restraint, or fear of any restriction. [7] The desire and freedom of people to maintain their points of view and to share same with other individuals is essential in any democratic society.[8] If this right is denied, then, human rights will be difficult to accomplish in society.[9] Thus, freedom of expression is one of the fundamental tenets of any democratic society. Freedom of expression is a requirement for societal progress and human development. The European Court of Human Rights (ECHR) in the celebrated case of *Handyside v Kingdom*, categorically stated[10] that the freedom of expression pertains not only to "information" or "ideas" that are widely supported, but also to views that may aggravate, exacerbate or cause a political tumult in the country or any other sector of the population. This is a prerequisite of pluralism, openness and tolerance, without such freedom, a 'democratic society' would not truly exist.[11] Furthermore, this freedom pertains to all forms of expression, including radio and newspapers, the Internet, public debates, academic research, and speech, which are independent of the means used to create them. The liberty to 'share' information and ideas is included in the freedom of expression. It is the ability have personal opinions and the ability to 'seek' and 'obtain'

[3] Jay Daniel Thompson, 'Freedom of Speech Is Not Freedom from Ethics: The 2019 Israel Folau Media Controversy as a Case Study' (2021) 181(1) Media International Australia 10

[4] Tim Wu, *The Attention Merchants: The Epic Scramble to Get inside Our Heads* (New York: Alfred A Knopf, 2016).

[5] Géraldine Muhlmann, *Journalism for Democracy* (USA: Polity, 2010).

[6] Jack Glascock, 'Regina v. Butler: The Harms Approach and Freedom of Expression' (1996) 1(1) *Communication Law and Polic*y 117.

[7] Ernest Freeberg, '*Democracy's Prisoner*' (Cambridge, MA: Harvard University Press, 2008).

[8] Nicholas Guyatt, 'The Common Cause: Creating Race and Nation in the American Revolution' (2018) 80(4) *The Historian* 800-801.

[9] ibid

[10] *Handyside v. Kingdom* (1976) 5 ECHR.

[11] Ibid, 10

information from others.[12]The European Court found that the freedom of expression includes satisfying the requirements for a restriction on free expression and to assess what was 'essential in an autonomous society.'[13]

The freedom to express one's views can only be realized if one's views are shared without fear of repercussions. Consequently, this is inextricably linked to the right to express oneself. It can be affirmed that it involves the freedom to hold and express differing viewpoints, as well as the freedom to voice one's views that connect with society. Whilst acknowledging that criticism is an important aspect in any democratic society,[14] it would be undemocratic and arbitrary to deny people the right to express their opinions. Consequently, even though certain state-owned media have explicit non-discrimination clauses, their refusal to distribute or express the opposition party's ideas or manifesto should be viewed as a breach of free expression.[15]The right to free expression and the press encompasses the freedom to gather ideas and information. It protects people from being denied access to publicly available information and ideas by governments and individuals.
It is clear that the right to communicate information is the fulfillment of free expression. This provision has the same impact as section 39 of the 1999 Nigerian Constitution (as amended) when interpreting the scope of freedom of expression established in section 36 of the 1979 Constitution (as amended). The Supreme Court in the *Okogie v AG Lagos*[16]stated that this right gives any individual the ability to regulate and use any educational institution as a form of spreading ideas.

The question of whether the freedom to communicate information includes the right to confidentiality of the information has been settled in the case of *Tony Momoh v The Senate.*[17] In this case, the Court of Appeal held that "the media or any other information medium cannot demand that the source of your information be kept confidential during an appropriate investigation by the National Assembly or the police." [18] Coercing a reporter to disclose his or her source of information will ominously reduce the amount of information the public will consume. The right to collect and publish information will be compromised if such a disclosure was necessary.[19]

Freedom of Expression is guaranteed by international law and practically all democratic societies across the globe. The key to dignity, triumph, human development and the quest for truth, is a necessity for good government and democratic society.[20]The right to free expression is broad and nuanced. First and foremost, it is conceived as a human right, as stated in Article 19 of the United Nations Bill of Rights.[21] The freedom of speech belongs to all individuals. It negates amongst others distinctions based on race, colour, national origin, gender, social origin, dialect, or personal property. Again, it comprises the right to spread multifaceted information, facts and ideas. The legal entitlement to self-expression includes not only widely acknowledged or respected speech,

[12]Ibid, 10
[13]Ibid, 10
[14] John Nerone, '*Violence against the Press: Policing the Public Sphere in U.S. History'* (New-York: Oxford University Press, 1994).
[15] ibid
[16] (1981) 2 NCLR 21
[17](1981) 1NCLR 21.
[18](1981) 1NCLR 21
[19]John Locke, *A Letter Concerning Toleration and Other Writings* (USA: Liberty Fund Inc, 2010).
[20] Anand Pillay, *An Introduction to Stability Theory* (New-York: Oxford University Press, 1986) 51
[21] International Covenant on Civil and Political Rights, 1967

