

**PROTECTING REPUTATIONS IN THE DIGITAL SPACE: AN ANALYSIS OF THE  
DEFAMATION LAW AND DIGITAL REFORMS**

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**A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW,  
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FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS (LLB) OF THE  
UNIVERSITY OF BENIN, BENIN CITY.**

**NOVEMBER, 2025**

## **CERTIFICATION**

I, **OKUNBOR OSWIN NDUKA**, with Matriculation Number **LAW2000733**, hereby certify that apart from references to other persons' works which have been duly acknowledged, the entire work is a product of my research, and this project has neither in whole nor in part been presented for another degree elsewhere.

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## **APPROVAL**

We certify that this project was written and completed by **OKUNBOR OSWIN NDUKA** with Matriculation Number **LAW2000733** in partial fulfilment of the requirements for the award of a Bachelor of Laws (LL.B) degree.

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**DEDICATION**

I dedicate this work to God, whose grace and guidance have sustained me throughout this journey.

I dedicate this research work to my family, whose constant support, love, and encouragement have been the backbone of my academic journey.

To all creators, innovators, and thinkers whose ideas inspire progress and whose rights deserve to be protected, this work is dedicated in recognition of your invaluable contributions to society.

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## **LIST OF STATUTES**

### **International**

1. United Kingdom Defamation Act, 2013
2. Universal Declaration of Human Rights (UDHR), 1948
3. Communications Decency Act (CDA), 1996
4. digital service act, 2022
5. defamation amendment bill, 2023

### **Nigeria**

1. Constitution of the Federal Republic of Nigeria, 1999 (as amended)
2. Criminal Code Act, 1960
3. Cybercrimes Act, 2015
- 4.



## LIST OF ABBREVIATIONS

| <b>Abbreviation</b> | <b>Meaning</b>                                  |
|---------------------|---|
| AI                  | Artificial Intelligence                         |
| ALI                 | American law Institute                          |
| CDA                 | Communication Decency Act                       |
| CFRN                | Constitution of the Federal Republic of Nigeria |
| DSA                 | Digital Service Act                             |
| EU                  | European Union                                  |
| FCT                 | Federal Capital Territory                       |
| IBA                 | International Bar Association                   |
| ISP/ISPs            | Internet Service Providers                      |
| MLAT                | Mutual Legal Assistance Treaty                  |
| NBA                 | Nigerian Bar Association                        |
| UDHR                | Universal Declaration of Human Rights           |
| UK                  | United Kingdom                                  |
| US/USA              | United States of America                        |

## **ABSTRACT**

The topic entails the flaws of the traditional defamation law in dealing with activities on the internet. The limitations of the traditional defamation law in protecting the reputations of persons on the internet where such reputations have been affected by statements made by individuals or groups and the law not being able to bring justice to such wrong doers in some cases due to anonymity or the speedy spread of information online. However, there have been provisions such as those laid down in section 24 of the Cybercrimes Act 2015 pertaining to digital defamation, addressing the flaws of the traditional defamation laws and laying down sanctions for such defamatory offences ranging from seven million fines to not less than three years imprisonment or both for offenders. This analysis aims to explore the inadequacies of the traditional defamation laws and the evolving landscape of defamation law in the digital age like the Australian Defamation Amendment Bill of 2023. The work highlights the need for reforms and advancement of the traditional defamation law in order to tackle unique digital challenges such as jurisdictional issues, anonymity, and balancing the need to protect reputations with the right to free speech as contained in section 39 of The 1999 Constitution of the Federal Republic of Nigeria as amended and also Article 19 of the Universal Declaration of Human Rights and how such rights are not completely absolute.

By analysing the current legal framework and its limitation in tackling online defamation, this study highlights the importance of advancing defamation law in Nigeria to effectively protect reputations while balancing the right to freedom of expression. The findings of this research will provide an insight into the complex interplay between protecting reputations and preserving free speech in the digital space highlighting the need and importance of adaptive legal frameworks, increased protections and international cooperation to promote a safer online environment and better safe guard individual reputations.

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## **CHAPTER ONE: GENERAL INTRODUCTION**

### **1.1 Introduction**

The keyboard as a weapon wields the power to either build or destroy the reputation of a person in mere seconds. But where does free speech end and defamation begin?<sup>1</sup> In an era where a single tweet can ruin a career and a viral post can make or break a legacy, the law

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<sup>1</sup> Buckingham, 'Defamation vs. Free Speech' < <https://www.bdblaw.com/defamation-vs-free-speech/>> accessed 10<sup>th</sup> September, 2025

struggles to keep pace with the revolution of internet communication. The digital age has revolutionized global communication, allowing information to spread instantly across the world, and while this shift has opened new opportunities for free expression and democratized public discourse, it has also posed significant challenges for the defamation law, requiring legal systems to evolve and address the unique complexities of online interaction.<sup>2</sup> The evolution of defamation law in this context reflects a delicate balancing act between protecting individual reputations and preserving freedom of expression, all while addressing the unique dynamics of digital platforms.<sup>3</sup> The right to freedom of expression is a cornerstone of democratic societies,<sup>4</sup> enshrined in human rights instruments such as Article 19 of the Universal Declaration of Human Rights<sup>5</sup> and Section 39 of the Nigerian Constitution.<sup>6</sup> It guarantees every individual the ability to express opinions, share ideas, and disseminate information without unwarranted interference or discrimination. However, this right is not absolute.<sup>7</sup> The law recognizes the need to protect individuals and institutions from false statements that can cause reputational harm<sup>8</sup>—hence, the legal framework of defamation. With the rise of the internet communication revolution, traditional defamation laws face unprecedented challenges.<sup>9</sup> The internet has become a vast open forum where billions interact, often behind a veil of anonymity, allowing defamatory statements to spread rapidly without accountability. Social media, blogs and online news outlets have magnified the scope and damage of misinformation, creating a fragile boundary between free speech

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<sup>2</sup> Caesar, 'How Does the Internet Influence Global Communication?' < <https://talkspeaker.com/how-does-the-internet-influence-global-communication/>> accessed 10<sup>th</sup> September, 2025

<sup>3</sup> Justia, 'Online Defamation Law and Social Media' < <https://www.justia.com/injury/defamation/online-defamation-and-social-media/>> accessed 10<sup>th</sup> September, 2025

<sup>4</sup> UN, 'Freedom of Speech: Cornerstone of Democracy, But not Excuse for Spreading Hate Speech' < <https://montenegro.un.org/en/164594-free-speech-cornerstone-democracy-not-excuse-spreading-hate-speech?> > accessed 10<sup>th</sup> September, 2025

<sup>5</sup> Universal Declaration of Human Rights (UDHR), 1948

<sup>6</sup> The Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>7</sup> Section 45(10) (a-b) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>8</sup> Law Shelf, 'Tort Law: The Rules of Defamation' < <https://www.lawshef.com/shortvideoscontentview/tort-law-the-rules-of-defamation>> accessed 10<sup>th</sup> September, 2025

<sup>9</sup> Holton A. E, 'Beyond Control?: The Rise and Fall of Defamation Regulation on the Internet' *Valparaiso University Law Review* (2009) vol 43(3)

and reputation harm.<sup>10</sup> The evolving digital landscape demand a critical review of defamation laws, identifying gaps in their application and ensuring that any legal reforms balances protection of reputations with the preservation of free expression rights. The digital revolution has transformed global communication, facilitating instant information sharing worldwide. While this shift has democratized public discourse, it has also posed significant challenges for defamation law, requiring legal systems to navigate the complexities of online interactions. Striking a balance between safeguarding reputations and upholding freedom of expression is crucial, Particularly in the context of digital reforms “unique dynamics”.<sup>11</sup> One of the most significant challenges in online defamation cases is jurisdictional uncertainty. The internet’s borderless natures makes it difficult to determine where defamatory statements are published and the law which will apply. Courts face complex decisions when parties and audiences are scattered across different regions, raising concerns about enforcement and conflicting legal standards. For example, a single online post can cause reputational harm worldwide, forcing courts to balance territorial sovereignty with the realities of digital interconnectedness.<sup>12</sup>

The notion of publication has evolved, as social media platforms amplify defamatory contents with features such as retweets, shares and algorithmic promotion multiplying the reach and influence of defamatory contents. Courts have struggled to determine liability in cases involving hyperlinks, embedded content and passive hosting. A notable example is the Canadian case of *Crookes v Newton*<sup>13</sup>, where the supreme court held that hyperlinking to defamatory content does not constitute publication except the content is repeated or endorsed.

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<sup>10</sup> Revills V. ‘As Social Media Continues to Evolve, Online Defamation Laws Remain Stagnant’ < <https://law.fiu.edu/2017/04/17/social-media-continues-evolve-online-defamation-laws-remain-stagnant/>> accessed 10<sup>th</sup> September, 2025

<sup>11</sup> Robinson-Dunning N, ‘Defamation Law in the Age of Social Media: The Criticisms and Potential Reforms for the Issue of Court Jurisdiction’ < <https://www.cba.org/sections/civil-litigation/resources/defamation-law-in-the-age-of-social-media-the-criticisms-and-potential-reforms-for-the-issue-of-cou/>> accessed 10<sup>th</sup> September, 2025

<sup>12</sup> *Ibid*

<sup>13</sup> *Crookes v. Newton*, 2011 SCC 47, [2011] 3 S.C.R. 269

This decision of the supreme court highlighted the need to distinguish between mere facilitation of access and active dissemination of harmful material. Balancing competing rights adds another layer of complexity. While defamation law seeks to protect individuals and entities from false statements that harm their reputations, it must also safeguard free speech, particularly in online spaces where public discourse thrives. This tension intensifies in cases involving anonymous users, parody accounts, or rapidly trending content, where the speed and scale of dissemination often outpace traditional legal remedies. The Chioma Okoli tomato paste case clearly illustrates the delicate balance between free speech, defamation and reputational harm in the digital age. The simple review made by Chioma on Facebook expressing her personal opinion about the product's taste, saying it contained "too much sugar" led to her arrest and prosecution under the Cybercrimes Act 2015, which criminalizes messages intended to cause harm. It raises critical questions as to freedom of expression and the right to fair consumer feedback. While individuals have the right to express honest opinions about products they purchase, companies also have the right to safeguard their reputations from false or damaging statements. Ultimately, the case emphasizes the need for a balanced legal framework that protects both corporate reputation and individual free speech, ensuring that expressions of opinions, especially those made in good faith are not punished as crimes in the digital space.

Recent reforms in Australia showcase attempts to adapt defamation laws to the digital age. Distinct from the traditional defamation law of Australia (The Defamation Act 2005), The Defamation Amendment Bill<sup>14</sup> in New South Wales introduces conditional exemptions for digital intermediaries like search engines and social media platforms, shielding them from liability for third-party content unless they actively promote or fail to remove defamatory

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<sup>14</sup> The Defamation Amendment Bill, 2023

materials after being notified.<sup>15</sup> In tandem, the Australian Capital Territory (ACT) proposed reforms in 2024, protecting passive intermediaries like email providers from liabilities for defamation unless they knowingly facilitate it.<sup>16</sup> These reforms introduce a more nuanced approach to accountability, recognizing intermediaries diverse involvement in online content. The “the innocent dissemination” defense is key, protecting intermediaries that promptly remove flagged contents. Courts are empowered to order the removal or disclosure of anonymous users, weighing public interest against privacy concerns and fairness concerns. For instance, search engines typically are not liable for organic results, but may face consequences for algorithmically promoting defamatory content for profit. These updates aim to align platform responsibilities with their operational realities.

Traditional defamation defenses, such as truth (justification), honest opinion, and privilege, remain relevant online but require reinterpretation in digital contexts. The 2021 Australian High Court case *Fairfax Media v Voller*<sup>17</sup> underscored this by holding media companies liable for third-party comments on their social media pages, prompting legislative clarifications to distinguish between active hosting and passive platforms. The growing dominance of user-generated content and rapid technological advancements highlights the need for clearer guidelines on intermediary liability. The emergence of AI (Artificial Intelligence) tools used to create AI-generated content such as deep fake videos or texts and block chain technology and platforms where contents cannot be easily removed poses significant challenges to existing legal frameworks, requiring lawmakers and courts to reassess authorship, intent and content removal in the digital age.

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<sup>15</sup> Felicio, ‘New Defamation Laws in NSW: A Landmark Shift for Online Speech’ <<https://feliciolawfirm.com.au/new-defamation-laws-in-nsw-a-landmark-shift-for-online-speech/>> accessed 22<sup>nd</sup> September, 2025

<sup>16</sup> ALS, ‘Policy and Law Reform Updates: June 2024’ <<https://www.actlawsociety.asn.au/about/publications/hearsay-newsletter/policy-and-law-reform-updates/June-2024>> accessed 22<sup>nd</sup> September, 2025

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<sup>17</sup> *Fairfax Media Publications Pty Ltd 9v Voller* [2021] HCA 27

In conclusion, the internet has fundamentally changed defamation law, requiring flexible legal approaches to tackle jurisdictional issues, new publication standards and the need to balance free speech with reputation protection. While reforms in places like Australia show promise, the fast pace of technological innovations means defamation law will continue to evolve. As AI (Artificial Intelligence) and decentralized platforms reshape information sharing, ongoing legal adaptation, international cooperation and technological awareness will be crucial to ensuring justice in the digital world.

## 1.2 Background to the Study

The internet has revolutionized global communication, empowering individuals to share opinions, information and ideas on a massive scale. Unlike traditional media, where the contents are carefully controlled and disseminated through established channels, the internet has democratized information sharing, enabling anyone with access to publish and distribute contents instantly. While this has amplified freedom of expression, it has also created significant challenges in regulating defamatory speech. Traditional defamation laws designed for print and broadcast media are struggling to keep pace with the complexities of online communication, pushing the fundamental principles of publication, identification and harm to new and uncharted territories.

Defamation is a legal mechanism designed to protect individuals and entities from false statements that damage their reputation. However, the internet's unique characteristics such as anonymity, virality, and jurisdictional ambiguity have made enforcement more difficult. Cases like *Crookes v Newton*<sup>18</sup> in Canada, which ruled that hyperlinking does not constitute publication for defamation purposes, and *Fairfax Media Publications Pty Ltd v Voller*<sup>19</sup> in Australia, which held media outlets liable for third-party comments on their social media

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<sup>18</sup> (2011 SCC 47)

<sup>19</sup> ([2021] HCA 27)

pages, demonstrate the evolving nature of defamation law in the digital space. These legal developments highlight the ongoing struggle to balance reputational rights with the fundamental human right to freedom of speech.

Freedom of expression is a fundamental pillar of democratic societies, safeguarded by key instruments like Article 19 of the Universal Declaration of Human Rights (UDHR) and Section 39 of the 1999 Constitution of the Federal Republic of Nigeria (CFRN) as amended. However, this right has limits. The proliferation of digital platforms has led to a surge in false and damaging statements spreading quickly, often with lasting consequences.<sup>20</sup> Unlike traditional defamation where content is controlled by editors and publishers, online defamation can come from multiple sources, including anonymous users and automated bots, making it harder to track and address. The viral nature of the internet allows defamatory contents to cross borders, raising complex questions about jurisdiction and enforcement.<sup>21</sup> As a result, victims of online defamation often face significant challenges in seeking redress, whether due to the difficulty of identifying perpetrators or holding online platforms accountable.<sup>22</sup>

The legal system has attempted to address these challenges through various reforms. For example, the UK's Defamation Act<sup>23</sup> introduced a "serious harm" threshold to prevent frivolous claims and provided protections for website operators.<sup>24</sup> Similarly, the European Union's Digital Services Act<sup>25</sup> aims to regulate online platforms and establish clearer liability

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<sup>20</sup> V. Eisinger and S. Somal, 'Defamation and Reputation Management in the Digital Age' <<https://www.cshlaw.com/resources/defamation-and-reputation-management-in-the-digital-age/>>> accessed 22<sup>nd</sup> September, 2025

<sup>21</sup> *Ibid*

<sup>22</sup> *Ibid*

<sup>23</sup> UK Defamation Act 2013

<sup>24</sup> D. J Acheson, 'Corporate Defamation In English Law: Corporate Reputation, Freedom Of Speech, And The Defamation Act 2013' <

[https://pure.port.ac.uk/ws/portalfiles/portal/21345313/David\\_Acheson\\_Corporate\\_Defamation\\_in\\_English\\_Law\\_ETHOS\\_copy.pdf](https://pure.port.ac.uk/ws/portalfiles/portal/21345313/David_Acheson_Corporate_Defamation_in_English_Law_ETHOS_copy.pdf)> accessed 22<sup>nd</sup> September, 2025

<sup>25</sup> European Union's Digital Services Act, 2022

standards.<sup>26</sup> In Nigeria, the Cybercrimes Act 2015 includes provisions related to online defamation,<sup>27</sup> but enforcement remains limited. Despite these efforts, there is still no universal framework that effectively addresses the complexities of defamation in the age of internet communication.

In light of this challenges posed by online defamation, this study conducts a thorough analysis of the effectiveness of current defamation laws. It aims to determine whether these laws can adequately address the complexities of internet based defamation while protecting both reputations and freedom of expression. The study also considers potential legal reforms to update defamation laws in order to ensure they remain relevant, enforceable, fair and equipped to handle the unique characteristics of digital communication, where content spreads rapidly and the law must adapt to keep pace.

### **1.3 Statement of the Problem**

The internet communication revolution has significantly altered the landscape of defamation law, creating new legal challenges that traditional frameworks struggle to address. In the past, defamation was primarily associated with newspapers, radio, television, and other controlled media, where publishers and editors bore responsibility for content. Today, the rise of digital platforms, social media, and instant messaging has blurred the lines of liability,<sup>28</sup> making it difficult to determine who should be held accountable for defamatory statements. This shift raises fundamental questions about the adequacy of existing defamation laws, particularly in Nigeria, where legal responses to internet-based defamation remain inconsistent and, in many cases, inadequate.

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<sup>26</sup> EM, 'The Digital Services Act package' < <https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package>> accessed 22<sup>nd</sup> September, 2025

<sup>27</sup> Section 24(1)(b) of the Cybercrime Act, 2015

<sup>28</sup> Dreibelbis H. M 'Social Media Defamation: A New Legal Frontier Amid The Internet Wild West' < <https://9scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1176&context=djclpp>> accessed 22<sup>nd</sup> September, 2025

A major challenge in tackling online defamation is the issue of anonymity.<sup>29</sup> Unlike traditional media, where authors are typically identifiable, the internet enables individuals to spread false and damaging content without revealing their true identities. This anonymity makes it challenging for victims to identify those responsible. Anonymous online users who wear masks through tools like VPNs, proxies and disposable pseudonymous accounts create significant technical barriers to identification as these methods obscure IP addresses, device details and behavior patterns, often requiring user errors or advanced forensics to breach. Also users who go around using different Wi-Fi accounts in order to stay anonymous can be traced through the process of looking through the history of the Wi-Fi accounts accessed and then traced back to the phone used to connect to the Wi-Fi accounts. This is an effective method of identifying users who tend to make defamatory statements using several Wi-Fi accounts in order to stay anonymous. Legal, practical and ethical limitations further compound the challenge, with privacy laws demanding warrants for data access, resource intensive investigations prioritizing severe cases, and the need to balance the role of anonymity in protecting free expression and vulnerable groups against accountability for abuse. In Nigeria, although the Cybercrimes Act 2015 criminalizes online offences like cyberstalking, which includes defamation, enforcement is hindered by the difficulty of tracking down anonymous perpetrators. The slow pace of the judicial process and lack of expertise in digital forensics further complicate the ability of victims to pursue justice.<sup>30</sup> Another major issue is the rapid and uncontrollable spread of defamatory content.<sup>31</sup> Social media platforms such as Facebook, Twitter, and WhatsApp enable defamatory statements to go viral within seconds, amplifying reputational harm before legal remedies can be pursued.

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<sup>29</sup> *Ibid*

<sup>30</sup> Rakhya N. A., 'Cybercrime and the Law: Addressing the Challenges of Digital Forensics in Criminal Investigations' <

[https://www.researchgate.net/publication/378197719\\_Cybercrime\\_and\\_the\\_Law\\_Addressing\\_the\\_Challenges\\_of\\_Digital\\_Forensics\\_in\\_Criminal\\_Investigations](https://www.researchgate.net/publication/378197719_Cybercrime_and_the_Law_Addressing_the_Challenges_of_Digital_Forensics_in_Criminal_Investigations)> accessed 22<sup>nd</sup> September, 2025

<sup>31</sup> *Ibid*

Unlike traditional defamation, where damage might be limited to a newspaper circulation or television audience, online defamation has a global reach, making it more damaging and harder to retract.<sup>32</sup> In Nigeria, where social media is widely used for news and public discourse,<sup>33</sup> individuals particularly public figures, politicians, and business owners are frequently victims of false accusations, character assassination, and misinformation. The lack of a clear take-down mechanism or effective legal recourse means that even when defamatory content is proven false, it remains on the internet indefinitely.

Jurisdictional challenges also present significant legal obstacles. Defamatory content posted online can be accessed across multiple jurisdictions, raising questions about which country's laws should apply in cases of cross-border defamation. Nigerian law does not provide clear guidance on handling online defamation cases that originate outside the country but affect Nigerian citizens. This gap allows foreign-based individuals or organizations to publish harmful content about Nigerians without facing legal consequences.

Furthermore, the liability of internet intermediaries such as Facebook, X (formerly Twitter), Instagram, and Google remains a contentious issue. Unlike traditional publishers, these platforms argue that they are merely hosts of user-generated content and should not be held responsible for defamatory material posted by third parties. However, recent cases like *Fairfax Media Publications Pty Ltd v Voller* ([2021] HCA 27) in Australia have challenged this stance, holding media companies accountable for third-party comments on their social media pages. Nigeria currently lacks clear legislation on intermediary liability, leaving victims of online defamation without a defined legal path to hold platforms accountable.

Despite the existence of defamation laws under Nigerian common law and the Criminal Code, these laws were designed for traditional media and do not adequately address the

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<sup>32</sup> Iyer D, 'An Analytical Look Into the Concept of Online Defamation in South Africa' <<https://www.saflii.org/za/journals/SPECJU/2018/10.pdf>> accessed 22<sup>nd</sup> September, 2025

<sup>33</sup> Omipida I, 'The Role of Social Media in Shaping Public Discourse on Government Policies in Nigeria: A Discourse of the Nigerian X (Formerly Twitter) Space' *Journal of African films and Diaspora Studies (JAFDIS)* 92024) vol 7(3)

complexities of internet communication. The legal framework is outdated and does not sufficiently account for the unique nature of digital content, such as the speed of dissemination, the difficulty of removal, and the global nature of online interactions. The absence of a dedicated internet defamation law in Nigeria creates a legal vacuum, allowing many perpetrators to act with impunity.

In light of these challenges, this study seeks to critically appraise the law of defamation in Nigeria within the context of the internet communication revolution. It aims to evaluate the effectiveness of existing legal frameworks, identify key gaps, and propose reforms that align with international best practices. Given the increasing reliance on digital platforms for communication, commerce, and governance, there is an urgent need to modernize Nigerian defamation laws to ensure they provide effective protection against online defamation while balancing freedom of expression and digital rights.

#### **1.4 Aim and Objectives of the Study**

The primary aim of this study is to critically appraise the law of defamation in the context of the internet communication revolution, with a focus on its applicability, effectiveness, and challenges in Nigeria. The study seeks to assess whether the existing defamation laws are adequate to regulate defamatory statements made online while balancing the right to freedom of expression and the protection of reputational rights. Specific objectives include:

1. To analyze the current legal framework governing defamation in Nigeria.
2. To assess the challenges posed by the internet and digital communication technologies to the application and enforcement of defamation law in Nigeria.
3. To evaluate the extent to which the existing law balances the protection of reputation with the right to freedom of expression in the digital age.

4. To identify gaps and deficiencies in the current legal framework and propose recommendations for legal reforms.

## **1.5 Research Questions**

The following are the research questions this study aims to answer.

1. What is the current legal framework governing defamation in Nigeria, and how is it applied in internet communication?
2. What challenges do the internet and digital communication technologies pose to the enforcement of defamation law in Nigeria? How does the existing legal framework balance the protection of reputation with freedom of expression?

## **1.6 Significance of the Study**

This study is important because it provides a comprehensive analysis of the developed legal scenario of defamation in internet communication, especially within Nigeria. In an era where digital platforms have become the primary medium for public discourse, traditional defamation laws are insufficient to address unique challenges arising by online communication. The study highlights the boundaries of the existing Nigerian defamation laws, mainly designed for print and broadcasting media, and checks their effectiveness in regulating defamation content in digital space. Studies are important in contributing to legal scholarship by filling the difference in research on defamation law and internet communication intersection in Nigeria. By evaluating relevant legal provisions, historical matters and international best practices, it provides information about how Nigeria can

modernize its legal structure to address online defamation complications. It also provides a comparative perspective by analyzing how other courts, such as the United Kingdom, the United States and Australia, have adapted their defamation laws to the realities of digital communication. Beyond educational relevance, studies have practical implications for policy makers, legal practitioners and judicial authorities. By identifying major legal intervals and proposing reforms, it acts as a guide to legislative action aimed at balancing the right to freedom of expression with the need to protect individuals and institutions from iconic losses. The study also benefits the victims of online defamation by highlighting the legal measures available to them and the challenges that can demand prevention.

Additionally, the study is relevant to social media companies, journalists and content creators, as it examines their role and legal responsibilities in preventing the spread of defamation content. In an era where misinformation spreads rapidly, the findings and recommendations of this study will help inform the discussion on arbitration liability, material moderation and digital rights. Ultimately, this research contributes to Nigeria's developed legal and technical scenario in human rights, free speech and extensive discourse on responsible digital communications.

### **1.7 Scope and Limitation of the Study**

The study focuses on the evaluation of defamation laws in terms of internet communication revolution, with special emphasis on the legal structure of Nigeria. It checks how traditional defamation laws apply to online communication and evaluate challenges generated by digital platforms, including oblivion, wireless, mediation and judicial complications. The study also investigates comparative legal approaches, which draws insights from courts such as the United Kingdom, the United States, Canada and Australia, to identify international best practices that may be relevant to Nigeria. The study is primarily theory and library-based,

depending on the analysis of legal methods, case laws, educational literature and judicial interpretations. It reviews major Nigerian laws related to Nigerian laws, including the International Human Rights structure, including the Criminal Code, the Cybercrime Act 2015 and the Nigerian Constitution, which protect both expression and freedom of reputed rights. However, the study has some limitations. First, it is limited to legal analysis and does not include empirical research, such as interviews or survey with legal physicians, policy makers or online defamation victims. Second, while the study compares international comparison, it does not make a detailed review of all global courts, but focuses on people with notable legal development in online defamation. Another limit is that research is conducted within the current legal and technical structure, which means that future technological progress or legislative changes can change some of its conclusions and recommendations. Despite these limitations, the study provides a critical and insightful appraisal of defamation law in Nigeria within the digital age, offering valuable contributions for legal reforms, policymaking, and the broader discourse on internet regulation, digital rights, and free speech protections.

Researching on the Defamation law of Nigeria in the digital age comes with various challenges. The present laws are still the ones which were in use in the past, so they do not clearly cover issues like online slander or social media posts. Also, there are few court cases in Nigeria that deal directly with defamation on the internet which makes it hard to know how the judges would interpret things like tweets, blogs or viral videos. There is also the issue as to jurisdiction in the sense that anything posted in Nigeria can be seen all over the world and as such brings about the issue as to what law or laws would apply. There is also the problem of balancing the protection or reputations with the freedom of speech. Technological advancement is also a problem as it changes fast while the law struggles to keep up, especially with new social media platforms coming up. To top these problems is the weak enforcement against anonymous posters or platforms outside Nigeria.

## **1.8 Research Methodology**

The two fundamental research methods are doctrinal and non-doctrinal. For this study, the doctrinal approach will be utilized, with materials sourced from primary sources, including various textbooks, casebooks, journals, statutory laws, the internet, and regional and national laws. Additionally, secondary sources such as articles, newspapers, and magazines discussing the concept of internet defamation will also be included.

## CHAPTER TWO: LITERATURE REVIEW

### 2.1 Introduction

Defamation law is a complex legal area that seeks to balance the protection of individual reputation with the safeguarding of freedom of expression. It involves publishing false statements that harm someone's reputation, with distinctions made between libel (written or permanent forms) and slander (spoken or transient forms). The core elements of defamation<sup>34</sup> include a defamatory statement likely to lower the subject's esteem, identification of the claimant, publication to at least one third party, and serious harm to reputation.

The advent of digital media has introduced complexities to defamation law. Online platforms enable the instantaneous and widespread dissemination of information, amplifying the impact of defamatory statements.<sup>35</sup> Challenges include anonymity, jurisdictional issues, and the rapid spread of information. Courts have grappled with whether each sharing constitutes a separate defamatory act or if it is considered a single publication.<sup>36</sup> The role of intermediaries, such as social media platforms, in defamation cases is contentious, with varying degrees of liability across jurisdictions.

According to Adeduyide,<sup>37</sup> a notable recent defamation case in Nigeria involved human rights lawyer and activist Dele Farotimi and esteemed legal luminary Afe Babalola. The dispute arose from statements made by Farotimi in his book, "Nigeria and its Criminal Justice System," where he alleged that Babalola had corrupted Supreme Court Justices. Babalola viewed these allegations as defamatory and initiated legal action. In December 2024, the Nigerian Police Force, acting on Babalola's complaint, charged Farotimi with defamation and cyberbullying based on the alleged defamatory content in his book. Farotimi was arraigned

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<sup>34</sup> Odigie D, *law of Torts: Text and Cases* (Benin City, Ambik Press. Ltd 2008)

<sup>35</sup> Iyer D, 'An Analytical Look Into the Concept of Online Defamation in South Africa' < <https://www.saflii.org/za/journals/SPECJU/2018/10.pdf>> accessed 22<sup>nd</sup> September, 2025

<sup>36</sup> *Ibid*

<sup>37</sup> Adeduyite O, 'How Dele Farotimi Defamed Me – Afe Babalola' < <https://punchng.com/how-dele-farotimi-defamed-me-afe-babalola/>> accessed 13<sup>th</sup> September, 2025

before the Ekiti State Magistrate Court, where he was granted bail set at ₦50 million, with conditions including the provision of a surety of the same amount and ownership of landed property. Following interventions by prominent traditional rulers, including the Ooni of Ife, Oba Adeyeye Ogunwusi, Babalola agreed to withdraw the defamation charges. Consequently, the Federal High Court in Ado Ekiti struck out the case on January 29, 2025, following the prosecution's application for withdrawal. This case highlights the complexities involved in defamation proceedings, especially when they intersect with issues of freedom of expression, the role of public figures, and the influence of traditional and digital media in disseminating potentially defamatory content.

Odigie<sup>38</sup> noted that defamation refers to any imputation or utterance which tends to attack and lower the plaintiff's reputation in the estimation of right thinking members of the society generally, and exposes him to hatred, contempt or ridicule. Odigie also noted that, the tort of defamation can either be slander, libel or both. To the author, the tort of slander is committed when the tortfeasor makes damaging remarks in verbal form about another to a third party or person, while libel is defamation using writing or other permanent forms of inscription such as pictures, printed matters, photographs, cartoons and statutes. A statement becomes defamatory once its nature is capable of causing adverse opinions against the plaintiff or in the telling of other persons.<sup>39</sup> It could be in the form of an attack on the moral character of the plaintiff by attributing to him any form of disgraceful conduct such as crime, dishonesty, untruthfulness or ingratitude. Hence, the following has been held to be defamatory, namely; to publish of a man that he is a rogue and rascal, a swindler, a crook, a coward, a War, a hypocrite, villain or habitual nature criminal. It is defamatory to impute a contagious disease to a person, when in fact, it is false.<sup>40</sup>

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<sup>38</sup> D. Odigie, *law of Torts: Text and Cases* (Benin City, Ambik Press. Ltd 2008)

<sup>39</sup> *Ibid*

<sup>40</sup> *Jones v Jones* (1961) 2 AC 481 at 500

Adewusi-Bakare<sup>41</sup> also noted that defamation is a tort that is committed to destroy one's reputation. The right to freedom of expression has been recognized and protected by several international human rights instruments, as well as by Section 39 of the Nigeria Constitution.<sup>42</sup> There are some restrictions placed on the exercise of this right under section 45 of the Nigerian Constitution. These restrictions are in place to ensure that the right is exercised with caution. In cases where the effect of the defamatory words appears to cause a breach of peace, the Police or the Attorney General may prosecute the defendant for the offense of criminal libel under sections 60, 373-380 of the Criminal Code.<sup>43</sup> In Nigeria, it is considered to be a dishonorable act to arrest a journalist for civil matters, as the author opined that the Defamation Law has not been encouraging to the media.<sup>44</sup> The fact that individuals are victimized as a result of the interests of governments, in conjunction with the question of jurisdiction, continues to be a significant problem and constitutes an obstacle to the right to freedom of expression that is granted.

According to Winfield<sup>45</sup> the term "defamation" refers to the harm that is done to the reputation of the claimant as a result of statements that are fabricated by the defendant, either verbally or in writing, to discredit the claimant, or that discredit his trade or his profession, or that expose him to hatred or ridicule, or that causes others to avoid him, and that lower his reputation in the estimation of right-thinking members of society in general.

Malemi<sup>46</sup> in distinguishing between the two forms of defamation notes that defamation is typically categorized as 'Slander' or 'Libel'. Slander constitutes defamation conveyed by spoken language or gestures. It exists in a fleeting form, typically conveyed through spoken

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<sup>41</sup> Adewusi-Bakare M. B, 'Re-Examining The Challenges Of The Law Of Defamation In Nigeria' *African Journal of Law, Ethics and Education [AJLEE]* (2024) Vol 7

<sup>42</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended)

<sup>43</sup> Criminal Code Act, 1960

<sup>44</sup> Aniche A. 'The Law on Defamation in Nigeria' < <https://lawclinicpro.com/defamation-in-nigeria/>> accessed 22<sup>nd</sup> September, 2025

<sup>45</sup> Winfield P. H, *Law of Tort* (London: Sweet & Maxwell 1950)

<sup>46</sup> Ese Malemi, *Law of Torts in Nigeria* (Lagos: Princeton Publishing Company, 2013), p. 568.

language or gestures. Consequently, it exerts a lesser impact than permanent statements; thus, it is not actionable *per se* unless the claimant demonstrates that he has incurred 'actual damage' or in cases where the defendant alleges that the claimant has perpetrated a criminal offense punishable by death, imprisonment, or caning. However, such statements must be examined within their context and in light of the circumstances in which they were made. If the plaintiff must depend on the secondary meaning of the spoken word, he must demonstrate that the words could plausibly imply that a crime subject to corporal punishment (such as death, imprisonment, or caning) was attributed. The rationale for this is that such statements would likely result in the plaintiff being socially stigmatized, so prompting others to avoid him.