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but also to controversial or objectionable speech. In essence, protecting unpopular speech is one of the most fundamental aspect of the right to free expression.[22]

In other words, the liberty to express oneself is a right that allows all citizens to contribute to the public domain and obtain a wide range of information and opinions.[23] This is a crucial part of human rights. It is the foundation of important freedom of expression notions such as plurality of media and right of access to public authorities' information. Another basic component of the right to freedom of expression, from a different perspective, is that it imposes both positive and negative responsibilities on the state[24] In the negative sense of the term, the right mandates that the state refrain from interfering with the exercise of the right to search for, obtain and share information and ideas, unless enabled by law.[25] Active duty essentially creates an environmental condition that supports the unrestricted flow of information and ideas in society, including facets such as the establishment of a legal framework for obtaining public information and the obligation to create a free and independent society.[26] It is important to note that national boundaries have no bearing on the right to free expression. It is safe to state that it protects the freedom to access information from other countries, whether through publications, radio, the Internet, or direct communication with persons from other countries.[27] However, it is more important to stress that the right to liberty of expression, unlike the right to have thoughts, is not limitless.[28]

Twitter: A Digital Platform for Free Speech

Twitter is a social networking platform for microblogging that allows users to "microblog" events, to express their opinions in 140 characters or fewer. This is often referred to as 'Tweet messages', while following other users' tweets in the "feed" to spread the opinion of other individuals. A user can use a fictitious name when making a post. Thus, the identity of the user may not be verified. Twitter is a free service that procures its profit from advertisements.[29] According to Jungherr, Twitter has become an ubiquitous tool in public communication for senior officials, politicians, journalists and non-governmental organizations.[30]A vast number of people all over the world are using Twitter to post comments, proffer and criticize policies, and investigate public reaction. These applications are receiving increasing scientific attention.[31]

Lehaman et al, have observed a significant surge in the usage of Twitter and mobile web apps, particularly among young adults.[32] Pew Internet & American Life Project Poll asserts that the age

[22] Ibid, Article 19
[23] John Locke, *A Letter Concerning Toleration and Other Writings* (USA: Liberty Fund Inc, 2010).
[24] Michael Makkai, "Anand Pillay. An Introduction to Stability Theory (1986) 51 Journal of Symbolic Logic 465.
[25] ibid
[26] Géraldine Muhlmann, *Journalism for Democracy* (USA: Polity, 2010).
[27] ibid
[28] ibid
[29] Zach Miners, 'Twitter IPO: Social Network Files for Initial Public Offering of Stock' (12 September 2013), available at <https://www.computerworld.com/article/2485029/twitter-files-for-ipo.html> accessed 9 November 2021.
[30] Andreas Jungherr, 'Twitter Use in Election Campaigns: A Systematic Literature Review' (2015) 13(1) *Journal of Information Technology & Politics* 72.
[31] Tetsuro Kobayashi and Yu Ichifuji, 'Tweets That Matter: Evidence from a Randomized Field Experiment in Japan' (2015) 32(4) *Political Communication* 574.
[32] Kay Lehman, Henry Brady and Sidney Verba, 'Social Media and Political Engagement' (2012) available at <https://www.pewresearch.org/internet/wpcontent/uploads/sites/9/media/Files/Reports/2012/PIP_SocialMediaAndPoliticalEngagement_PDF.pdf> accessed November 9, 2021.

group 18-29 are increasingly using Twitter and mobile devices to get political information, create political content, voice political thoughts and opinions, to share news, showcase literature, track political events, and watch political and social video skits.[33]

In response to the increasing political use of Twitter, a recent study by Baumgartner and Morris has investigated whether this media influences the political behaviour of young adults.[34] Although the evidence for consuming information via Twitter is inconsistent, Campbell and Kwak's research strongly supports that the impact of mobile web applications and online mass `political discourse in the propagation of ideologies (both political and social) is enormous.[35] However, in these operations, theoretical attention has mostly concentrated on the main impact of modern communication activity on popular engagement in politics. However, little research has been carried to determine whether individuals, particularly young people, can actively participate in politics by actively seeking out news and frequently voicing their opinions online. On the contrary, it has been noticed in the political terrain of Nigeria that Twitter has been used to ignite political followership and consciousness. This is evident especially through the campaign of the 2023, Labour Party presidential aspirant;' Peter Obi. The political followers of Peter Obi used Twitter to start and form the #OBI-idient movement.

Stromer-Galley, perceptively notes that Twitter has evolved from a social interaction tool to a central element of professional political campaigns.[36] Today, politicians around the world are putting expedient efforts into creating Twitter handle profiles in order to deliver political content. Despite this enthusiasm, there is little systematic empirical evidence of Twitter's actual impact on election campaigns. In support of this argument, Lilleker, Tenscher and Stětka noted that only a handful of studies have tried to experimentally test the relationship between Twitter handle usage and public opinion testing.[37] However, the use of Twitter is not widespread in social influencing, especially amongst the Nigerian populace. It has appeal to a vast minority of the population.

Preceptors for the Ban of Twitter in Nigeria

I. The #Endsars Movement

The #EndSARS movement's birth goes back to 2015. It started off as a single man movement with Segun Arowosanya's segalink.[38] This link was concerned with human rights violations, particularly those orchestrated by the Special Anti-Robbery Squad (SARS).[39] The hash tag 'ENDSARS' is Arowosanya's creation. The 'ENDSARS' movement compelled Nigeria's Vice

[33] Lenhart, Amanda, Kristen Purcell, Aaron Smith, and Kathryn Zickuhr 'Social Media & Mobile Internet Use among Teens and Young Adults. Millennials' (2010) *Pew internet & American life project*

[34] Jody C Baumgartner and Jonathan S Morris, 'MyFaceTube Politics' (2010) 28(1) *Social Science Computer Review* 24.

[35] Scott W Campbell and Nojin Kwak, 'Mobile Communication and Civic Life: Linking Patterns of Use to Civic and Political Engagement' (2010) 60(3) *Journal of Communication* 535.

[36] Jennifer Stromer-Galley, 'Presidential Campaigning in the Internet Age' (2015) 31(4) *Political Science Quarterly* 375.

[37] Darren Lilleker, Jens Tenscher and Václav Štětka, 'Towards Hypermedia Campaigning? Perceptions of New Media's Importance for Campaigning by Party Strategists in Comparative Perspective' (2014) 18(7) *Information, Communication & Society* 747.

[38]Twitter, 'Segun Arowosanya' (2020) available at <https://twitter.com/segalink?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor> accessed 7 February 2022

[39] ibid

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President, Yemi Osibanjo to dismantle the SARS team. The Vice President did this by calling for a "complete revamp" of the institution.[40]

However, following the Special Anti-Robbery Squad's (SARS) continued infractions, the campaign was resurrected at the beginning of October 2020, following a video broadcast showing police officers alleged to be members of the SARS squad ostensibly killing an unarmed man.[41] This action sparked a wave of unrest and protest that has culminated in one of Nigeria's largest youth-led protests in the country's history.[42] This prompted Nigerian youths to use Twitter as a social media to lobby the government to shut down the squad completely. This task was accomplished by using hashtags such as #EndSARS, #Endpolicebrutality, amongst others. On Twitter, the hashtag spread quickly as Nigerian teenagers began to express their anguish and frustrations on various social media platforms.[43]

A perceived breakdown of the social contract,[44] high rate of unemployment and inflation,[45] a seemingly frustrated middle class, wide spread corruption,[46] widespread dictatorship and an unprecedented perceived ethnic bigotry were all factors that originally motivated the ENDSARS protest. The mammoth mobilization that occurred during the protest was no doubt owed to Twitter. Hence, the protest earns its place as the first preceptor on twitter.

II. The proscription of the Indigenous People of Biafra (IPOB)

This group is an independent and separatist movement in Nigeria striving for the Igbo speaking citizens predominantly in the eastern region to secede from the rest of the country in order to secede and create a sovereign state (Biafra).[47] By virtue of the Terrorism Act,[48] if a group is proven to be participating in terrorism, it may be abolished for reason of illegality and most crucial as a threat to national security. A terrorist group is defined as one that commits or collaborates in acts of terrorism, prepares for terrorist action, advocates or sponsors terrorism (as well as the wrongful exaltation of terrorism), or for involving in terrorism.[49] Other criteria will be considered by the government when considering whether or not to use its discretion to proscribe a group, if and when the statutory threshold is met. It is important to note that on the terrorist proscription

[40] Samson Toromade, 'Osinbajo orders IGP Idris to reform notorious Police Unit' (14 August 2018) available at < https://www.pulse.ng/news/local/endsars-osinbajo-orders-igp-idris-to-reform-notorious-police-unit/698mvdw> accessed 7 February 2022

[41] William Ukpe, '#EndSARS: A day by day timeline of the protest that has brought Nigeria to its knees' (25 October 2020) available at <https://nairametrics.com/2021/10/25/endsars-protest-a-timeline-of-all-the-major-events-from-october-3rd/> accessed 20 November 2021

[42] ibid

[43] ibid

[44] Martin Beck and Simone Hüser, 'Political Change in the Middle East: An Attempt to Analyze the 'Arab Spring' (31 August 2012) available at <https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2145853_code634010.pdf?abstractid=2145853&mirid=1> accessed 25 March 2022.