Adewusi-Bakare<sup>47</sup> also opined that the act of attributing to a professional or businessman a lack of qualification, knowledge, ability, capacity, or efficiency in the practice of his trade, business, or professional activity that ultimately results in a loss of esteem, integrity, or profits is considered to be a form of defamation. Nevertheless, something that can be considered defamatory in one community in Nigeria might not necessarily be considered defamatory in another society. As a result, while determining whether or not a remark is defamatory, it is necessary to take into consideration the conditions of time and place. When repeated in the newspaper, a comment that is not considered to be defamatory when it is made at a private dinner party may be considered to be defamatory.<sup>48</sup> Insults that are aimed toward the plaintiff himself do not constitute defamation, unless the comment that is considered to be defamatory has been communicated to a third party.<sup>49</sup>

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<sup>47</sup> Adewusi-Bakare M. B, 'Re-Examining The Challenges Of The Law Of Defamation In Nigeria' *African Journal of Law, Ethics and Education [AJLEE]* (2024) Vol 7

<sup>48</sup> *Dolby v Newnes* (1887) 3 TLR, p. 393

<sup>49</sup> *Vanguard Media Ltd v Adebiyi Olafisoye* (2011) 14 N.W.L.R., (Pt. 1267) p. 207, C.A

Muhammed-Hassan, Kayode and Ogedengbe<sup>50</sup> noted that skit-making has established itself as a significant form of creative expression in Nigeria. Skits, with their humorous tales and approachable characters, have endeared themselves to audiences nationwide, providing a perspective to examine the intricacies of everyday life in a playful yet significant way. However, as the popularity of skit-making continues to rise, the necessity to negotiate the legal landscape, especially with defamation laws, has become increasingly relevant. Nigeria's legal framework for defamation, including both libel and slander, serves as a context for the creative endeavors of skit artists. The problem is to achieve a nuanced equilibrium between artistic liberty and legal responsibility, while skit creators narrate stories that resonate with the essence of Nigerian society. The convergence of defamation laws and skit-making embodies a complex interaction between creativity and legal constraints, illustrating a sophisticated interplay of expression and accountability.

The authors further noted that it is crucial to analyze the legal consequences of skit-making, especially regarding defamation laws, to comprehend the obligations and difficulties encountered by content producers in Nigeria. As an artistic medium, skit comedy frequently touches on social topics, characters, and public figures, which can lead to conflicts with defamation laws. Defamation lawsuits have been filed against several skit creators because of their work like Mubarak Muhammad (Uniquepikin) and Nazifi Muhammad, two TikTok developers who were in detention after being arrested for allegedly slandering Abdullahi Ganduje, the governor of Kano, in one of their comic skits.<sup>51</sup> Another TikToker, Adamu claimed that Aisha had stolen from the poor to enrich herself in a comment he made on a Twitter photo of Buhari. Adamu may have been trying to make fun of her or accuse her of corruption; it was hard to tell. Aminu Adamu was arrested and held at the Federal University,

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<sup>50</sup> Muhammed-Hassan K. S, kayoed I. A, and Ogedengbe J. A, 'Defamation And Skit Making In Nigeria: Navigating Legal Boundaries And Creative Expression' *Fountain University Law Journal (FULAJ)* (2024) vol 1(2)p. 190-199

<sup>51</sup> Audu U., 'Kano Court Sends 2 TikTok Skit Makers Uniquepikin and Nazifi to Prison for Criticizing Ganduje' <<https://dailynigerian.com/kano-court-sends-tiktok-skit/>> accessed 13<sup>th</sup> October, 2025

Dutse, in Jigawa state, following a complaint presented by Aisha Buhari.<sup>52</sup> Legal protections against defamation in Nigeria are in place to prevent people and businesses from being the targets of malicious and unfounded criticism.<sup>53</sup> In their pursuit of social commentary and humor, Skit producers must carefully traverse these regulations to avoid legal consequences. Looking at the legal ramifications of making skits about defamation laws is important because we need to find a middle ground between being creative and being legally responsible.

Templars<sup>54</sup> in their article opined that the prevalence of social media and online communication makes it challenging to distinguish between offensive and morally acceptable content, as well as what violates cultural tolerance boundaries. The problem of internet usage in the 21st century has far-reaching consequences, for instance, many bloggers and online enthusiasts view online posts and comments as harmless, but the law holds them accountable for the impact they have on the target when read by others, thus it's important to grasp the legal framework as certain factors are necessary for internet defamation. Defamation is the malicious use of false statements to harm a person's reputation or character. Libel and slander are generally referred to as defamation, while libel is written defamation, slander is conversational. False statements about a person conveyed as fact by an individual or entity, such as a person, newspaper, magazine, or political organization, can damage the target's reputation and standing in the community, falling under the Law of Tort. Defamation can bring harm such as humiliation, shame, hate, scorn, belittlement, or contempt, lowering one's

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<sup>52</sup> Burke J., 'Nigeria Frees Student Charged with Defaming First Lady in Tweet' < <https://www.theguardian.com/world/2022/dec/05/nigeria-frees-student-charged-defaming-first-lady-tweet-aisha-buhari>> accessed 13<sup>th</sup> October, 2025

<sup>53</sup> Atoyebi O. M., 'An Appraisal on the Legal Framework for Online Defamation in Nigeria' < <https://omaplex.com.ng/an-appraisal-on-the-legal-framework-for-online-defamation-in-nigeria/>> accessed 22<sup>nd</sup> October, 2025

<sup>54</sup> Templars, 'Online Defamation: Just Before You Post It!' < <https://www.templars-law.com/app/uploads/2019/04/Templars-Thought-Leadership-Online-Defamation-Just-Before-You-Post-It.pdf>> accessed 13<sup>th</sup> September, 2025

esteem as a prudent person. For the online defamation to be actionable, such defamatory remarks must not be accurate<sup>55</sup> there must be actual harm<sup>56</sup> and that there must be evidence.<sup>57</sup>

A person who defames another is called a defamer. Depending on the form, one who defames another in the form of libel is called a libeler while one who defames another through the form of slander is called a slanderer. A person who is defamed is called the defamed. In a lawsuit, where the defamed person decides to take a legal action against the defamer, he then becomes the plaintiff or the claimant whereas, the person who made the defamatory statement (the defamer) becomes the defendant.

Calumny has to do with a malicious statement designed to damage the reputation of another person. It often involves deliberate lies in order to mislead others and harm the victims character. It is often used synonymously with slander and libel. Vilification has to do with the process of writing or speaking abusively about a particular person or group of persons in order to defame them. It often times relates to strong unjustified criticisms with the intent to provoke hatred or contempt towards a person or group of persons. The deliberate and sustained effort to damage the reputation of a person or their credibility through false accusations is called Character Assassination. It is often used as a tactics to undermine trust and destroy the public image and influence of a person. Smearing is an informal term which has to do with the spreading of false or damaging statements against a person in order to tarnish such a person's image. Publication has to do with the act of communicating such defamatory statements to a third party or third parties. It is a key aspect of the defamation law as defamatory statements must be communicated to third parties in order to constitute reputational harm. Publication could be done through mediums such as printed materials, broadcasts, online platforms or even verbal communication.

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<sup>55</sup> *Wilson v Bauer Media Pty Ltd* [2017] VSC 521 (Australia)

<sup>56</sup> *Lachaux v Independent Print Ltd* [2017] EWCA Civ 1334 (England)

<sup>57</sup> *Giwa v Ajayi* (1993) 5 NWLR (Pt. 294) 423

## 2.2 Concept of Defamation: Meaning and Scope

The concept of defamation refers to the act of communicating false statements about a person that result in damage to their reputation. It encompasses both libel, which involves written or visual forms of defamation, and slander, which is spoken defamation. The scope of defamation law is broad, requiring that the statement be false, communicated to a third party, and cause harm to the person's reputation.<sup>58</sup> Defamation is defined as an imputation that lowers a person in the estimation of right-thinking members of society, exposes them to hatred, contempt, or ridicule, or causes them to be shunned or avoided. It does not necessarily require actual harm to reputation; the mere imputation can be actionable. The statement must be published to at least one third party, and it must have caused or be likely to cause serious harm to the claimant's reputation.<sup>59</sup>

Swindler's definition of defamation has been described as any written or printed article about a person that is published without a legal reason and that puts them at risk of public disgrace, contempt, obloquy, ridicule, or disgrace, or that is meant to make good people think badly of them, or that hurts them in their job or profession is libelous and grounds for legal action. The word doesn't have to say that the suit did something shameful; it's enough if they found him disgusting and silly.<sup>60</sup> The Nigeria Penal Code states that, whoever by words either spoken or reproduced by mechanical means or intended to be read or by signs or by visible representations makes or publishes any imputation concerning any person intending to harm or knowing or having reasons to believe that such imputations will harm the reputation of such person, is said ... to defame that person.<sup>61</sup>

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<sup>58</sup> Agaja J. A, 'The Nigerian Law of Defamation and Its Impact on Libraries' <<https://worldlibraries.dom.edu/index.php/worldlib/article/view/243/199>> accessed 13<sup>th</sup> September, 2025

<sup>59</sup> *Ibid*

<sup>60</sup> William F. Swindler, *Problems of Law in Journalism* (Westport, Conn.: Greenwood Press, 1955), p. 112

<sup>61</sup> Section 391 of the Nigerian Penal Code; Section 512–514 of the Nigerian Criminal Code

Halsbury's Laws of England<sup>62</sup> described defamation as meaning: A statement is defamatory of a person of whom it is published if, broadly speaking, it is calculated to lower him in the estimation of right thinking members of the community or to cause him to be shunned or avoided or expose him to hatred, contempt or ridicule or to disparage him in his office, profession or calling. A statement which reflects upon the character of another person without exposing him to hatred may be defamatory. A statement is prima facie defamatory if the words in their natural and primary sense, that is, in their plain and popular meaning, are defamatory. A word may be defamatory even if it is disbelieved by those to whom it is published. In *Hough v London Express Newspapers*,<sup>63</sup> Lord Goddard opined thus: If words are used which impute discreditable conduct to my friend, to me he has been defamed, although I do not believe the imputation and may even know it is untrue. To publish of a woman in a manner that is suggestive of unchastity is actionable per se. In *Alhai Alawiye v Mrs. E.A. Ogunsanya*,<sup>64</sup> the respondent who was an administrator of a Muslim school was approached by the appellant for an amorous relationship. She rebuffed him. Consequently, the respondent made an allegation of maladministration against the respondent, which upon investigation was found by the chairman of the Board of Governors of the school to be incorrect. Thereafter, the appellant flared up while they were all inside a mosque for a jumat service, and said the chairman took sides with the respondent because they were both lovers, and that the chairman simply lied to cover up the respondent. The appellant proceeded to print pamphlets, and circulated the same all over the mosque and around town. Whereupon the respondent took out a writ of summons for defamation. The appellant was held liable. Affirming the trial court's judgment on appeal, Omage JCA, of the Court of Appeal, Ibadan Division Stated: It is our Law that the uttering of words, which impute unchastity of a woman, is actionable without proof of damages. It is also actionable

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<sup>62</sup> Halsbury's Laws of England (3<sup>rd</sup> Ed. Vol 24) par. 40

<sup>63</sup> (1940) 2K. B 507

<sup>64</sup> 92004) 4 NWLR (pt 864) 486

without proof of damages to utter words about the plaintiff in her profession, trade, or office... I am also of the view that the words complained of referred to the plaintiff and it reduced the plaintiff in the opinion of right thinking members of the society.

The scope of defamation law extends to various forms of communication, including social media posts, online reviews, and traditional media like newspapers and broadcasts. Modern defamation laws have evolved to balance the protection of reputation with the preservation of free speech, particularly in cases involving public figures or matters of public interest. In some jurisdictions, such as the UK, the Defamation Act 2013 has introduced stricter criteria for establishing defamation claims, requiring proof of serious harm to reputation. In contrast, criminal defamation laws exist in some countries, often requiring a higher threshold of public interest harm. Defamation laws vary significantly across different countries. For instance, in the United States, public figures must prove "actual malice" to sustain a defamation claim, as established in *New York Times Co. v Sullivan*.<sup>65</sup> In contrast, some European countries have stricter defamation laws, with truth not always serving as a defense. The legal frameworks also recognize strategic lawsuits against public participation (SLAPPs), which are used to suppress criticism through vexatious defamation claims.

### **2.3 Elements of Defamation in Traditional and Digital Media**

Defamation law balances the protection of individual reputation against freedom of expression, adapting to evolving communication platforms while retaining core principles. The foundational elements, false statements, publication, reputational harm, and fault apply across both traditional and digital contexts, but judicial interpretations reflect the unique challenges posed by modern media.

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<sup>65</sup> 376 U.S. 254 (1964).

In an action for defamation, a plaintiff must prove the following essential ingredients at the trial, as stated by the court in the case of *Iloabachie v Iloabachie*,<sup>66</sup> these ingredients are as follows:

1. publication of the offending words,
2. that the words complained of refer to the plaintiff, that the words are defamatory to the plaintiff,
3. that the words are defamatory to the plaintiff
4. that the publication was made to someone other than the plaintiff, that is to say, a third party
5. that is the falsity or lack of accuracy of the words complained of,
6. that there are no justifiable legal grounds for the publication of the words

The above ingredients were summarised by Amaizu JCA in *Federal Mortgage Bank of Nig. v. Dr. Olusola Adesoga*<sup>67</sup> as follows: It is trite law that a person commits the tort of defamation when he or she publishes to a third person words containing an untrue imputation against the reputation of another. It is worthy of note that emphasis is on "untrue imputation". These ingredients shall be examined as follows:

1. The defamatory remark must be capable of damaging or disparaging the innocent party's reputation in the eyes of right thinking men generally; i.e. it must not be peculiar to a particular section of the society. A word that only disparages a man's reputation in the eyes of right thinking men within a particular section of the society cannot amount to defamation. Furthermore, a word that represents an abuse or insult in a particular environment might not necessarily be defamatory to a reasonable man. In *Chief Ekanem Peter v. Prof. Fatuga*,<sup>68</sup> the plaintiff, a professor of Animal Science, was the Dean of Postgraduate Studies in the University of Ibadan at the material time;

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<sup>66</sup> (2005) 13 NWLR (pt. 943) 695

<sup>67</sup> (2000) 11 NWLR (pt. 6770) 108

<sup>68</sup> (1991) 7 NWLR (PT. 204) 449

while the defendant/appellant was the registrar of the same institution. In an apparent response to a strongly worded letter from the plaintiff, the defendant/appellant described the plaintiff as someone who was not a Dean within the meaning of the University Act, but one who was only made a Dean by the arrangement of the senate. The plaintiff/respondent's action for defamation failed because the letter was held to have amounted to an insult within the university environment alone.

2. The words must be capable of a defamatory meaning in their natural and ordinary use. Where the plaintiff relies on the natural and ordinary meaning of the words complained of, no evidence is admissible of their meaning or the sense in which they were understood or of any facts giving rise to any inferences to be drawn from the words used, it is for the jury to determine the sense in which the words would reasonably have been understood by an ordinary man in the light of generally known facts and meanings of words. For instance, evidence of the meaning of a slang expression which has passed into common use would not be admissible. The test as to whether words are capable of conveying a defamatory meaning, and whether they in fact did convey it, is based on the opinion, or estimation of a reasonable person under the circumstances in which the words are written, or Published. The words will be understood to be in a libelous sense, or otherwise, depending on the bias or malice of the writer or publisher.<sup>69</sup> To ascertain the libelous nature of the word or malice involved, the language used must be looked into as a whole, as well as the circumstances in which they were made or published. The words are also to be given their ordinary meaning in interpretation.<sup>70</sup>

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<sup>69</sup> *Otop v Ekong* (2006) 9 NWLR (pt. 989) 533; *Australian Newspaper Co. v Baners* (1894) AC 284 at 288

<sup>70</sup> *Onyejike v Anyasor* (1992) 1 NWLR (pt. 218) 437

3. The reputation complained of must be the plaintiff's reputation at the time of the publication. In *Punch Nig. Ltd v Eytene*<sup>71</sup>, the defendant made a publication of the plaintiff on 16th day of January, 1984, wherein the plaintiff was referred to as having crowned his bastardisation of democratic institutions of Anambra State as Police Commissioner, and having also manipulated the 1983 elections by the instrument of his office. At the time of this publication, the plaintiff/respondent had ceased to serve in that capacity. In an action for defamation, the court held that plaintiff's claim was not sustainable in the circumstances of having left that particular seat.
4. The words must refer to plaintiff. The dignity of the party must be beyond doubt. Failure by the plaintiff to eliminate every doubt about his identity in relation to the publication is fatal to his case.<sup>72</sup>

In traditional media, defamation hinges on the publication of false statements to third parties, causing reputational harm. The landmark case of *New York Times Co. v Sullivan*<sup>73</sup> where the U.S. Supreme Court established the “actual malice” standard for public officials. The Court held that defamatory falsehoods about public figures require proof that the defendant knew the statement was false or acted with reckless disregard for the truth. This precedent safeguards free speech while allowing redress for malicious falsehoods. In the United Kingdom, *Taj Hargey v Muslim Weekly*<sup>74</sup> addressed defamatory implications in religious contexts. The court ruled that falsely claiming a liberal Muslim leader was “not a proper Muslim” constituted defamation, awarding substantial damages. Similarly, *Bowman v MGN Ltd* involved a false Daily Mirror article implying infidelity, where damages were awarded despite the statement's superficial innocuousness. The court emphasized that context and

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<sup>71</sup> (2001) 17 NWLR (pt 741) 228

<sup>72</sup> *Daily times Nig. Lid v Christian Emezuome* (1990) 2 NWLR 9pt. 132) 340

<sup>73</sup> (376 U.S. 254, 1964

<sup>74</sup> (2009) EWHC 2567

audience interpretation determine defamatory meaning.<sup>75</sup> Digital platforms amplify defamation risks due to instantaneous, boundaryless communication. In *Crookes v Newton*<sup>76</sup> the Supreme Court of Canada addressed hyperlinks as publication. The majority ruled that merely linking to defamatory content does not constitute republication unless the hyperlinker adopts or repeats the defamatory material. This decision balances free expression with accountability for deliberate harm. Jurisdictional challenges arise in cross border cases. *Giustra v Twitter, Inc.*<sup>77</sup> tested British Columbia's authority over a California based platform. The court upheld jurisdiction, emphasizing the "real and substantial connection" test when defamatory tweets targeted a Canadian plaintiff's local reputation. This reflects courts' willingness to adapt territorial principles to digital harms.