[45] Nurullah Ardic, 'Understanding the 'Arab Spring': Justice, Dignity, Religion and International Politics' (January 2012) available at <https://www.researchgate.net/publication/265351039_Understanding_the_> accessed 25 March 2022.

[46] Onn Winckler, 'The Arab Spring: Socioeconomic Aspects' (2013) 20(4) *Middle East Policy* 68.

[47] Anthony Ogbonna, 'IPOB Stands Proscribed, Terrorist Group – FG' (September 19, 2017) available at <https://www.vanguardngr.com/2017/09/ipob-stands-proscribed-terrorist-group-fg/> accessed 10 November 2021.

[48] Terrorism (Prevention) (Amendment) Act, 2013

[49] Ibid, s. 25

database, IPOB has not been listed as a terrorists group. Social media platforms like Facebook and Twitter had been a mobilizing factor for the secessionist leader who was domiciled in the United Kingdom.

III. Deletion of President Buhari's Twitter

On 2 June 2021, President Muhammad Buhari, threatened the southeastern people of Nigeria, predominantly of an impending recurrence of the 1967 Nigerian/Biafra Civil War due to the ongoing insurgency in the region. Thereafter, Twitter banned the Presidents twit. Nigeria's Information Ministry declared on 5 June 2021, that Twitter's operations would be suspended 'indefinitely.' It did not name Buhari's deleted tweet, but it did mention the platform was being shut down for activities that threaten Nigeria's corporate survival.[50] The tweet of the president read: "*Many of those misbehaving today are too young to be aware of the destruction and loss of lives that occurred during the Nigerian Civil War. Those of us in the fields for 30 months, who went through the war, will treat them in the language they understand."*[51] It is important to note that the tweet was made in retaliation to the federal government's intervention in raids on military formations in the south-eastern part of the country, which led to the deaths of many security officers.[52]

IV. Analysis of the Tweet

In reaction to the rage from the Nigerian people, Twitter stated that it had removed the tweet since the tweet violated the site's rules against abusive behaviour.[53] Soon thereafter, President Buhari's Twitter account reportedly stated that the post was 'no longer available.' A user profile, on the other hand, had reposted an audio visual from the president as well as the quote: "Whoever wants the destruction of the system will soon have the shock of their lives. We've given them enough time... we will treat them in the language they understand."[54] The news provoked an instant criticism amongst social media users, and human rights activists.[55] It would readily be observed that that this twit in many dimensions could be viewed as being insensitive to a vast majority of Igbo people due to past sentiments of a yet to heal plight of the civil war. The civil war ushered in untold suffering. It is recalled that hunger killed more Igbo people than the machine gun. It then is not surprising, the twit this was perceived as an attack on people of south eastern Nigeria.

Twitter's Double Standards

The role that social media plays in today's world now transcend the serving of a social connecting platform for the expression of the individual and his or her ideas. It now serves a wider cause of arbitrating, intercepting and restricting possible conflicts that may arise from the differentiation of

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[50] Aljazeera 'Nigerian Gov't Says Twitter Ban to End 'Very Soon' (15 September 2021) available at <https://www.aljazeera.com/news/2021/9/15/nigerian-government-says-twitter-ban-end-very-soon>accessed 9 November 2021.

[51] David Royal, 'Many Misbehaving Today Not Aware of Loss of Lives during Civil War, We'll Treat Them in Language They Understand — Buhari' (1 June 2021) available at <https://www.vanguardngr.com/2021/06/many-misbehaving-today-not-aware-of-loss-of-lives-during-civil-war/> accessed 9 November 2021.

[52] Chaitanya Bagwaiya, 'Why Did Nigeria Ban Twitter?' (4 june 2021) available at <https://www.thebridgechronicle.com/news/world/why-did-nigeria-ban-twitter> accessed 9 November 2021.

[53] AfricaNews, 'Twitter Deletes Buhari's 'War' Tweet Prompting Govt Outrage' (2021) available at <https://www.africanews.com/2021/06/02/twitter-deletes-buhari-s-war-tweet-prompting-govt-outrage//> accessed 9 November 2021.

[54] ibid

[55] Maritha Ebolosue and Temitayo Jaiyeola, 'CSOs Knock FG for Continued Twitter Ban' (*14* September2021) available at <https://punchng.com/csos-knock-fg-for-continued-twitter-ban/> accessed 9 November2021.

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opinions. In order to achieve this, social media platforms have rules of engagement with sanctions for the violation of these rules. The most common of these rules are: prohibition of inciting comments, prohibition of pornographic contents, prohibition of murder or suicidal counselling. Some of the sanctions that Twitter deploys include; deletion of tweets, blocking of an account and sometime warning of violations.