Both contexts require proving falsity, publication, and harm. However, digital cases often grapple with defining "publication." For instance, *Grant v Torstar Corp*<sup>78</sup> introduced the "responsible communication" defense in Canada, protecting journalists who diligently verify public-interest stories. This defense, while rooted in traditional journalism, now applies to bloggers and social media users. The *Dr Sarah Thornton v Telegraph Media Group*<sup>79</sup> case illustrates the threshold for seriousness in defamatory impact. The UK High Court required the statement to meaningfully alter public perception, rejecting claims where alleged harm was trivial. This standard applies equally to online and offline statements. Social media's ephemeral nature complicates damages assessment. In *Mitchell v Faber & Faber*<sup>80</sup> a defamatory book passage about a musician's racism led to damages for lasting reputational harm. By contrast, digital defamation may spread faster but dissipate quicker, though platforms' permanence can exacerbate harm.

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<sup>75</sup> (2010) EWHC 895)

<sup>76</sup> (2011) 3 SCR 269)

<sup>77</sup> (2021) BCCA 422)

<sup>78</sup> (2009) 3 SCR 640)

<sup>79</sup> (2010) EWHC 2974)

<sup>80</sup> (1998) EMLR 807)

In conclusion, defamation law's core elements remain consistent, but digital media demands nuanced application. Cases like *Sullivan and Crookes* underscore the tension between free expression and reputation rights, while jurisdictional rulings like *Giustra* reflect adaptive judicial frameworks. As platforms evolve, courts continue to reinterpret publication, fault, and damages, ensuring defamation law remains relevant in both analog and digital spheres.

#### 2.4 Categories of Defamation: Libel and Slander

Slander and libel are two forms of defamation under Nigerian law, both of which involve false statements that damage a person's reputation. While slander refers to spoken defamation, libel involves defamatory statements made in a permanent form, such as writing, print, or online publications. Defamation laws in Nigeria are governed by statutory provisions and case law, with the key statutes being the Nigerian Criminal Code, the Defamation Act, and various judicial pronouncements. Libel is considered more serious than slander because it is in a fixed, permanent form and has a greater potential for widespread harm. In *Guardian Newspapers Ltd. v Ajeh*<sup>81</sup> the Supreme Court of Nigeria held that libel is actionable per se, meaning that the plaintiff does not need to prove actual damage, as the law presumes injury from the publication. Similarly, in *Skye Bank Plc v. Akinpelu*<sup>82</sup> the court reinforced that a publication is defamatory if it tends to lower a person in the estimation of right-thinking members of society.

The Nigerian courts have consistently addressed libel claims, particularly against media houses. A significant case is *Wada Nas v Ibrahim*<sup>83</sup> where a newspaper publication falsely accused the plaintiff of corruption. The Supreme Court ruled in favor of the plaintiff, awarding damages and emphasizing that once a publication is shown to be false and defamatory, liability follows unless the defendant can establish a defense such as truth, fair

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<sup>81</sup> (2011) LPELR-1343(SC)

<sup>82</sup> (2010) 9 NWLR (Pt. 1198) 179

<sup>83</sup> (2013) LPELR-20720(SC)

comment, or privilege. The concept of online libel has also emerged with the rise of digital media. In **Neo-Black Movement of Africa v. Linda Ikeji**<sup>84</sup> a Delta State High Court held that Ikeji's publication, which described the group as a "dreaded cult," was libelous. The court awarded damages of ₦30 million and ordered the removal of the defamatory post, highlighting that digital platforms do not provide immunity from defamation claims. Slander, on the other hand, requires proof of actual damage unless it falls under specific exceptions, such as imputing a crime, a contagious disease, or professional incompetence. In **Okafor v. Ikeanyi**<sup>85</sup> the Supreme Court stated that spoken words, unless proven to cause special damages, may not be actionable unless they fall within these exceptions. The burden of proof in slander cases is higher, as the claimant must demonstrate that the words caused measurable harm.

A notable case in Nigerian jurisprudence is the **Dele Farotimi and Afe Babalola saga**, which involved allegations of judicial corruption in Farotimi's book. Babalola initiated legal proceedings for defamation, leading to Farotimi's arraignment and subsequent bail. However, due to interventions by traditional leaders, the case was withdrawn. This case underscores the delicate balance between freedom of expression and protecting reputations, especially in the legal profession. The distinction between libel and slander remains significant in Nigerian law, with libel generally attracting higher damages due to its lasting impact. Courts continue to refine defamation principles, particularly in the digital age, where social media and online publications amplify defamatory statements, making liability more complex. Nigerian law, guided by both statutory and judicial precedents, ensures that individuals have recourse when their reputations are unjustly harmed while safeguarding the fundamental right to free speech.

## 2.5 Defenses to Defamation Claims

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<sup>84</sup> EHC/210/2021

<sup>85</sup> (1979) 1 NCLR 207

Defamation law provides several defenses to protect individuals and organizations from unwarranted claims, ensuring that free speech is preserved while reputations are safeguarded. These defenses vary by jurisdiction but generally include truth, privilege, fair comment, and innocent dissemination. Understanding these defenses is crucial for navigating the complex legal landscape surrounding defamation.

The defense of truth is perhaps the most straightforward. It asserts that the defamatory statement is substantially true, which can be a complete defense in many jurisdictions. For instance, in Victoria, Australia, the defendant must prove that the imputations conveyed by the words are true. This defense requires the defendant to provide evidence supporting the truth of the statement, which can be challenging but is essential for protecting freedom of expression.

Privilege is another significant defense, which comes in two forms: absolute privilege and qualified privilege. Absolute privilege applies to statements made in certain contexts, such as judicial or legislative proceedings, where the speaker is completely protected from liability. Qualified privilege protects statements made in good faith for a legitimate purpose, such as protecting one's interests or those of others. The defendant must show they believed the statement was true and did not act recklessly. This defense is often used in situations where individuals need to communicate sensitive information without fear of legal repercussions.

The fair comment defense applies when the statement is an opinion on a matter of public interest, provided it is based on facts that are true or privileged. The defendant must not act with malice or reckless disregard for the truth. This defense is particularly relevant in media and public discourse, where opinions are frequently expressed about public figures or issues. It ensures that individuals can express their views without fear of legal action, as long as they are grounded in fact and not motivated by malice.

Innocent dissemination is a defense applicable when a defendant unknowingly disseminates defamatory material, such as a printer or distributor who did not know the content was defamatory. This defense highlights the importance of intent and knowledge in defamation law, recognizing that not all parties involved in the dissemination of defamatory content are equally culpable. In addition to these defenses, consent can also serve as a defense if a plaintiff consents to the publication of a defamatory statement. Furthermore, some jurisdictions allow a defense of triviality if the defamatory statement causes minimal harm to the plaintiff's reputation. The contextual truth defense applies if one or more imputations are substantially true, and other imputations do not further harm the plaintiff's reputation.

Recent cases have further clarified these defenses. For example, the *Ben Roberts-Smith*<sup>86</sup> case in Australia highlighted the use of truth as a defense in defamation claims, emphasizing the burden of proving substantial truth. *The Voller*<sup>87</sup> decision in Australia addressed the liability of social media platforms for defamatory content, impacting how innocent dissemination defenses might be applied. These cases underscore the evolving nature of defamation law, particularly in the digital age.

In Nigeria, defenses to defamation include justification (truth), fair comment, and privilege. The Supreme Court's ruling in *Abalaka v Akinsete*<sup>88</sup> emphasizes that claimants must prove falsity, aligning with global trends that prioritize free speech while protecting reputations. Nigerian courts also consider the context and intent behind statements when evaluating defamation claims. This shift in burden of proof reflects a broader international movement to ensure that defamation laws do not overly restrict freedom of expression. The Dele Farotimi case in Nigeria, involving criminal defamation charges over a book criticizing legal practices, illustrates the tension between free speech and reputational rights. Although the charges were

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<sup>86</sup> (No 41) [2023] FCA 555

<sup>87</sup> [2021] HCA 27

<sup>88</sup> (2023) LPELR-60349(SC)

eventually withdrawn, the case highlighted the use of defamation laws to silence criticism, underscoring the importance of robust defenses to protect free expression.

In conclusion, defenses to defamation claims are essential for maintaining the delicate balance between protecting reputations and ensuring freedom of expression. By understanding these defenses, individuals and organizations can navigate complex legal landscapes effectively, whether in traditional or digital media contexts. As defamation law continues to evolve, these defenses will remain critical in safeguarding both personal dignity and public discourse.

## 2.6 Theoretical Framework of Defamation Law

Defamation law is rooted in the need to balance two fundamental rights: the right to freedom of expression and the right to protect one's reputation. Over time, legal systems across jurisdictions have developed various theories to justify and structure defamation law, shaping the way courts adjudicate defamation claims. These theories provide the foundation for legal reasoning in defamation cases, determining the scope of liability, available defenses, and the nature of damages awarded. The theoretical framework of defamation law includes classical legal theories such as natural law, utilitarianism, and legal realism, alongside modern perspectives, including human rights approaches and economic analysis of law.

One of the oldest justifications for defamation law stems from **natural law theory**, which posits that individuals have an inherent right to dignity and reputation. Under this view, defamation laws serve to protect individuals from false and harmful statements that can damage their standing in society. The courts have recognized the importance of this principle, as seen in cases like *Onwuchekwa v NDIC*<sup>89</sup>, where the Nigerian Court of Appeal emphasized that a person's reputation is a valuable asset deserving of legal protection. Natural

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<sup>89</sup> (2002) 5 NWLR (Pt. 760) 371

law theorists argue that reputation, like life and liberty, is a fundamental right that must be preserved against unjust harm. In contrast, **utilitarian theory**, championed by legal philosophers like Jeremy Bentham and John Stuart Mill, views defamation law as a tool to balance societal interests. According to this perspective, defamation law should encourage the free flow of information while preventing harm to individuals' reputations. The principle of **greatest good for the greatest number** suggests that while free speech should be protected, there must be limitations when it causes unnecessary harm. Courts have applied this reasoning in cases such as **Derbyshire County Council v. Times Newspapers Ltd**<sup>90</sup> where the UK House of Lords held that public bodies cannot sue for defamation, as it would unduly restrict public discourse and accountability.

**Legal realism** offers another perspective, arguing that defamation laws should be shaped by societal realities rather than abstract legal principles. Legal realists emphasize that defamation claims often involve a power imbalance between individuals and media entities. This view was evident in *New York Times Co. v. Sullivan*<sup>91</sup> where the U.S. Supreme Court held that public officials must prove “actual malice” in defamation cases. The decision underscored the need to protect press freedom in democratic societies while ensuring that false statements are not weaponized against individuals. Similarly, in Nigeria, the case of *Gatley v Evans*<sup>92</sup> laid the groundwork for determining the liability of publishers, setting a precedent for protecting both reputation and journalistic freedom. A more modern theoretical approach is **the human rights perspective**, which sees defamation law as part of a broader framework of rights, including the right to freedom of expression under Article 19 of the Universal Declaration of Human Rights (UDHR). Courts increasingly assess defamation cases within the context of international human rights law. In *Obiwuru v. Mobil Oil Nigeria Ltd*<sup>93</sup>, the Nigerian Supreme

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<sup>90</sup> [1993] AC 534

<sup>91</sup> 376 U.S. 254 (1964)

<sup>92</sup> Evans (1892) 1 QB 370

<sup>93</sup> (1979) 5 SC 1

Court reinforced the idea that defamation claims must not unduly restrict free speech, especially in matters of public interest. However, this perspective also recognizes that unchecked freedom of expression can lead to misinformation, cyberbullying, and reputational harm, necessitating some level of legal protection against defamation.

The **economic analysis of law** further contributes to the theoretical framework by examining the costs and benefits of defamation litigation. According to this theory, defamation laws should minimize social costs by discouraging false statements while ensuring that legal remedies do not stifle public discourse. In *Bonnard v. Perryman*<sup>94</sup>, the court held that an injunction should rarely be granted in defamation cases before trial, as the economic cost of suppressing potentially true information outweighs the harm of a temporary defamatory statement. This reasoning has influenced defamation laws globally, including in Nigeria, where courts have been cautious in granting preemptive injunctions in media-related defamation cases. The rise of digital media has introduced new complexities into defamation law, prompting the application of existing theories to online communication. The **single publication rule**, debated in cases like *Duke of Brunswick v Harmer*<sup>95</sup>, has been challenged in the digital age, where defamatory statements can be republished multiple times across different platforms. In Nigeria, the **Cybercrimes (Prohibition, Prevention, Etc.) Act**<sup>96</sup> addresses defamation in digital spaces, highlighting the evolving nature of defamation law in response to technological advancements. A notable recent Nigerian case illustrating these complexities is the **Dele Farotimi and Afe Babalola defamation dispute**. Farotimi, a human rights lawyer, alleged judicial corruption in his book, leading to defamation charges filed by legal luminary Afe Babalola. The case, which was eventually withdrawn, exemplifies the tension between free speech, accountability, and reputational protection. Courts must now

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<sup>94</sup> [1891] 2 Ch 2699

<sup>95</sup> (1849) 14 QB 1859

<sup>96</sup> Cybercrimes (Prohibition, Prevention, Etc.) Act, 2015

navigate the blurred lines between personal opinion, investigative journalism, and defamatory statements in both traditional and digital media.

In conclusion, defamation law is built on multiple theoretical foundations, each offering a unique perspective on how reputation and free speech should be balanced. From natural law and utilitarianism to legal realism and human rights considerations, these theories shape judicial reasoning and legislative frameworks in defamation cases. As digital media continues to evolve, courts and lawmakers must adapt these principles to ensure that defamation laws remain relevant, fair, and effective in protecting individuals' reputations while upholding freedom of expression.

## **2.7 Evolution of Defamation Laws in the Digital Age**

Words are like arrows, once released, they cannot be recalled. In the past, defamation was a slow moving force, confined to the printed page or spoken word. Today, however, the internet has turned reputational damage into a wildfire, spreading with a single click. Courts and lawmakers, once dealing with newspapers and town gossip, now find themselves in an endless battle with tweets, viral videos, and anonymous online posts. As digital media reshapes communication, defamation laws are evolving, struggling to balance free speech with the right to protect one's reputation.

Traditionally, defamation laws focused on spoken (slander) and written (libel) forms of reputational harm. In Nigeria and other common law jurisdictions, early defamation cases relied on principles established in *Duke of Brunswick v. Harmer*,<sup>97</sup> where a newspaper's reprinting of a defamatory article was treated as a fresh publication. However, the emergence of digital platforms has complicated this doctrine. The internet enables unlimited

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<sup>97</sup> (18499) 14 QB 185

republication, leading courts to reconsider whether each share, retweet, or repost constitutes a new defamatory act.

The shift to online defamation became more pronounced with landmark cases such as *Dow Jones & Co. Inc. v. Gutnick*<sup>98</sup>, where the Australian High Court ruled that defamation occurs where the content is accessed, not where it was published. This ruling set a precedent for cross-border defamation claims, forcing courts to grapple with jurisdictional challenges. In Nigeria, the issue of online defamation has been addressed under the Cybercrimes (Prohibition, Prevention, Etc.) Act, 2015, which criminalizes certain forms of harmful online speech, though concerns remain about its potential misuse against journalists and activists. Social media platforms have further complicated defamation law by introducing the question of intermediary liability. In *Fairfax Media Publications Pty Ltd v. Voller*<sup>99</sup>, the High Court of Australia held that media companies could be held responsible for defamatory comments posted by third parties on their social media pages. This ruling has influenced discussions on whether Facebook, Twitter, and other platforms should be treated as mere conduits or active publishers of content. Similarly, in *Neo-Black Movement of Africa v. Linda Ikeji*<sup>100</sup> the Nigerian Court of Appeal reinforced that bloggers and online publishers bear responsibility for defamatory content, even if sourced from third parties.

Another key challenge in digital defamation law is anonymity. Unlike traditional media, where publishers and broadcasters are easily identified, online defamers can hide behind pseudonyms. Courts have begun compelling internet service providers and platforms to disclose user identities in defamation cases. In *Google Inc. v Tamiz*,<sup>101</sup> the English Court of Appeal ruled that Google could be held liable for failing to remove defamatory content from its Blogger platform after being notified. Nigerian courts are also gradually addressing this

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<sup>98</sup> (2002) HCA 569

<sup>99</sup> (2021) HCA 279

<sup>100</sup> (2022) LPELR-59072(9CA)

<sup>101</sup> [2013] EWCA Civ 689

issue, as seen in cases involving defamatory posts on WhatsApp and Facebook. The debate over the single-publication rule has also resurfaced in the digital age. While traditional defamation law treated each publication as a separate offense, modern courts are considering whether online content should be treated as a continuous publication, limiting lawsuits to the original postdate. The U.S. decision in *Firth v. State of New York*<sup>102</sup> established that the first publication of an online article starts the statute of limitations, preventing endless lawsuits over old material. Nigerian law, however, remains largely silent on this issue, making it a subject of future legal reforms. A notable recent defamation dispute in Nigeria is the Dele Farotimi and Afe Babalola case, where Farotimi was accused of defaming the esteemed legal luminary in his book. The case, eventually withdrawn after interventions by traditional rulers, underscores how digital media enables defamation claims to escalate rapidly, with allegations gaining traction through online platforms before legal resolutions are reached.

In conclusion, defamation law is undergoing a profound transformation in response to digital media. Courts worldwide are reinterpreting age-old principles to address the unique challenges posed by the internet, from jurisdictional issues to intermediary liability and anonymity. In Nigeria, legal reforms must strike a delicate balance between protecting reputations and preserving free expression, ensuring that the law adapts to an era where words travel faster than ever before.

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<sup>102</sup> (2001) 775 N.E.2d 463 9

## CHAPTER THREE: COMPARATIVE ANALYSIS AND THE LEGAL FRAMEWORK GOVERNING INTERNET DEFAMATION

### 3.1 Introduction

The legal framework governing internet defamation has evolved significantly across jurisdictions, reflecting the challenges posed by the digital age. Internet defamation involves the wide spread of false statements online which severely destroys a person's reputation. With the rise of social medial platforms, blogs and online forums, such cases have become common because of how quickly and widely content can be shared. This comparative analysis takes a good look at how different legal systems respond to the challenges of online defamation focusing on key issues which relate to jurisdiction, liability and the need to balance freedom of expression with the protection of individual reputation. In the United States, broad immunity are provided to Internet Service Providers (ISPs) for third party content, as seen in cases like *Cubby Inc. v CompuServe Inc.*<sup>1</sup> and *Blumenthal v Drudge*.<sup>2</sup> Conversely, jurisdictions like the United Kingdom impose conditional liability on Internet Service Providers, as demonstrated in *Godfrey v Demon Internet Ltd*,<sup>3</sup> where Internet Service Providers were held accountable for failing to remove defamatory content after notification. Canadian courts have grappled with jurisdictional challenges in cases like *Crookes v Newton* and *Black v Breeden*,<sup>4</sup> emphasizing publication as occurring where content is accessed. Critics argue that traditional common law tests for jurisdiction are often impractical in the digital age, advocating for more adaptable approaches to address global online defamation disputes. This study highlights the pressing need for harmonized legal frameworks that not only safeguard reputational rights but also promote freedom of expression within a globally networked environment.

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<sup>1</sup> 776 F. Supp. 135 (S.D.N.Y. 1991)

<sup>2</sup> 992 F. Supp. 44 (D.D.C. 1998)

<sup>3</sup> [2001] QB 201; [1999] EWHC QB 244 (UK)

<sup>4</sup> 2011 SCC 47, [2011] 3 S.C.R. 269

### 3.2 Comparative Analysis of Defamation Laws in Different Jurisdictions

Defamation laws vary significantly across jurisdictions, reflecting different legal traditions and approaches to balancing freedom of expression with the protection of reputation. The United Kingdom, the United States, Canada, South Africa and Nigeria each have distinct frameworks governing defamation, influenced by their legal histories and constitutional principles.

The United Kingdom's Defamation Act 2013 overhauled defamation law, aiming to curb frivolous claims and libel tourism. To succeed under the UK Defamation law, claimants must show that a defamatory statement has caused or is likely to cause serious reputational harm.<sup>5</sup> Unlike in the United States, where claimants often bear the burden of proof, defendants in the United Kingdom typically must justify their statements. Available defenses include truth, honest opinion, and public interest publication. Overall, the United Kingdom's legal frameworks offers stronger protection for claimants compared to more speech friendly jurisdictions like the United States.

The United States maintains the most speech protective defamation laws, rooted in the first amendment's strong emphasis on freedom of expression. The landmark case of *New York Times v Sullivan*,<sup>6</sup> established that public officials and later public figures must prove "actual malice" to succeed in a defamation claim. This means that in the United States, plaintiffs must demonstrate that defamatory statements were made with actual malice (that is actual knowledge of falsity or reckless disregard for the truth) if they are public figures. However, private individuals need only need to prove negligence.<sup>7</sup> With the burden of proof on the plaintiff, winning defamation cases in the united states is significantly more challenging than

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<sup>5</sup> P. Mason, 'Defamation in England and Wales' < <https://www.pinsentmasons.com/out-law/guides/defamation-guide>> accessed 29<sup>th</sup> September, 2025

<sup>6</sup> 376 U.S. 254 (1964)

<sup>7</sup> A. A Walsh and A. S Lewis, 'United States Media Law Guide' < <https://www.carter-ruck.com/law-guides/defamation-and-privacy-law-in-united-states/>> accessed 29<sup>th</sup> September, 2025

in the United Kingdom. Furthermore, many US states have anti-SLAPP (Strategic Lawsuit Against Public Participation) laws, designed to prevent powerful individuals or corporations from using defamation lawsuits to silence criticism.

Canadian Defamation laws occupy a middle ground between the stricter protections found in the United Kingdom and the more speech oriented approach of the United States. Canadian courts tend to prioritize the protection of reputations more than American courts, yet they remain more open to free expression arguments than those in the United Kingdom. Compared to the United States, public figures in Canada are not required to prove actual malice, which makes it easier for them to bring successful defamation claims.<sup>8</sup> The defamation laws in Canada also recognizes key defenses, similar to those in the United Kingdom, including truth, fair comment, and responsible communication in the public interest, a defense established in the notable case of *Grant v Torstar corp.*<sup>9</sup> This defense allows for journalistic errors when reporting on matters of public concern, provided that the reporting was responsible and diligent.

The defamation laws of south Africa which are based on Roman-Dutch law, generally tend to prioritize the protection of reputation over absolute freedom of expression. Distinct from the practices in the united states and Canada, a plaintiff in south Africa only needs to demonstrate that a statement was defamatory and published, after which the burden shifts to the defendant to justify it. Courts employ a balancing test which weighs the constitutional rights to dignity and freedom of expression. Although truth serves as a defense, it is only valid where the statement is also in the public interest. Additional defenses include fair comment and privilege, the latter safeguarding statements made in specific contexts such as parliamentary

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<sup>8</sup> R. D McChonchie, 'Defamation and Privacy Law in Canada' < <https://www.carter-ruck.com/law-guides/defamation-and-privacy-law-in-canada/>> accessed 29<sup>th</sup> September, 2025

<sup>9</sup> 2009 SCC 61, [2009] 3 S.C.R. 640.

debates or judicial proceedings.<sup>10</sup> The South African courts in recognizing the role of the media in democracy, allows some flexibility for journalistic expression, particularly following the *Bogoshi* case in 1998.<sup>11</sup>

The defamation law of Nigeria grounded in the English common law is also shaped by statutory provisions and the existence of criminal defamation laws. While civil defamation largely mirrors the principles of the United Kingdom law, Nigeria retains criminal defamation under the Penal Code (applicable in the northern region) and the Criminal Code (applicable in the south). In civil cases, the plaintiff must prove that the statement was defamatory, published and false. However, the legal framework provides limited protection for journalists and free speech advocates, allowing defamation claims to be frequently used as a tool for silencing dissent.<sup>12</sup> Criminal defamation remains a significant concern, as it can be used to prosecute individuals for speech critical of the government or influential figures. This contrasts with jurisdictions such as the United Kingdom, Canada and South Africa, where criminal defamation has either been abolished or is barely enforced.

A comparative analysis of these jurisdictions reveals significant differences in the balance struck between freedom of expression and the protection of reputation. The United States provide the strongest safeguards for free speech, making it particularly difficult for public figures to succeed in defamation claims. In contrast, the United Kingdom, Canada and South Africa offer greater protection to claimants, though they incorporate defenses rooted in public interest and responsible journalism. Nigeria however, maintains restrictive defamation laws, including the continued enforcement of criminal defamation, making it one of the most challenging environments for free expression among the jurisdictions examined. These

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<sup>10</sup> D. Milo, 'Defamation and Privacy Law in South Africa' <<https://www.carter-ruck.com/law-guides/defamation-and-privacy-law-in-south-africa/>> accessed 29<sup>th</sup> September, 2025

<sup>11</sup> *National Media Ltd and Others v Bogoshi* 1998 (4) SA 1196 (SCA)

<sup>12</sup> D. Odigie, *Law of Tort: Text and cases* (Benin: Ambik Press 2008)

variations highlight the extent to which different societies prioritize either the right to free expression or the right to reputation.

### **3.3 Nigeria's Legal Framework on Internet Defamation**

Nigeria's legal framework on internet defamation reflects a combination of traditional defamation principles and modern cybercrime legislation, although gaps persist in addressing digital complexities. Under the Criminal Code Act, defamation is defined as the publication of any matter likely to injure a person's reputation by exposing them to hatred, contempt, or ridicule, or by harming their profession.<sup>13</sup> This includes written, spoken, or symbolic communication. In order to establish a case for defamation, the prosecution must prove that the defendant published a false statement that harmed the victim's reputation. Section 375 prescribes penalties of up to one year imprisonment for defamation, two years if the defamer knew the statement was false, and seven years if the intent was extortion. Such a person guilty of defamation under the criminal code is liable unless such a person can prove the statement made was true and made in good faith. The law also recognizes certain privileges, such as statements made in course of judicial proceedings or in the performance of a legal duty, which can provide a defense against defamatory claims.

The Cybercrime Act, 2015 plays a significant role in addressing online defamation in Nigeria,<sup>14</sup> with section 24 of the Act criminalizing sending false messages via computer systems to cause "annoyance, inconvenience, danger, or needless anxiety," the deliberate sharing of fake news or content, sharing of offensive messages with the intent to intimidate or bully with penalties of up to ₦7 million fines or three years' imprisonment. The provision aligns with the Nigerian traditional defamation laws which recognizes both libel and slander as actionable torts. The act also empowers courts to order Internet Service Providers to

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<sup>13</sup> Section 373 of the Criminal Code, 1960

<sup>14</sup> Section 24(1)(b) of the Cybercrime Act, 2015

disclose subscriber information, facilitating the identification and prosecution of online defamers. Critics argue this provision overlaps poorly with traditional defamation laws, creating inconsistencies in enforcement.

Online defamation's borderless nature creates jurisdictional challenges. In Nigeria, courts typically determine jurisdiction based on where the defamatory content is accessed or downloaded, as seen in *Daily Times v Arum*.<sup>15</sup> This aligns with global precedents like the Australia case of *Dow Jones v Gutnick*<sup>16</sup> but creates ambiguity in cross border cases where content originates abroad but affects Nigerian residents. The liability of Internet Service Providers is another contentious issue. The Nigerian Communications Commission (NCC) Guidelines provide safe harbor provisions, shielding Internet Service Providers from liability for third party content if they do not modify or interfere with it. This mirrors the United States Communications Decency Act but contrasts with stricter regimes like the United Kingdom's Defamation Act 2013, where Internet Service Providers face liability if they fail to remove defamatory content after they have been notified. Key challenges within Nigeria's legal framework for internet defamation include stringent proof requirements, legislative gaps, and difficulties in reconciling global and local enforcement issues. Plaintiffs are required to establish falsity, harm and publication, a burden complicated by the anonymity often associated with online speech. Nigeria lacks comprehensive statutes tailored to the unique dynamics of online defamation, instead relying on a patchwork of outdated legal provisions. Jurisdictional conflicts further complicate enforcement, particularly where defamatory content originates outside Nigeria but causes harm to individuals within its borders. Recent trends suggest a shift towards treating online defamation as libel, given the permanence of digital publication, rather than slander, traditionally associated with oral

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<sup>15</sup> (2023) 17 NWLR (Pt. 1914) 559

<sup>16</sup> (2002) 210 CLR 575; [2002] HCA 56.

communication.<sup>17</sup> Judicial adaptation is evident in cases like WikkiTimes Defamation and Dele Farotimi, where courts applied traditional defamation principles to digital contexts, though procedural delays and evidentiary hurdles persist.<sup>18</sup>

In conclusion, Nigeria's framework struggles to balance free expression and reputational rights in the digital age. While the Cybercrime Act 2015 and judicial precedents provide some clarity, legislative reforms are critical to address jurisdictional ambiguities, Internet Service Providers liability, and procedural inefficiencies. By harmonizing local laws with global standards, as seen in the EU's *Delfi AS v Estonia*,<sup>19</sup> and the incorporation of these legal provisions above, Nigeria's legal framework governing defamation is strengthened, providing a more comprehensive approach to addressing online defamation and protecting the reputations of individuals in the internet space.

### **3.4 International Legal Standards and Best Practices**

Internet defamation has become a global issue, requiring unified legal standards to tackle jurisdictional issues, liability, and the balance between freedom of expression and reputational rights. Also, International initiatives to develop best practices and legal frameworks specifically seek to ensure clarity and consistency in managing occurring cross-border defamation cases. The Hague Convention aims to standardize international laws on jurisdiction, choice of law, and judgments enforcement, offering a unified framework for resolving disputes involving internet defamation. However, challenges remain in reconciling diverse legal traditions and principles. In the European Union, issues of jurisdiction and applicable laws are guided by the Brussels Regulation and the Rome II Regulation. Under

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<sup>17</sup> Templars, 'Online Defamation: Just Before You Post It!' < [https://www.templars-law.com/app/uploads/2019/04/Templars-Thought-Leadership\\_Online-Defamation-Just-Before-You-Post-It.pdf](https://www.templars-law.com/app/uploads/2019/04/Templars-Thought-Leadership_Online-Defamation-Just-Before-You-Post-It.pdf)> accessed 22<sup>nd</sup> October, 2025

<sup>18</sup> Attorney, 'Dele Farotimi and the Nigerian Law of Defamation: A Case Study' < <https://1stattorneys.com/articles/2024/12/14/dele-farotimi-and-the-nigerian-law-of-defamation-a-case-study/>> accessed 22<sup>nd</sup> October, 2025

<sup>19</sup> No. 64569/09

Article 7(2) of the Brussels Regulation, a plaintiff may bring a case in the jurisdiction where the harmful act took place, which in defamation cases is interpreted as the particular location place in which the defamatory material was accessed or downloaded. The eDate<sup>20</sup> and Martinez<sup>21</sup> case introduced the "center of interests" concept, making plaintiffs able to sue where their reputation is most affected. Rome II mainly emphasizes on applying the law of the country where the most significant harm occurred, particularly in cases of defamation and privacy violations.<sup>22</sup>

In the United States, Section 230 of the Communications Decency Act<sup>23</sup> provides broad immunity to Internet Service Providers for third party content, protecting them from liability except they actively participate in creating or disseminating defamatory material. This approach has been criticized majorly for failing to protect victims adequately. In the United States courts use a "minimum contacts" test to determine jurisdiction, focusing on whether the defendant intentionally targeted the plaintiff's location. In contrast, the United Kingdom's Defamation Act 2013 takes a different approach, holding internet service providers responsible for removing defamatory contents once they have been notified. This helps to balance freedom of expression with accountability, although it can be a heavier burden for online platforms compared to the United States' model. As the global online landscape evolves, experts are advocating for clearer jurisdictional guidelines, a more proportionate liability for internet service providers and greater international cooperation to tackle these complex issues. Courts increasingly determine jurisdiction based on where defamatory content is accessed or downloaded, as seen in cases like *Dow Jones v Gutnick*.<sup>24</sup> This principle ensures plaintiffs can seek redress in the jurisdiction where harm occurred. Best

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<sup>20</sup> C-509/09

<sup>21</sup> C-161/10

<sup>22</sup> Abah A. L. 'Trends In International Internet Defamation Suits' *The International Communication Gazette* (2008) vol 70(6)

<sup>23</sup> Communications Decency Act, 2013

<sup>24</sup> 2002] HCA 56; 210 CLR 575; 77 ALJR 255; 194 ALR 433

practices indicate that internet service providers should not be held responsible for contents posted by third parties, except when they ignore reports of defamatory materials, a framework already in place in the United Kingdom and the European Union. Meanwhile, groups such as the American Law Institute (ALI) and the International Bar Association (IBA) are pushing to standardize defamation Laws around the world.<sup>25</sup> The American Law Institute's proposed principles focus on finding a balance between protecting free speech and recognizing foreign courts judgements. Meanwhile, the International Bar Association calls for a clearer set of rules on jurisdiction and responsibility in defamation cases. International frameworks also stress that defamation laws should apply only when a statement causes serious harm to a person's reputation, helping to prevent minor or quickly forgotten online remarks from leading to unfair or excessive legal actions.<sup>26</sup>

Key challenges in modern defamation law includes enforcing judgements across borders, striking a fair balance between free speech and protection of reputations and also keeping pace with emerging technologies. The global outreach of the internet makes it difficult to implement defamation rulings consistently across different legal systems, underscoring the need for harmonized treaties and mutual recognition agreements like those proposed under The Hague convention. Laws must always maintain a careful balance, protecting individuals from reputational harm without silencing legitimate expression or public debate. As technology evolves, legal frames must adapt to new threats such as AI-generated content and deepfakes, which create complex questions about authorship, intent and accountability in the digital age.

In conclusion, international approaches to internet defamation highlights the importance of clear jurisdictional rules, fair responsibility for online service providers and a thoughtful

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<sup>25</sup> Abah A. L, 'Trends In International Internet Defamation Suits Targeting A Solution?' < <https://www.wlu.edu/Directory%20Profiles/AA/adedayo-ladigbolu-abah-2008-trends-in-international-internet-defamation-suits-targeting-a-solution.pdf>> accessed 22<sup>nd</sup> October, 2025

<sup>26</sup> Atoyebi A. M, 'Emerging Jurisdictional Issues on Online Defamation' < <https://omaplex.com.ng/emerging-jurisdictional-issues-on-online-defamation/>> accessed 29<sup>th</sup> October, 2025

balance between freedom of expression and the right to reputation. Harmonization efforts by bodies and organizations such as The Hague Convention, the European Union, the American Law Institute and the International Bar Association play a vital role in tackling the challenges of cross-border defamation and in building a fair, consistent and reliable international legal framework.

### **3.5 Challenges in Regulating Online Defamation**

Regulating online defamation is particularly challenging because of the internet's unique nature, that is, it has no borders (borderless), it allows users to stay anonymous (anonymity) and spreads information instantly. These features make it difficult to enforce defamation laws and protect people's reputations effectively. One of the biggest obstacle is jurisdiction. Content posted in one country can quickly reach audiences across the world, creating uncertainty about which country's laws should apply. Courts in countries such as Nigeria, the United Kingdom and the United States generally hold that jurisdiction is established in the place where the defamatory content is accessed or downloaded, as seen in *Dow Jones v Gutnick*.<sup>27</sup> However, this approach often leads to conflicts and enforcement difficulties, particularly when defamatory content originates in jurisdictions with lenient defamation laws.<sup>28</sup>

Anonymity and the use of pseudonyms make it difficult to crack down on online defamation. With online platforms letting people share content without revealing their real identities, tracking down and holding the culprits responsible becomes a real challenge. In cases like *Cohen v Google Inc*<sup>29</sup>, courts often face significant hurdles in identifying anonymous online defamers, as plaintiffs must present strong evidence to force internet service providers to disclose user identities. This procedure tends to be lengthy and expensive, frequently denying

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<sup>27</sup> [2002] HCA 56; 210 CLR 575; 77 ALJR 255; 194 ALR 433

<sup>28</sup> Sani D. M, 'Online Publications And The Challenges Of Combating Cyber Defamation In Nigeria' *Cavindish University Law Journal* (2023) vol 3

<sup>29</sup> 25 Misc. 3d 945, 887 N.Y.S.2d 424 (N.Y. Sup. Ct. 2009).

victims quick or effective remedies. Another debated topic is the responsibility of Internet Service Providers. In the United States, section 230 of the Communications Decency Act shields these providers from liability for user generated content, which promotes open speech but can leave those harmed with few options for justice. In contrast, places like the United Kingdom apply conditional liability, making providers answerable if they don't take down defamatory material once notified,<sup>30</sup> as seen in *Godfrey v Demon Internet Ltd.*<sup>31</sup> This disparity creates inconsistencies in global enforcement.