The question however remains; whether the Twitter followed its rules in the deletion of President Buhari's tweet. In order to do this, we provide instances of similar occurrences, in order to seek whether Twitter is based on duplicity:

1. Al-Manar Television, a Hezbollah Media Propaganda Platform that had been identified as a foreign terrorist organization by United States authorities, was blocked by Twitter. However, Yodi Adityanath who evidently and publicly promoted bigotry and hate speech against Muslim minorities in India was not banned.[56]
2. Jawad Nasrallah, who posted materials in support of Hezbollah propaganda including loyalty to Iran and glorification of terrorist operations was banned from Twitter. Nevertheless, Salman Al-Odah who had a culture of hate and violence among young people and propagating anti-Semitic rhetoric and extremism and issued fatwa that encouraged Muslims to commit suicide attacks was not banned.[57]
3. Alex Jones, a far-right American podcast host and conspiracy theorist who has consistently and continually incited violence and hate speech was not banned by Twitter. Nonetheless the account of Qais AL-Khazali who is the leader and founder of Asa'ib, Ahl Al-Haq, a terrorist organization in Iraq designated as such by the USA was not banned.[58]
4. Donald Trump the former President of America had his account deactivated, on the other hand, Twitter left Iran's supreme leader's profile Ayatollah Al Khamenei active and functional to propagate all his views and offensive opinions.[59]

One important evidence of the effect of Twitter on the everyday Nigerian youth played out during the controversial #endsars protest which witnessed millions of Nigerians troupe out in their numbers to protest against perceived grievances against the state. This act for some reasons riled up the Nigerian government and led to the eventual ban of Twitter.[60]

[56] The National, 'Twitter Suspends Hezbollah's al Manar and Hamas-Linked Media Accounts' (2019) available at <https://www.thenationalnews.com/world/mena/twitter-suspends-hezbollah-s-al-manar-and-hamas-linked-media-accounts-1.932480> accessed 9 November2021.

[57] 'Twitter Suspends Account of Hassan Nasrallah's Son' (*Al Arabiya English*12 November2019) available at <https://english.alarabiya.net/media/digital/2019/11/12/Twitter-suspends-account-of-Hassan-Nasrallah-s-son-> accessed 8 November 2021.

[58] 'Conspiracy Theorist Alex Jones Banned from Twitter for Abusive Behavior' (*NPR)* (9 January2021) *available* at <https://www.npr.org/2018/09/07/645459755/conspiracy-theorist-alex-jones-bannd-from-twitter-for-abusive-behavior> accessed 9 November 2021.

[59] 'Twitter 'Permanently Suspends' Trump's Account' (9 January2021) available at <https://www.bbc.com/news/world-us-canada-55597840> accessed November 8 2021.

[60] Dickson Ajisafe, Tinuade Ojo and Margaret Monyani, 'The Impacts of Social Media on the #EndSARs# Youth Protests in Nigeria' (2021) <https://assets.pubpub.org/zl2isija/01626786728921.pdf>.accessed 7 March 2022.

Twitter's Threat to Free Expression

It is remains shrouded in complexity to affirm whether Twitter procured the Nigerian government to ban twitter or the notion that her youthful population are becoming more vociferous on issues affecting the polity. However, it is now clear that stemming the tide of political excesses and wearing the resilient visage is now the cloak of the young Nigerian by default. Thus, depending on how it is utilized and who controls it, technology can either strengthen or weaken democracy. However, it is important to stress that social media can be controlled of a few people, especially by creators of such platforms.[61] Thus, it is argued that "the social media networks would argue that their rules apply to everyone, even country presidents."[62]

Democracy as envisaged, will not withstand the current strength of the 'Big Tech', if authorities do not act to limit the power of companies like Google, Facebook, Twitter, and others that may emerge in the coming years. Thus, there is a tendency that there may be an adulteration and manipulation of public opinion, ultimately supplanting the ordinary man's will and choices.[63] The world is currently in a state of global cyber war, which is expected to last for the next decade. It will be challenging to dismantle the oligopoly of state-backed tech giants, whether in the United States or China.[64]

Twitter's Twisted Trend Table

The twitter trend table collects large amounts of data about user preferences and replies, and via the use of highly focused behaviour modification techniques, individuals' choices will be more manipulated in the favour of those who can afford to drive the system.[65]As an alternative, the citizen's choice is centred on a small number of controversial 'wedge' issues. This is not an example of interest representation of the people. It is indeed a modulated poll that can be readily be influenced by behaviour modification approaches such as those being advanced by technology.[66] Twitter's economic model thrives on the constant generation of controversy or a combination of individualistic, corporate or governmental outburst.[67] The social media platform's commercial model makes it inevitable that these technologies will cause more harm than benefit. The exploitative individuals will continue to triumph as long as inciting outrage, distributing false information, and exploiting ignorance will generate more money than dealing with facts, reason, science, and proof.[68]

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[61] Jon Frost l, 'BigTech and the Changing Structure of Financial Intermediation' (2019) available at <https://www.bis.org/publ/work779.pdf> accessed 8 November2021.

[62] Jeffrey W Treem et al, 'What We Are Talking about When We Talk about Social Media: A Framework for Study' (2016) 10(9) *Sociology Compass* 768.

[63] Jeffrey Shaman, 'The Theory of Low-Value Speech' (1995) 48(2) *SMU Law Review* 299

[64] Martin Moore, *Tech Giants and Civic Power* (London: CMCP, Policy Institute, 2016).

[65] Arkaitz Zubiaga, 'Real-Time Classification of Twitter Trends' (2014) 66(3) *Journal of the Association for Information Science and Technology* 462.

[66] Mor Naaman, Hila Becker and Luis Gravano, 'Hip and Trendy: Characterizing Emerging Trends on Twitter' (2011) 62(5) *Journal of the American Society for Information Science and Technology* 902.

[67] Ben Nimmo, 'Measuring Traffic Manipulation on Twitter' (2016) available at <https://comprop.oii.ox.ac.uk/wp-content/uploads/sites/93/2019/01/Manipulating-Twitter-Traffic.pdf> accessed 7 March 2022

[68] Antonio Prada and Carlos A Iglesias, 'Predicting Reputation in the Sharing Economy with Twitter Social Data' (2020) 10(8) *Applied Sciences* 2881.

Social Media and the Law

It is typically perceived that legislation does not run in a vacuum. Consequently, legislation is a reflection of the sovereignty of a state. According to Thomas Hobbes, 'Life outside of culture will be 'lonesome, inadequate, unclean, brief and barbaric.'[69] However, he likewise proposed an option to this unfavourable scenario. He advocated that the solution is to hold people or parliaments answerable.[70] Therefore, social media sites without proper oversight can easily result in unfavorable consequences in society as the freedom of speech becomes impeded. Social media is dynamic protagonist in dissecting and appraising the actions or inactions of government, forcing them to account to the 'people' and set political plans in a translucent and justifiable way.

The validity of social media networks is essentially based on the freedom of expression guaranteed by national and international legal instruments. The most relevant are the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). They state the following:

i. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.[71]
ii. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.[72]

The African Charter on Human and Peoples Rights, Article 9 (1) states that: "Every individual shall have the right to receive information." Furthermore, Article 9 (2) states that: "Every individual shall have the right to express and disseminate his opinions within the law". The Nigerian Constitution (as amended) states: "Everyone has the right to freedom of expression; this includes the flexibility to express point of views, as well as the liberty to receive and also influence ideas and information without interference." [73]

The originality of social media ushers specific challenges to the law. Most conveyors of social media are not qualified reporters, who have to abide by typical journalistic principles. They merely connect individuals that desire to spread sensationalized news by clicking the computer mouse on the post.[74] It should be noted that the liberty of speech is limited. It can be claimed that as the basic right of liberty of speech specifies, everyone has the right to publish in any form including social media, the expression or exchange of ideas. The dissemination of information is quickly establishing itself as a standard type of human rights, which can be discovered with little or no

[69]Thomas Hobbes, *Leviathan (*Malmesbury: Oxford University Press, 1910)
[70]*Ibid*
[71] Universal Declaration on Human and People's Rights, Article 19
[72] International Covenant on Civil and Political Rights (ICCPR) , Article 19
[73] Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap. C23 Laws of the Federation of Nigeria section 39(1)
[74] Greeshma Govindarajan and Nanditha Ravindar, 'Freedom of Expression on Social Media: Myth or Reality' (2016) 6(1) Global Media Journal 2

formal aid. For instance, in the United States, its constitution places flexibility of speech and the press over all various other legal rights, including the right to life and personal flexibility.[75]

Furthermore, the fact that individuals are social animals implies that to humans, the freedom of speech is an essential device or method in the formation and decision-making procedure of any society.[76]Thus, a democratic society is built on the principle of free expression. This is critical for social growth, and as a whole, for the advancement of those that want to influence the populace.[77] It implies enabling the society to completely access the view of the 'other', when sharing opinions.[78]As a result, it is agreeable that a social network is more than just a means of social interaction. Its actual significance touches actual life and secures it with the liberty of expression and the press. It therefore ensures the sustainability of civilization and culture.[79] Thus, every individual has the right to obtain information.[80] Furthermore, within the limits of the law, everybody can express and propagate their beliefs.[81]

Unlike the provisions of the International Covenant on Civil and Political Rights, this provision of the African Charter is devoid of any limits. The African Commission on Human and People's Rights (ACHPR) endorsed the African Declaration of Principles on Freedom of Expression in 2002.The function of this statement is to broaden the scope of the right to freedom of speech and also to obtain details from the African Charter.[82] Article 2 of the Declaration succinctly states that no person's freedom of expression will be arbitrarily interfered with.[83]Limitations to freedom of expression must be prescribed by legislation, must be consistent with legitimate objectives, and must be required in a democratic society.[84] Article XII of the Declaration states that States need to make certain that their defamation laws conform to the following standards:[85] "no one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstances; public figures shall be required to tolerate a greater degree of criticism;"[86] However, "sanctions shall never be so severe as to inhibit the right to freedom of expression, including by others".[87]