Legislative gaps present additional challenges, as many countries lack specific legislation addressing online defamation,<sup>32</sup> relying instead on outdated defamation laws or general cybercrime statutes. In Nigeria, the Cybercrimes Act 2015 partially addresses online defamation but fails to provide a comprehensive framework.<sup>33</sup> Due to these shortcomings, judges often fall back on traditional defamation laws, which may not adequately address the nuances of digital communication. When it comes to online defamation, proving damages can be a challenge. The affected person must prove that the damaging statement had real life consequences for their reputation or business, as seen in *SMC Pneumatics v. Jogesh Kwatra.*<sup>34</sup> The temporary nature of online content, coupled with the difficulty of measuring reputational harm can undermine claims.

Striking a balance between freedom of expression and safeguarding personal reputations has long been a challenging issue in defamation law. Overly restrictive laws can stifle legitimate criticism, while lenient frameworks may fail to protect victims adequately. International standards highlight that defamation rules should only come into play when statements inflict

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<sup>30</sup> Laidlaw E. B. B, 'Internet Intermediary Liability in Defamation' *Osgoode Hall Law Journal* (2018) vol 56(1)

<sup>31</sup> [1999] EWHC QB 240; [1999] 4 All ER 342; [2001] QB 201

<sup>32</sup> Templars, 'Navigating Online Defamation: Jurisdictional Challenges in a Borderless World' <  
<https://www.templars-law.com/app/uploads/2024/12/Jurisdictional-Challenges-in-a-Borderless-World.pdf>>  
accessed 22<sup>nd</sup> October, 2025

<sup>33</sup> Section 24(1)(b) of the Cybercrime Act, 2015

<sup>34</sup> *SMC Pneumatics (India) Pvt. Ltd. & Anr. v Shri Jogesh Kwatra*, Suit No. 1279/2001, Delhi District Court, Judgment dated 12 February 2014.

"serious harm", promoting a sense of fairness and restraint. Meanwhile, emerging technologies, such as AI-generated content and deep fakes, are posing new obstacles for the defamation law. They enable the creation of incredibly lifelike yet fabricated content, which makes it tougher to pinpoint and hold wrong doers accountable. To tackle these issues effectively, a comprehensive approach is needed. This includes the push for legal updates to establish tailored regulations for digital defamation, with clear guidelines on jurisdiction and accountability for online platforms and Internet Service Providers. International cooperation, through harmonized treaties and mutual recognition agreements such as those advanced by The Hague convention remains crucial for enforcing laws across borders. Strengthening technical measures such as improved forensic tools and closer collaboration among enforcement agencies can aid in identifying anonymous offenders. Additionally, promoting public awareness through digital literacy and responsible online behavior campaigns can help curb the spread of defamatory content.

In conclusion, regulating online defamation demands a comprehensive strategy that addresses jurisdictional complexities, anonymity, Internet Service Providers liability, legislative gaps, and emerging technologies, ensuring the protection of reputational rights while upholding freedom of expression.

### **3.6 Enforcement of Defamation Laws in the Digital Space**

The application of defamation laws within the online environment poses distinct difficulties, stemming from the inherently transactional character of the internet, the rapid dissemination of information and the intricate questions of jurisdictional authority. Historically, defamation statutes were crafted predominantly for traditional mediums such as print publications and broadcast transmissions. However, the proliferation of social media user generated content

has necessitated a significant evolution in legal frameworks to effectively confront instances of digital defamation.

One major challenge in applying defamation laws online is jurisdiction. With the internet making contents accessible worldwide, a defamatory remark posted in one country could harm someone's reputation in another, raising debates as to which nation's law should apply. Courts have adopted different approaches to jurisdiction, with some focusing on the location of the publisher, while others consider the location where the harm to reputation occurs.<sup>35</sup> This often leads to clashes in legal standards, especially between areas that lean heavily towards free speech and those that prioritize safeguarding reputations.

Another significant issue is that of online anonymity. People often hide behind pseudonyms and fake names or accounts when spreading defamatory content online, making it hard for them to be held accountable. Courts can sometimes step in and order Internet Service Providers to reveal identities of anonymous users.<sup>36</sup> However it is not always straightforward as such service providers may resist due to privacy.

The role of social media platforms and search engines are also at the center of the debate, questioning their role in regulating defamatory content. They argue that they are just intermediaries, not publishers and as such they are not to be held liable for contents made by their users.<sup>37</sup> However, some jurisdictions have introduced laws that impose greater responsibility on platforms and Internet Service Providers to remove defamatory content once notified. The challenge lies in finding a balance between keeping harmful contents in check and avoiding censorship that stifles free speech.

Furthermore, enforcing laws against digital defamation is hindered by the rapid spread and lasting nature of online content. A libelous statement made online may become popular

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<sup>35</sup> Templars, 'Navigating Online Defamation: Jurisdictional Challenges in a Borderless World' <<https://www.templars-law.com/app/uploads/2024/12/Jurisdictional-Challenges-in-a-Borderless-World.pdf>> accessed 22<sup>nd</sup> October, 2025

<sup>36</sup> *Ibid*

<sup>37</sup> *Ibid*

within minutes, exposing it to millions before any legal action can be taken.<sup>38</sup> Even if a court orders its removal, archived copies, screenshots, and reposts can keep resurfacing, making complete eradication nearly impossible. This has led to the development of the "right to be forgotten" in some jurisdictions, allowing individuals to request the removal of certain online content from search engine results.<sup>39</sup> Remedies sought for digital defamation may include damages, injunctions, and content removal orders.<sup>40</sup> However, obtaining damages can prove challenging if the accused party resides in a different jurisdiction or does not possess adequate financial means to settle. In certain instances, governments have criminalized online defamation, raising concerns about the potential misuse of such laws to suppress dissent and free speech.

In conclusion, while defamation laws have evolved to address challenges in the digital space, enforcement remains a complex issue. Jurisdictional conflicts, anonymity, the role of online platforms, and the rapid spread of defamatory content all contribute to the difficulty of ensuring effective legal remedies while preserving freedom of expression in the online world.

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<sup>38</sup> *Ibid*

<sup>39</sup> *Ibid*

<sup>40</sup> V. Eisinger, 'Defamation and Reputation Management in the Digital Age' <<https://www.cshlaw.com/resources/defamation-and-reputation-management-in-the-digital-age/>> accessed 22<sup>nd</sup> October, 2025



## CHAPTER FOUR: INTERNET COMMUNICATION REVOLUTION AND ITS IMPACT ON DEFAMATION

### 4.1 Introduction

The internet revolution has reshaped the way people communicate, allowing instant interaction across the globe. While this remarkable connectivity has brought countless benefits, it has also introduced serious challenges, especially in the realm of defamation. The ease of sharing information online has heightened the dangers posed by false or damaging statements, creating serious legal and social challenges. Originally conceived in the mid-20<sup>th</sup> century as a “network of networks,” the internet began as a tool for military and scientific exchange before transforming into a global platform for mass communication, information dissemination and collaboration.<sup>143</sup> Today, it connects billions of people worldwide, reshaping cultural, social, and economic dynamics. Its role in modern communication is unparalleled, fostering rapid exchanges through email, social media, and other digital platforms.<sup>144</sup> However, this revolution has also rewritten rules of engagement. Traditional barriers to publishing, such as editorial oversight have been dismantled, allowing individuals to share content with minimal accountability. While this democratization of communication empowers voices globally, it also creates fertile ground for misinformation and defamation.<sup>145</sup>

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<sup>143</sup> Gharbawi A. ‘Revolution of the Internet’ < [https://sites.cs.ucsb.edu/~almeroth/classes/F04.176A/homework1\\_good\\_papers/Alaa-Gharbawi.html](https://sites.cs.ucsb.edu/~almeroth/classes/F04.176A/homework1_good_papers/Alaa-Gharbawi.html)> accessed 29<sup>th</sup> September, 2025

<sup>144</sup> Giannelis M. ‘Impact Of The Internet On Modern Society’ < [https://www.techbusinessnews.com.au/blog/impact-of-the-internet-on-modern-society/#google\\_vignette](https://www.techbusinessnews.com.au/blog/impact-of-the-internet-on-modern-society/#google_vignette)> > accessed 29<sup>th</sup> September , 2025

<sup>145</sup> Rogers S. ‘The Role Of Technology In The Evolution Of Communication’ < <https://www.forbes.com/sites/solrogers/2019/10/15/the-role-of-technology-in-the-evolution-of-communication/>> accessed 29<sup>th</sup> September , 2025

Defamation refers to when false statements damages the good name or reputation of an individual.<sup>146</sup> According to the English moral philosopher Joseph Hall, ‘a reputation once broken may be repaired, but the world will always keep their eyes on the spot where the crack was’. Historically confined to localized contexts via print or spoken word, defamation has now become a global issue due to the internet's reach and permanence. Social media platforms, blogs, and websites can spread damaging content to millions across borders in an instant, a phenomenon Mark Twain presciently described as "a lie can travel halfway around the world while the truth is putting on its shoes".<sup>147</sup> Key characteristics of online defamation include its global reach, permanence, and ease of publication.<sup>148</sup> Harmful statements can go viral across borders instantly, complicating jurisdictional issues for courts. Even when defamatory contents get taken down, copies often linger online still causing damage. On social media, a single click can spread defamatory content far and wide, bypassing traditional checks. These features amplify the harm, forcing legal systems to evolve and keep pace with the unique challenges of online communication.

The rise of internet defamation has exposed gaps in existing legal frameworks. Traditional defamation laws often struggle to keep pace with the complexities of online contents, particularly when it comes to jurisdiction, publication rules and liability. Courts often face difficulties determining where cases should be tried when parties are located in different regions. Furthermore, the definition of "publication" has become increasingly nuanced in the digital age, with ongoing debates about whether actions like hyperlinking can be considered as republication.

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<sup>146</sup> Collins M. *The Law of Defamation and the Internet* (Oxford University Press, (2001); C. Sumner, ‘Defamation and Reputation Management in the Digital Age’ < <https://www.jdsupra.com/legalnews/defamation-and-reputation-management-in-8461545/>> accessed 29<sup>th</sup> September, 2025

<sup>147</sup> *Ibid*

<sup>148</sup> Robinson-Dunning N. ‘Defamation Law in the Age of Social Media: The Criticisms and Potential Reforms for the Issue of Court Jurisdiction’ < <https://www.cba.org/sections/civil-litigation/resources/defamation-law-in-the-age-of-social-media-the-criticisms-and-potential-reforms-for-the-issue-of-cou/>> accessed 29<sup>th</sup> September, 2025

Internet service providers and platforms could be a key area when it comes to accountability for defamatory contents as it often depends on how involved they are in hosting or spreading such contents.<sup>149</sup> These challenges highlight the need for reforms to balance freedom of expression with protection against reputational harm.<sup>150</sup> The internet has revolutionized communication, but its impact in society is multifaceted. On one hand, it amplifies marginalized voices, on the other hand, it exposes individuals to reputational harm. The delicate balance between free speech and accountability fuels ongoing debates about online regulation. Misinformation proliferates, eroding trust in digital platforms. To navigate this complex landscape, a thoughtful approach that preserves the internet's benefits while minimizing its risks is needed. The digital age has redefined societal interactions, but it has also introduced challenges around defamation. As online statements can spread far and wide lasting forever, legal systems must adapt to address jurisdictional notions of publication and liability. By examining these developments closely, solutions can be worked on which protect both free expression and reputational integrity in the digital age.

## **4.2 Overview of the Internet Communication Revolution**

The rise of internet communication stands out as one of humanity's biggest breakthroughs, totally reshaping the ways people, companies and governments connect and engage with each other. Emerging from a Cold War-era initiative aimed at ensuring secure communications, the internet grew into a vast global network that has reshaped nearly every facet of contemporary life. This overview examines the origins, evolution, and societal impacts of this revolutionary technology.

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<sup>149</sup> Leng T. K. 'Internet defamation and the online intermediary' *Computer Law & Security Review* (2015) vol 31(1)

<sup>150</sup> Townsend A. M, Aalberts R. J. and Gibson S. A. 'Legally Speaking: Libel and Slander on the Internet' <<https://cacm.acm.org/opinion/legally-speaking-libel-and-slander-on-the-internet/>> accessed 29<sup>th</sup> September, 2025

The origins of the internet dates back to the 1960s, when researchers set out to develop a decentralized communication system that could remain functional even in the face of disruptions. This vision was championed by the United States Department of Defense's Advanced Research Projects Agency (ARPA), leading to the creation of the Advanced Research Projects Agency Network (ARPANET), the foundation of today's internet. The Advanced Research Projects Agency Network (ARPANET) introduced packet-switching technology, a breakthrough that enabled data to be divided into smaller packets and transmitted efficiently across multiple networks.<sup>151</sup> By 1969, The Advanced Research Projects Agency Network (ARPANET) had successfully connected its first nodes at institutions such as The University of California, Los Angeles and Stanford Research Institute, marking the beginning of a new era in communication.<sup>152</sup>

During the 1970s and 1980s, major technological breakthroughs laid the groundwork for the modern internet. In 1974, the development of the Transmission Control Protocol/Internet Protocol (TCP/IP) established a unified standard for data exchange, allowing diverse networks to connect and communicate effortlessly. By 1983, The Transmission Control Protocol/Internet Protocol (TCP/IP) had become the official protocol for The Advanced Research Projects Agency Network (ARPANET), effectively transforming it into a global "network of networks." The advent of personal computers in the late 1970s and early 1980s further expanded access to computing, paving the way for the internet's eventual widespread adoption.<sup>153</sup> The 1990s marked the most transformative leap of the internet's evolution with the arrival of the World Wide Web.

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<sup>151</sup> Emspak J. and Zimmermann K. A. 'Internet history timeline: ARPANET to the World Wide Web' < <https://www.livescience.com/20727-internet-history.html>> accessed 29<sup>th</sup> September, 2025

<sup>152</sup> Telefonica, 'History of the Internet: how did it come into being and how has it evolved' < <https://www.telefonica.com/en/communication-room/blog/history-internet-how-come-being-how-evolved/>> accessed 29<sup>th</sup> September, 2025

<sup>153</sup> 'A short history of the internet' < <https://www.scienceandmediamuseum.org.uk/objects-and-stories/short-history-internet>> accessed 29<sup>th</sup> September, 2025

Tim Berners-Lee's development of HTML (HyperText Markup Language), HTTP (HyperText Transfer Protocol) and the first web browsers revolutionized how people accessed and shared information online. This decade also saw the emergence of search engines like Google and e-commerce pioneers such as Amazon and eBay, reshaping business practices and consumer habits. By the end of the 1990s, the internet had evolved from a tool for researchers and academics into a mainstream platform for communication, commerce, and entertainment.<sup>154</sup>

The internet's revolution in communication had profound and diverse effect on the society. It has enabled instantaneous global interaction through email, social media platforms, and video conferencing tools. By breaking down old obstacles to sharing information, it has promoted wider access to knowledge and a more democratic flow of ideas, though it also sparks worries over misinformation and privacy. On the economic front, it has spawned entirely new sectors while upending established ones, exemplified by the shift from brick and mortar retail to online shopping. Politically, it acts as a catalyst for activism such as the Arab Spring and it also empowers authoritarian governments with surveillance capabilities.<sup>155</sup>

The internet and communication revolution of Nigeria has profoundly transformed the country, reshaping its social, economic, cultural and political spheres. In the past two decades, the nation has become a major force in Africa's digital landscape, fueled by rapid progress in telecom services, widespread internet access and robust information and communication technology (ICT) infrastructure. This revolution has not only bridged communication gaps but also sparked economic expansion, fresh innovations and greater social integration.<sup>156</sup>

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<sup>154</sup> *Ibid*

<sup>155</sup> Dennis M. A. and Kahn R. 'Society and the Internet' < <https://www.britannica.com/technology/Internet/Society-and-the-Internet> > accessed 29<sup>th</sup> September, 2025

<sup>156</sup> S. Joseph, 'Harnessing Telecommunications Revolution in Nigeria: A Case Study' *Wireless and Mobile Technologies* (2013) vol 1(1)p. 20-24

The journey began in 2001 with the liberalization of Nigeria's telecommunications sector. Granting licenses to private operators such as MTN and Airtel marked the end of the monopoly held by the Nigerian Telecommunications Limited (NITEL), sparking a new wave of competition and new investments. The introduction of the Global System for Mobile Communication (GSM) revolutionized mobile communication, connecting millions to affordable phone services in just a few years. This breakthrough paved a way for the widespread internet adoption, as mobile phones became the go-to devices for accessing the web across urban and rural areas. Fast forward to today, the internet penetration of Nigeria has skyrocketed. By 2025, it is expected that 70% of Nigerians will have access to 3G mobile broadband, with 4G coverage reaching 17%. Smartphones and tablets are now ubiquitous, with a penetration rate of 73%. The digital leap has empowered millions of Nigerians to join the global digital economy, bridging the gaps in sectors such as education, healthcare, commerce, and governance.<sup>157</sup> The government has been instrumental in propelling the digital revolution of Nigeria through forward thinking policies and initiatives. The National Digital Economy Policy and Strategy (2020-2030) is a good example, aiming to use digital technologies to reduce the country's reliance on oil and boost economic growth. This strategy focuses on several key areas equipping the citizens with digital skills, building robust ICT infrastructure, promoting e-government services and fostering innovation. Initiatives like national broadband plan and partnerships with technology firms like Microsoft and Google have also been instrumental in expanding internet access and providing training and expanding internet access.

Despite its transformative potential, the internet has introduced significant challenges that continue to shape its evolution. Cyber security threats, digital inequality and the ethics of

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<sup>157</sup>'Nigeria's Digital Revolution: Empowering a Nation Through Technology' <<https://www.telecomreviewafrica.com/articles/features/3667-nigeria-s-digital-revolution-empowering-a-nation-through-technology>> accessed 29<sup>th</sup> September, 2025

artificial intelligence are just a few of the pressing issues that needs to be addressed. As technology advances, with the rise of the Internet of Things (IoT) and 5G networks, questions around governance and regulation are more crucial than ever. Despite these innovations, significant hurdles remain, particularly in rural areas where infrastructure limitations perpetuate the digital divide between urban and rural communities. Ensuring more equitable access to technology is essential to bridging this gap. Additionally, cybersecurity threats and data privacy concerns are major risks to the growing digital economy of Nigeria, putting both individuals and businesses at risk.<sup>158</sup> While internet access has democratized the sharing of information, it has also enabled the rapid spread of misinformation and cybercrime, highlighting the need for stronger regulatory measures and greater digital literacy. The societal impact of Nigeria's internet communication revolution has been profound, empowering individuals with access to information and opportunities while fostering innovation and entrepreneurship.<sup>159</sup> Technology hubs and innovation centers around the country have fostered startups developing digital solutions to tackle local challenges. Meanwhile, e-government initiatives have boosted transparency and efficiency in public service delivery, thereby strengthening citizen engagement.<sup>160</sup>

In conclusion, the internet communication revolution has profoundly transformed how people live, work, and interact. Evolving from its beginnings as a military project to becoming an essential global infrastructure, it embodies both the opportunities and challenges of technological advancement. As we continue deeper into the digital age, understanding its evolution is vital to navigating its future impacts responsibly.

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<sup>158</sup> Margaret M. and Willie A. 'Cybercrime and its Impact on Nigeria's Digital Economy' <  
[https://www.researchgate.net/publication/388657810\\_Cybercrime\\_and\\_its\\_Impact\\_on\\_Nigeria's\\_Digital\\_Economy](https://www.researchgate.net/publication/388657810_Cybercrime_and_its_Impact_on_Nigeria's_Digital_Economy)  
> accessed 22<sup>nd</sup> October, 2025

<sup>159</sup> *ibid*

<sup>160</sup> *Ibid*

### 4.3 Social Media and Defamation: Trends and Challenges

The dark side of social media is getting more exposed. It is not just a place to connect and a place for free expression but has become a ground for reputational damage. Its accessibility, anonymity and global reach have turned these platforms into avenues for defamatory statements which can have a wide spread and turn localized issues into global scandals in no time. As a result, defamation cases are skyrocketing leaving individuals, courts and society scrambling to keep up.<sup>161</sup> The emergence of social media platforms such as Facebook, Twitter (now X), Instagram and Tiktok has transformed the way individuals disseminate information and expression their opinions. Distinct from the traditional media which is subject to rigorous editorial scrutiny, social media enables users to publish unverified claims with relative ease and anonymity with minimal consequences for disseminating defamatory content. The rapidity with which internet content can spread has significantly amplified the harm caused by defamation, as injurious statements can reach a vast audience within a short period of time and persist online indefinitely.<sup>162</sup>

One major trend that is emerging is the use of social media as a weapon in high profile cases.<sup>163</sup> Trials involving celebrities, such as the widely publicized *Johnny Depp v. Amber Heard*<sup>164</sup> case, illustrate how social media can influence public perception and even judicial processes. Platforms like X (formerly Twitter) and TikTok have been frequently used to mold narratives far from the courtroom, reducing nuanced legal disputes to bite sized and hype driven snippets. This

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<sup>161</sup> The recent case of *Dele farotimi v Afe* and also the arrest of the Jigawa State Student. Social media has now become a pathway to defame people, often time, without redress as some of these tortfeasors are not within reach.

<sup>162</sup> S. Erin, 'Social media weaponizes celebrity defamation trials inside and outside the courtroom, legal expert says' < <https://www.businessinsider.com/social-media-weaponizes-celebrity-defamation-trials-expert-says-2022-5?r=US&IR=T> > accessed 29<sup>th</sup> October, 2025

<sup>163</sup> *Ibid*

<sup>164</sup> No. CL-2019-2911 (Va. Cir. Ct. 2022)

dynamic pulls the spotlight from hard facts to crowd sentiment, chipping away at the core values of equitable justice and fairness. The rise in defamation cases linked to social media also reflects broader societal trends. The chase for likes, shares and viral attention has spawned practices like "engagement farming" and "rage-baiting,"<sup>165</sup> where users post inflammatory or misleading content to provoke reactions. Such approaches not only contribute to the spread of defamatory material but also highlights the moral dilemmas arising from algorithms that prioritize virality over truthfulness. Additionally, the anonymity afforded by social media emboldens users to make defamatory statements without fear of immediate repercussions.

Legal systems across the world are struggling to effectively respond to these emerging challenges. Traditional defamation laws often struggle to keep pace with the ever evolving dynamics of social media. Questions about jurisdiction such as where to try cases involving cross border defamatory contents and determining the liability for online platforms complicate legal proceedings. Courts have also had to redefine concepts like "publication" in the context of digital platforms, where reposting or hyperlinking can perpetuate defamatory content. The societal impact of social media defamation is profound. False statements can cause lasting reputational damage that is difficult to repair, affecting individuals' personal lives, careers, and mental health. As aptly put by legal experts, defamatory statements can "seep into the subconscious" of audiences, making it difficult to eradicate their effects even with the retraction of such statements or even when such statements are disproven. For public figures and private individuals alike, combating such harm requires significant resources and often yields incomplete remedies.

The accessibility, cost effectiveness, and anonymity of accessing the Internet space in the contemporary social media landscape raises significant concerns especially concerning the

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<sup>165</sup> S. Atkinson, 'The worst social media trends of 2024' < <https://readwrite.com/apps/the-worst-social-media-trends-of-2024/>> accessed 29<sup>th</sup> September, 2025

unpredictable sharing capabilities of pervasive social media platforms, such as Facebook and Twitter which have resulted in a notable rise in defamation lawsuits.<sup>166</sup> Although individuals may view social media platforms as secure avenues for discussing significant issues with acquaintances, many remain oblivious to the potentially catastrophic consequences an inadvertent or casual post may inflict on an unsuspecting third party. Individuals are often unaware of the extensive actions the courts have taken to condemn such behaviors with the intent of sending a deterrent message to prevent its recurrence. The increase in defamation claims is unsurprising considering the detrimental impact words may exert on an individual's life. This consequence was succinctly encapsulated by the Supreme Court of Canada in the case of *Hill v Church of Scientology of Toronto*,<sup>167</sup> where Justice Cory stated as follows: A defamatory statement can infiltrate the subconscious and remain dormant, poised to emerge and disseminate its poisonous influence. A libel can leave a lasting negative impression for a lifetime. Rarely does the slandered individual get the chance to respond and rectify the record in a way that genuinely resolves the issue.

The unpleasant truth is that anyone possessing a quarter or a library card may adopt an alias, access the Internet, and initiate a slanderous campaign against an innocent individual. Consequently, when this "cancerous evil" is amalgamated with a global social media network such as Facebook,<sup>168</sup> which accommodates over one billion daily users, the repercussions might be disastrous. The court is acutely cognizant of this issue and, as noted in Justice Saunders' statement in *Pritchard v Van Nes*,<sup>169</sup> in taking proper measures to condemn such behavior on social media stated that: The potential for reputations to be destroyed instantly through the

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<sup>166</sup> *Ibid*

<sup>167</sup> [1995] S.C.R. 1130

<sup>168</sup> Facebook, 'Defamation reporting form' <

[https://web.facebook.com/help/contact/430253071144967?\\_rdc=1&\\_rdr#](https://web.facebook.com/help/contact/430253071144967?_rdc=1&_rdr#)> accessed 22<sup>nd</sup> October, 2025

<sup>169</sup> 2016 BCSC 686

publication of defamatory statements to an almost infinite audience through Internet based social media platforms should in my opinion, prompt the common law to gradually move toward protecting from harm in the right situations.

Social media has revolutionized communication, enabling easy and instant sharing of opinions and information, but it has also amplified the risks of defamation.<sup>170</sup> The speed and reach of social media enables false or harmful statements to spread rapidly, often causing lasting damages before corrective measures can be taken. The anonymity of online users has made it easier for individuals to defame others without accountability, complicating legal redress. Distinguishing between free speech and defamatory content remains a significant challenge, as laws struggle to keep pace with evolving digital landscapes. The viral nature of online content means that even retracted or corrected statements may continue to circulate, prolonging reputational damage. Courts face difficulties in establishing jurisdiction and enforcing defamation rulings across different digital platforms and geographical boundaries.<sup>171</sup> The challenge of proving actual harm in online defamation cases has become more difficult due to the transient nature of social media content. Influencers, celebrities and other public figures are particularly vulnerable, as baseless allegations can lead to career damage, harassment and financial losses. The emergence of artificial intelligence and deepfake technology further complicates defamation, as manipulated content can easily be used to spread misinformation.

#### **4.4 Anonymity, Fake News and Online Reputation Damage**

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<sup>170</sup> Banjo A. O. and Olusunmbo D. O. 'Implications Of Application Of The Law Of Defamation In Social Media Information Dissemination' <

[https://www.researchgate.net/publication/370363969\\_IMPLICATIONS\\_OF\\_APPLICATION\\_OF\\_THE\\_LAW\\_OF\\_DEFAMATION\\_IN\\_SOCIAL\\_MEDIA\\_INFORMATION\\_DISSEMINATION](https://www.researchgate.net/publication/370363969_IMPLICATIONS_OF_APPLICATION_OF_THE_LAW_OF_DEFAMATION_IN_SOCIAL_MEDIA_INFORMATION_DISSEMINATION)> accessed 22<sup>nd</sup> October, 2025

<sup>171</sup> Templars, 'Navigating Online Defamation: Jurisdictional Challenges in a Borderless World' <

<https://www.templars-law.com/app/uploads/2024/12/Jurisdictional-Challenges-in-a-Borderless-World.pdf>> accessed 22<sup>nd</sup> October, 2025

The challenges of anonymity, fake news and online reputation damage are deeply intertwined in the context of digital communication, particularly in Nigeria. While the advent of the internet and social media has democratized information dissemination, it has also provided fertile ground for defamation, misinformation, and cyber harassment.<sup>172</sup> These challenges are aggravated by the anonymity afforded by online platforms, making it difficult to hold perpetrators accountable.

Anonymity on the internet allows users to operate under pseudonyms, shielding their identities while engaging in activities that can harm others.<sup>173</sup> This has led to a rise in online defamation, where individuals or entities are targeted with false or damaging statements. In Nigeria, the absence of a comprehensive legal framework to address cyber defamation has left victims with few effective avenues for redress. The Cybercrimes Act<sup>174</sup> criminalizes malicious online communications,<sup>175</sup> but its provisions are often inadequate for addressing defamation specifically. The *Mortgage Specialists Inc. v Implode-Explode Heavy Industries Inc.*<sup>176</sup> case in the United States illustrates how courts can subpoena anonymous defamers, but Nigerian courts face challenges in applying such principles due to jurisdictional and procedural limitations.

The spread of fake news and false information online, has become a significant issue in Nigeria.<sup>177</sup> Social media platforms are often used to disseminate misinformation, which can damage reputations and incite public unrest. The Dele Farotimi cases highlight how defamatory content can be weaponized to target individuals, particularly public figures. *The Fyre Festival*

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<sup>172</sup> Waziri A. 'Social media Blackmail in Nigeria' < <https://awjai.org/social-media-blackmail-under-the-nigerian-law-criminal-and-civil-implications/>> accessed 29<sup>th</sup> October, 2025

<sup>173</sup> Sarda T. Natalle S. and Nichos S. 'Anonymity on the internet' < [https://www.researchgate.net/publication/332181653\\_Understanding\\_online\\_anonymity](https://www.researchgate.net/publication/332181653_Understanding_online_anonymity)> accessed 29<sup>th</sup> October, 2025

<sup>174</sup> The Cybercrimes (Prohibition, Prevention, etc.) Act, 2015

<sup>175</sup> Section 24 of the Cybercrimes (Prohibition, Prevention, etc.) Act, 2015

<sup>176</sup> 160 N.H. 227, 999 A.2d 184 (2010)

<sup>177</sup> Uwulaka T. "'Abba Kyari did not die of Coronavirus': Social media and fake news during a global pandemic in Nigeria' < <https://pmc.ncbi.nlm.nih.gov/articles/PMC9111896/>> accessed 29<sup>th</sup> October, 2025

*scandal*,<sup>178</sup> involving influencers like Kendall Jenner and Emily Ratajkowski, underscores the global nature of this problem, where false endorsements can lead to widespread reputational harm.

Online reputation damage is a direct outcome of defamation and the spread of fake news.<sup>179</sup> Victims often suffer severe emotional distress financial losses and even physical harm. The *Dan Gryder v. Charles Cook*<sup>180</sup> case in the United States, where Gryder was ordered to pay over \$1 million in damages for defamatory statements, illustrates the legal remedies available in some jurisdictions. However, in Nigeria, the absence of a comprehensive legal framework poses significant challenges for victims seeking redress. The WikkiTimes Defamation Case<sup>181</sup> exemplifies how defamatory online publications can lead to prolonged legal battles, with victims struggling to prove damages and identify anonymous perpetrators.

Challenges in addressing the issue include legal framework gaps, jurisdictional complexities, difficulty in identifying perpetrators and balancing free speech and reputation rights. Nigeria lacks specific legislation addressing online defamation, instead it relies on traditional defamation laws and the Cybercrimes Act, which often results in inconsistencies in legal interpretations and enforcement. Moreover, the global nature of the internet complicates jurisdictional issues, as defamatory content can be accessed from multiple locations. The *Adegunwa v Adepoju & Ors*<sup>182</sup> case highlights how Nigerian courts determine jurisdiction based on where the content was accessed. The anonymity of online platforms makes it challenging to track and prosecute

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<sup>178</sup> No. 1:17-cr-00600 (S.D.N.Y. 2018)

<sup>179</sup> Templars, 'Online Defamation: Just Before You Post It' < <https://www.templars-law.com/app/uploads/2019/04/Templars-Thought-Leadership-Online-Defamation-Just-Before-You-Post-It.pdf>> accessed 29<sup>th</sup> October, 2025

<sup>180</sup> No. 02-23-00434-CV (Tex. App. Oct. 24, 2024)

<sup>181</sup> MFWA, 'Nigeria: Defamation case against WikkiTimes adjourned' < <https://mfwa.org/country-highlights/defamation-case-against-wikkitime-adjourned/>> accessed 29<sup>th</sup> October, 2025

<sup>182</sup> Aret and Bret, 'Online Defamation: Addressing the question of jurisdiction in Nigeria' < <https://aret-bret.com/online-defamation-addressing-the-question-of-jurisdiction-in-nigeria/>> accessed 29<sup>th</sup> October, 2025

defamers, as seen in the *Cohen v Google Inc.*<sup>183</sup> case in the United States, which demonstrates the evidentiary hurdles in identifying anonymous posters. Finding a balance between protecting free expression and safeguarding reputational rights continues to be a contentious issue, as emphasized in the *Abalaka v. Akinsete & 2 Ors*<sup>184</sup> case, which required claimants to prove falsity and malice, aligning defamation laws with international free speech standards.

In conclusion, the challenges of anonymity, fake news, and online reputation damage in Nigeria underscore the need for comprehensive legal reforms. Recommendations include developing specific legislation to address online defamation, enhancing technical capabilities to identify anonymous defamers, educating the public on digital literacy to combat fake news and strengthening judicial mechanisms to handle cyber defamation cases efficiently. By addressing these issues, Nigeria can better protect individuals and entities from the harms of online defamation while fostering a responsible digital communication environment.

#### **4.5 Defamation in Online Forums, Blogs and News Platforms**

Defamation in online forums, blogs, and news platforms has become a significant legal and societal issue, particularly with the rise of digital communication.<sup>185</sup> In Nigeria, the legal framework for addressing online defamation is still evolving, relying on a combination of traditional defamation laws and newer cybercrime legislation. Section 373 of the Criminal Code<sup>186</sup> defines defamation as any matter likely to injure a person's reputation by exposing them to hatred, contempt, ridicule or damaging their profession or trade through injury to their reputation. This definition applies whether the defamation is in spoken words, written form or

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<sup>183</sup> 887 N.Y.S.2d 424 (N.Y. Sup. Ct. 2009)

<sup>184</sup> (2023) 13 NWLR 343

<sup>185</sup> Aret and Bret, 'Online Defamation: Addressing the question of jurisdiction in Nigeria' < <https://aret-bret.com/online-defamation-addressing-the-question-of-jurisdiction-in-nigeria/>> accessed 29<sup>th</sup> October, 2025

<sup>186</sup> Criminal Code, 1960

through signs or objects, and it includes both direct and insinuated statements. The Cybercrime Act 2015 further criminalizes sending false messages via computer systems to cause annoyance, inconvenience or harm, with penalties including fines up to N7,000,000 or imprisonment for up to three years.

Online defamation cases are complicated by jurisdictional issues, as the borderless nature of the internet makes it difficult to determine where a case should be filed.<sup>187</sup> Nigerian courts have ruled that jurisdiction lies with the court in the State where the defamatory material was accessed or viewed, as seen in *Adegunwa v Adepoju & Ors*<sup>188</sup> and *Daily Times (Nig) Plc & Anor v. Arum*.<sup>189</sup> In this case, the respondent, Dr. Ejike Arum, filed a lawsuit against the appellants, Daily Times Nigeria Plc and Folio Communication Limited, seeking ₦1,000,000,000 in damages for libel. He alleged that the appellants published defamatory content about him on their online platform, portraying him as a pedophile and a rapist. The publication was accessible in Enugu State, where Dr. Arum resided. The appellants challenged the jurisdiction of the Enugu State High Court, arguing that they neither resided nor conducted business in Enugu State. The trial court overruled their objection and upon appeal, the Court of Appeal upheld the decision, emphasizing that online publications are universally accessible and can confer jurisdiction in locations where they are accessed. This principle allows plaintiffs to file suits in multiple jurisdictions based on where the content was downloaded or viewed, reflecting the global reach of online defamation.