The right to privacy does not prohibit the circulation of information of public interest through the Internet. But there ought to be regulations in disseminating information through social media. Thus it is important to note that the African Commission of Human Rights and People's Rights (ACHR) is currently changing its laws to deal with technical advancements and brand-new locations, such as access to on the internet information.[88]

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[75] Nwabueze, B O '*The Presidential Constitution of Nigeria'* (London: Nwamife Publishers, 1982), 457.
[76] Mowoe K M, '*Constitutional Law in Nigeria'* (Lagos: Malthouse Press Ltd., 2008), 441.
[77] Nwabueze (n80)
[78] Advisory Opinion OC 5/85 8 EHRR, 168 (1985).
[79] Dorothy J. Glancy, 'The invention of the right to privacy' (1979)21:1 *Arizona Law Review* 1
[80] African Charter on Human and Peoples' Rights 1986, Article 9(1)
[81] Ibid. Article 9 (2)
[82]African Declaration of Principles on Freedom of Speech Res. 350 (EXT.OS/XX) 2016
[83] Ibid. Article 2(1)
[84] Ibid. Article 2(2)
[85] Ibid. Article XII
[86]Ibid. Article XII(1)(a)
[87] Ibid. Article XII(1)(b)
[88] Draft Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019

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Domestic Legislation

The right to freedom of expression is couched in Section 39 of the Constitution (as amended) and is acknowledged as an entitlement to all Nigerian citizens. One of the pillars of the right to free expression is the protection of journalistic independence.[89]The law goes on to specify that personal ownership of radio or television broadcasting stations for any purpose should be authorized by the President. This is done through the National Broadcasting Commission, (NBC) established by an act of the State's National Assembly.[90]Furthermore, Section 45 of the Constitution restricts liberty of speech and expression for the benefit of nationwide defence, public security, public order, public precepts or public health. For these factors, limitations on press flexibility apply to print, digital and online media.[91] In addition to the Nigerian Constitution, there are national regulations such as the Freedom of Information Act and also the Cybercrime Act, which have an impact on the press's flexibility in Nigeria Furthermore, the Nigerian Broadcasting Corporation and the Nigeria Press Council carry out regulatory functions that directly influence free expression in Nigeria.[92]

V. The Freedom of Information Act, 2011

The freedom of information Law has been established as a detailed legislation to facilitate access to public information from Nigeria on May 28, 2011. The foregoing sections of freedom of security information are spelt out extensively to imply that citizens have the right of access to public documents.[93]More exhaustively, the law covers accessibility to public information, registration of details and procedure for registration, freedom to document the details saved by public institutions. Reporters and the activities of the media have however revealed that Nigerian authorities have actually declined access and for insubstantial reasons such as public funds and a supposed duty to the nation. The truth is that access is denied not for the nation's well-being, but to cover up corrupt acts of public officers. The present reality is that public details cannot be accessed and this presents a major challenge in the collation of details for information in Nigeria.[94]

VI. The Cybercrime Act (Prohibition, Prevention, Etc) Act, 2015

The Cyber Crimes Act of 2015 addresses criminal offenses related to the prohibition, prevention, detection, penalty of cyber-criminal activity in Nigeria, it also promotes cyber safety and security.[95] Section 24 (1) (a)of the Cyber Crimes Act specifies that " Any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that - (a) is grossly offensive, pornographic or of an indecent, obscene or menacing character or causes any such message or matter to be so sent;"[96] Similarly, Section 24 (1) (b) stipulates "knows to be false, for the purpose of causing annoyance, inconvenience danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent":[97] Since the passage of the Cyber Crimes Law, Nigerian authorities and also their

[89] Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap. C23 Laws of the Federation of Nigeria
[90] ibid
[91] ibid
[92]Odike Earnest 'Right to Freedom of Expression and the Press' in Okpara (ed) *Human Right Law and practice* (Enugu: Chenglo Ltd, 2005) 247.
[93] Ibid. 249.
[94]Ogbu ON *Human Rights, Law and Practice in Nigeria: An introduction* (Switzerland: CIDJAP Press, 1999) 181.
[95]The Cybercrime Act (Prohibition, Prevention, Etc) Act 2015
[96] ibid
[97] ibid

representatives have actually frequently utilized the force of the legislation, especially section 24, to perpetrate arbitrary harassment, apprehension, detention and also intimidation and expressions of unfair prosecution as they deem fit. The root of this problem is due to the provisions of Section 24 as stated above. Vague terms such as "inconvenience", "annoyance" or "needless anxiety"[98] have been used leaving the statute to be interpreted in more ways than the law makers might have intended.[99]These vague interpretations make it more likely for the law be utilized to harass and frustrate reporters, blog owners, and media specialists.[100]

VII. Terrorism (Prevention and Prohibition) Act 2013

This statute offers a legal structure for resolving terrorism and associated crimes. It covers terrorism issues, nationwide safety and arrests, territories and problems of terrorism fund. Regardless of the meaning of terrorism being obscure in Section 1 (2) of the Act, specifies what may be considered as the crime of terrorism and prescribes execution as a punitive measure for the Terrorism crimes of Nigeria.[101]Anybody who indirectly or purposefully, commits any of the acts of terrorism has committed a criminal offence liable on conviction to maximum of death sentence. This law furthermore provides in Section 5, that law enforcement agencies are empowered arrest a person in whatever case they discover that there are suspicious activities or to arrest any person who is scheming or plotting to act criminally by terrorizing the nation. The law enforcement agencies can investigate, seal up premises, seize property, to demand relevant information to be surrendered or apprehend alleged terrorists. [102]The State can decide the best techniques to be used for arresting a suspect who has committed an act of terrorism and the best opportunity to arrest a person if they are attempting to commit terrorist acts.[103]

Conclusion

The dynamics of the right to freedom of expression has changed over the years from the usual terrestrial mode of communication to an absolute shift to virtual realities. This new age method of communication has been adopted by the government, press and citizens. To aid communication, many social networking sites have sprung up over the years. Naturally, democratic nations all over world through the social contract theory ought to guarantee the unfettered right of citizens and the press to express themselves and their ideas. Nevertheless it has been an unfortunate decline in many states in African. In the case of the ban on the use of twitter and the constant harassment of journalists and the closure of news sites by citing and relying the Cybercrime Act is in an illegal interpretation of the Act. This act has been captured as internet censorship which ultimately restricts the types of material that can be shared or accessed on the internet. Apart from blocking and filtering, other methods of internet censorship include removing material and shutting down (partial or complete) the internet. To present a balanced argument, this paper noted the non-

[98] See section15: Cyberstalking "(1) Any person who, by means of a public electronic communications network persistently sends a message or other matter that - (a) is grossly offensive or of an indecent, obscene or menacing character or causes any such message or matter to be so sent; or (b) he knows to be false, for the purpose of causing annoyance, inconvenience or needless anxiety to another or causes such a message to be sent; commits an offence under this Act and shall be liable on conviction to a fine of not less than N2,000,000.00 or imprisonment for a term of not less than one year or to both fine and imprisonment."

[99]ibid

[100]ibid

[101]Ogbu ON '*Human Rights, Law and Practice in Nigeria: An introduction'* (CIDJAP Press 1999) 181.

[102] Terrorism (Prevention) (Amendment) Act, 2015.

[103] ibid

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absoluteness of the freedom of expression due to the need to guarantee national security, protect minors from abusive content online, the need to protect humanity by verifying the incidence of hate speech and information about racial discrimination on online platforms, ensure privacy protection and secure information (this is to avoid eavesdropping). It is imperative for all stakeholders in the media, government and the ordinary Nigerian to use and restrict the use of virtual expressive mechanisms in a responsible and lawful manner to avoid trampling and counter trampling on human rights. Civil society groups must participate in ingenious campaigns that apprise the general public concerning federal government restriction and reveal and explore disinformation campaigns, including their goals and also origins. Civil society teams should participate in cutting-edge efforts that educate the public regarding government censorship and also to curtail unnecessary surveillance, sending reporters and on-line protestors to prison without trial. It is imperative that best methods for securing internet liberty should be proposed. Some useful propositions are:

I. Social Network Companies

Ensure that content removal demands from federal governments are acquiescent with international standards and most important with civil rights models. Furthermore, it should utilize all accessible opportunities to resist inopportune demands. The corporate world must also fully document government requests and notify the general about the rational connectivity or material may be limited, particularly in states where government actions are opaque. Businesses must commit to valuing their customers' rights and addressing any potential civil rights violations in their products.

Companies should endeavour not to develop technologies that impede people's free expression, or give up consumer data to federal agencies with a history of infringing on their citizen's rights or provide investigation or police devices that can be used to violate civil rights.

A. Policy Makers

The laws mandate that internet freedom be included in the development of a strategy for involving international governments in the development of international standards of accountable state behaviour on cyber issues. Legislators must demonstrate enough care for the environment and society. The law mandates that internet freedom be included the development of a strategy for involving international governments in the development of international standards of accountable state behaviour on cyber trepidations. It is trite to stress that social media is the new norm of expression, therefore international standards and regulations are imperative to make the liberty of communication an unfettered right in the digitalized age.