It is important to note that not all negative statements constitute defamation. Such a statement must be false and cause actual harm to the plaintiff's reputation. In *Dairo v. Union Bank of*

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<sup>187</sup> *Ibid*

<sup>188</sup> *Ibid*

<sup>189</sup> (2023) 17 NWLR (Pt. 1914) 559

*Nigeria Plc*,<sup>190</sup> the Supreme Court held that truth is a defense against defamation claims, meaning a statement cannot be defamatory if it is true. Additionally, defenses such as opinion or privilege can negate defamation claims, as highlighted in *Isikwenu & Anor v. Iroh*.<sup>191</sup> These principles aim to balance the right to freedom of expression with protection against reputational harm. The liability of internet intermediaries, such as social media platforms and blogs for third party defamatory content remains a contentious issue. While traditional defamation law holds publishers accountable, the role of intermediaries as mere conduits complicates this. Intermediaries such as Internet Service Providers are not liable unless they actively participate in creating or disseminating defamatory material. This aligns with global trends, where intermediaries are generally shielded from liability unless they fail to remove contents after being notified of their defamatory nature. Emerging case law in Nigeria demonstrates a willingness to adapt traditional defamation principles to the challenges of online communication. For instance, the WikiTimes Defamation Case involved allegations of defamatory online publications, highlighting the procedural and evidentiary hurdles in proving damages and identifying anonymous perpetrators. Similarly, the Dele Farotimi's case illustrates how defamatory content can be weaponized against public figures, with courts issuing interim orders to halt further publication of allegedly defamatory material.

In conclusion, defamation in online forums, blogs and news platforms presents unique challenges due to the internet's global reach and the anonymity it affords. Nigerian courts are gradually adapting to these challenges by applying traditional defamation principles and addressing jurisdictional complexities. However, the evolving nature of digital communication necessitates

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<sup>190</sup> (2001) 16 NWLR (pt. 739) 495 although the case was struck out as it held that the cause of action arose in Ogun State and not Lagos State; see also: *Zebusky v Israeli Aircraft Industries* (2007) ALL FWLR (pt. 352) 1959 in Odigie D. *Law of Tort: Text and cases* (Benin: Ambik Press 2008) pg 339

<sup>191</sup> (2012) LPELR-19796(CA).

further legal reforms to clarify liability, streamline jurisdictional issues and balance freedom of expression with protection against reputational harm.

#### **4.6 The Role of Internet Service Providers (ISPS) and Liability Issues**

The role of Internet Service Providers (ISPS) in defamation cases has been a contentious issue globally, with varying approaches to liability depending on jurisdiction. Internet Service Providers serve as intermediaries, enabling the dissemination of content online, but their liability for defamatory content created by third parties remains a complex legal challenge.<sup>192</sup>

In the United States, Section 230 of the Communications Decency Act (CDA)<sup>193</sup> provides Internet Service Providers with broad immunity from liability for third party content. The landmark case *Zeran v. America Online Inc.*<sup>194</sup> solidified this principle, holding that provides Internet Service Providers cannot be treated as publishers or speakers of information provided by others. The court emphasized on the fact that imposing liability on Internet Service Providers for failing to remove defamatory content upon notice would undermine the Communication Decency Act's goal of promoting internet development. However, critics argue that this immunity incentivizes a "do-nothing" approach, leaving victims of online defamation without adequate recourse. In contrast, the United Kingdom adopts a more nuanced approach under its Defamation Act.<sup>195</sup> Liability depends on whether the Internet Service Providers acted as publishers or merely as passive intermediaries. In *Godfrey v Demon Internet Ltd*,<sup>196</sup> the court held an Internet Service Provider liable for defamatory statements posted on its platform because

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<sup>192</sup> Wang A. 'Liability of Internet Service Providers and Website Hosts for Defamation' < <https://www.hg.org/legal-articles/liability-of-internet-service-providers-and-website-hosts-for-defamation-22070>> accessed 29<sup>th</sup> October, 2025

<sup>193</sup> The Communications Decency Act (CDA), 1996

<sup>194</sup> 129 F.3d 327 (4th Cir. 1997)

<sup>195</sup> The Defamation Act, 2013

<sup>196</sup> [1999] EWHC QB 244 (UK)

it failed to remove them after being notified. This decision established that Internet Service Providers could be treated as publishers if they knowingly allowed defamatory content to remain accessible. The European Court of Human Rights addressed similar issues in *Delfi AS v Estonia*,<sup>197</sup> where an online news platform was held liable for defamatory comments posted by anonymous users despite having mechanisms to remove such content. The court ruled that Internet Service Providers must monitor and remove harmful content within a reasonable time after notification, emphasizing the balance between freedom of expression and protection against reputational harm.

In Hong Kong, the case of *Oriental Press Group Ltd v Fevaworks Solutions Ltd*<sup>198</sup> extended liability to Internet Service Providers for failing to remove defamatory statements posted by subscribers after notification. The court laid emphasis on the fact that Internet Service Providers must act promptly upon receiving complaints about harmful contents, treating them as gatekeepers responsible for monitoring their various platforms. These cases illustrate the divergence in legal approaches to the liability of Internet Service Providers for defamation. While jurisdictions like the United States prioritize free speech and grant broad immunity to Internet Service Providers, others like the United Kingdom and Estonia impose conditional liability based on knowledge and action taken after notification.

Addressing the liability of Internet Service Providers have various challenges which include balancing freedom of expression with accountability, defining the scope of monitoring duties and addressing anonymity in online forums. Critics of blanket immunity argue that it leaves victims vulnerable and undermines efforts to effectively combat harmful contents. Conversely, imposing

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<sup>197</sup> No. 64569/09, [2015] ECHR 586 (Grand Chamber, June 16, 2015)

<sup>198</sup> (HCA 2140/2008)

strict liability may stifle innovation and discourage Internet Service Providers from hosting user-generated content.

In conclusion, the role of Internet Service Providers in defamation cases highlights the need for clear regulatory frameworks that strike a balance between protecting reputational rights and fostering free expression online. Jurisdictions must adapt their laws to address emerging issues such as anonymity, global access to content and technological advancements while ensuring fairness for victims and intermediaries alike.

#### **4.7 Case Studies of Internet Defamation**

Digital defamation in Nigeria has gained prominence due to the increasing use of social media platforms for communication. Courts have grappled with the complexities of applying traditional defamation laws to online contexts, resulting in notable cases that highlight emerging trends and challenges.

In *Okoye Blessing Nwakaego v Federal Republic of Nigeria*,<sup>199</sup> the Federal High Court sitting in Lagos sentenced Okoye Blessing Nwakaego, a TikTokker, to three years imprisonment or a fine of N150,000 for cyberstalking Nollywood actress Eniola Badmus. The court found that Nwakaego repeatedly posted offensive and defamatory content about Badmus on social media platforms, violating Sections 24 and 27 of Nigeria's Cybercrimes Act, 2015. This case clearly shows the distinction between cyberstalking and defamation while demonstrating the judiciary's commitment to addressing harmful online behavior. In *Nicholas Okoye v Ladun Liadi & Ors*,<sup>200</sup> the Lagos State High Court held the defendant liable for online defamation due to her blog post

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<sup>199</sup> Agwu E. A. 'Court's Judgment On TikTokker Cyberstalking Case Against Eniola Badmus: A Step Towards Ensuring Online Safety' < [https://lawpavilion.com/blog/courts-judgment-on-tiktoker-cyberstalking-case-against-eniola-badmus-a-step-towards-ensuring-online-safety/#google\\_vignette](https://lawpavilion.com/blog/courts-judgment-on-tiktoker-cyberstalking-case-against-eniola-badmus-a-step-towards-ensuring-online-safety/#google_vignette) > accessed 29<sup>th</sup> October, 2025

<sup>200</sup> Suit No. LD/170/2012 (High Court of Lagos State, November 22, 2022)

and the subsequent defamatory comments from third party users. The court ruled that initiating a chain of events leading to defamatory content made the defendant responsible for enabling the harm caused to the plaintiff's reputation. This decision emphasized accountability for individuals who facilitate defamatory discussions on digital platforms. Another significant case is *Dakore Egbuson-Akande v Gist Lover*,<sup>201</sup> where a blogger alleged that Egbuson-Akande was involved in an extramarital affair with a public official. The defamatory statements went viral on Instagram, sparking widespread public reactions. Although legal proceedings are ongoing, this case highlights the pervasive nature of social media defamation and its impact on public figures.

In *AIT v APC Chieftain*,<sup>202</sup> African Independent Television (AIT) faced a defamation suit for publishing documentaries alleged to contain defamatory content about the All Progressive Congress (APC) leaders during the 2015 elections. These documentaries were widely republished online, raising questions about liability for internet based republication. The court limited liability to Daar Communications (AIT's parent company), citing jurisdictional and evidentiary challenges in pursuing claims against individual republishers. The recent defamation case involving human rights activist Dele Farotimi and senior lawyer Afe Babalola has sparked significant debate. Farotimi was arrested on December 3, 2024, over allegations of criminal libel following the publication of his book, *Nigeria and Its Criminal Justice System*, which criticized Nigeria's judicial operations and named specific individuals. The arrest was based on a petition by Afe Babalola, who alleged that Farotimi defamed him in the book. Farotimi was arraigned in Ekiti State on 16 counts of criminal defamation under Sections 373-375 of the Criminal Code Act 1990 and 12 counts of cybercrime related offenses under Section 24 of the Cybercrimes Act,

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<sup>201</sup> Gistlover, 'Dakore Egbuson Debunks Allegations of Being Godswill Akpabio's Side Chic, Threatens Lawsuit' < [https://www.gistlover.com/dakore-egbuson-debunks-allegations-of-being-godswill-akpabios-side-chic-threatens-lawsuit/?utm\\_source=chatgpt.com](https://www.gistlover.com/dakore-egbuson-debunks-allegations-of-being-godswill-akpabios-side-chic-threatens-lawsuit/?utm_source=chatgpt.com)> accessed 29<sup>th</sup> October, 2025

<sup>202</sup> Awojulgbe S. 'AIT barred from airing 'defamatory' Tinubu video' < <https://www.thecable.ng/breaking-lagos-court-restrains-ait-airing-defamatory-documentary-tinubu/>> accessed 29<sup>th</sup> October, 2025

2015 (as amended 2024). The Federal Capital Territory High Court in Abuja and the Oyo State High Court issued interim orders barring further publication, sale or distribution of the book. Farotimi pleaded not guilty and was granted bail on December 9, 2024, set at N50 million, but was only released on December 24 after meeting the conditions. The case highlights the tension between free speech and defamation laws in Nigeria, particularly in the context of social media and digital communication. The Supreme Court's ruling in *Aviomoh v Commissioner of Police & Anor*<sup>203</sup> affirmed that defamation was decriminalized in Lagos State in 2011, emphasizing that it should be treated as a civil matter. This precedent was cited by the Nigerian Bar Association (NBA), which called for Farotimi's immediate release, arguing that libel is not a criminal offense under Lagos State law. The Nigerian Bar Association's statement referenced the Police Act, 2020, which mandates that law enforcement act only in respect of criminal offenses.

Farotimi's case also underscores the jurisdictional complexities of online defamation. The Court of Appeal's decision in *Adegunwa v. Adepoju & Ors* established that jurisdiction lies with the court in the State where the defamatory material was accessed or viewed. This principle was reinforced in *Daily Times (Nig) Plc & Anor v. Arum*, where the court ruled that interactive websites used for business purposes can be subject to jurisdiction in the State where the content is accessible.

The legal proceedings against Farotimi have raised critical questions about the boundaries of expression, accountability, and the law's adaptability in the digital age. The Supreme Court's ruling in *Abalaka v Akinsete & 2 Ors*<sup>204</sup> reshaped Nigeria's defamation law by requiring claimants to prove both falsity and malice, aligning it with international free speech standards. This decision strengthened legal protections for writers, activists and journalists, making truth an

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<sup>203</sup> (2021) LPELR-55203(SC)

<sup>204</sup> [2023] 13 NWLR 343

absolute defense in defamation cases. These cases illustrate key trends in Nigerian social media defamation law, including jurisdictional complexities, liability for third party content and the application of criminal statutes like the Cybercrimes Act alongside civil remedies under traditional defamation laws. They also highlight challenges such as proving intent, identifying anonymous users and balancing freedom of expression with reputational rights.

The evolving jurisprudence reflects an effort by Nigerian courts to adapt legal principles to digital realities while addressing gaps in legislative frameworks. These decisions underscore the need for reforms that clarify jurisdictional issues and establish robust mechanisms for holding individuals and platforms accountable for defamatory content online.

## **CHAPTER FIVE: SUMMARY AND CONCLUSION**

### **5.1 Summary of findings**

The rapid expansion of internet communication has changed the way the propagation of information globally has changed. While it has facilitated access to free speech and information, it has also increased examples of online defamation. The defamation law traditionally lies in print and broadcast media, now facing unprecedented challenges in the digital age. This paper approves the adequacy and effectiveness of defamation laws in addressing seriously internet based defamation statements, highlighting major legal principles, jurisdiction issues, enforcement challenges and potential reforms. The defamation law wants to balance the safety of reputation with the right to free expression. However, with the rise of online communication, these distinctions have been blurred as digital materials can be translated as speech, which is still permanent like print. Several courts such as United Kingdom, United States, Canada, South Africa and Nigeria have revised their defamation laws to accommodate internet related cases. The United Kingdom's Defamation Act of 2013 introduced reforms to reduce trivial claims, which required the claimants to prove "serious disadvantages" to their reputation. In contrast, the United States implements high level evidence to public data, which requires them to demonstrate "real malice" under the strong speech security of the first amendment. Canada has adopted a medium land approach with "responsible communication" defense, while South Africa and

Nigeria follow general law principles, but also mainly maintain aspects of criminal defamation in Nigeria. In the Internet communication revolution, there is a complex defamation law due to speed, access and durability of online content.

Unlike traditional media, where it is relatively easy to install liability, online defamation often involves many actors, including content creators, hosting platforms and search engines. The question whether the mediators should be held responsible for the defamation statements made by the users. Some courts apply liability on platforms if they fail to remove defamation material on notice, while others protect them under "safe port" provisions. One of the most important obstacles in regulating online defamation is determining the appropriate jurisdiction for legal action. Unlike traditional defamation, which is in a specific location, the defamation of the Internet can be accessed worldwide, making it difficult to find out that the laws of the country should be implemented. The courts have adopted separate approaches to jurisdiction, some publisher's place focusing and giving priority to others where the damage has occurred. For example, **Dow Jones and Company Inc. V. In Guttonik**, the Australian High Court ruled that there is a defamation where the material is accessed, not only where it was published. This example allows contenders to prosecute in courts where their reputation damages, raising concerns about "complaints tourism", where the plaintiffs choose the most favorable jurisdiction. The Defamation Act 2013 of the United Kingdom demanded limiting the practice by the need of contenders to prove adequate losses within the United Kingdom. The United States has taken a different approach, providing strong security for online speech. Section 230 of the Communications Decency Act (CDA), 1996 provides liabilities for third party content to Internet Service Providers and online platforms unless they actively participate in creating or modifying defamation materials.

It is a contradiction with other courts such as Canada and the European Union, where the courts have rapidly held the arbitrators accountable to fail to remove the defamation content on notice. Applying defamation laws in digital space presents many challenges, including oblivion, rapid content proliferation and difficulty achieving legal measures. Many infamous statements are posted by anonymous users online, making it difficult to identify and make them accountable. While courts may order Internet Service Providers and social media companies to reveal the identity of anonymous users, compliance varies based on local privacy laws and forum policies. Another issue is the speed on which online defamation spreads. A defamation post can go viral within minutes, making it difficult for legal prevention. Even if a court orders to remove the material, it can already be widely shared, re-designed or stored. In some courts such as those in the European Union recognizes "right to forget rights", and it allows individuals to request to remove harmful materials from the search engine results, but its effectiveness is limited when applied globally. In addition, compensation for defamation can be difficult when the defendant is located in a separate country or lacks financial instruments to pay losses. In many courts, there is a lack of strong mechanisms for cross-border enforcement of defamation decision, which leaves the plaintiff without an effective measure.

Social media platforms play an important role in shaping internet defamation scenarios. Unlike traditional media outlets, platforms such as Facebook, X (formerly twitter) and YouTube allow users to produce and share materials immediately. This raises the question whether these platforms should be attributed to the defamation content published by users. Legal approaches vary widely. The United States provides extensive immunity to online platforms under Section 230 of Communication Decency Act, 1996, while the European Union's Digital Services Act applies strict obligations on platforms to remove harmful materials. The United Kingdom and

Canada have introduced measures required for platforms to work responsibly in handling defamation complaints. South Africa and Nigeria lack the widespread rules addressing the role of digital middlemen, leading to inconsistent enforcement. The proposed reforms of defamation laws in the digital age include strengthening the mechanisms to make anonymous defamers accountable, establishing clear jurisdiction rules and developing international cooperation framework for defamation affairs across the border. Additionally, governments and courts should balance between protecting prestige and ensure that defamation laws are not misused to suppress free speech, especially in politically sensitive matters. Finally, the Internet Communication Revolution has greatly changed the application and enforcement of defamation laws, making new challenges to balance free expression with reputation protection. Judicial conflict, oblivion and rapid dissemination of defamation content complicates legal reactions, requiring continuous legal adaptation.

While some courts have introduced reforms to address these issues, there is a need for global cooperation and harmony of defamation laws to ensure effective enforcement in the digital age. Moving forward, a balanced approach that protects individuals from iconic losses while protecting free speech in online space will be necessary in shaping the future of defamation law.

## **5.2 Recommendation**

For this study forward and to achieve its purpose, here are suggested recommendations;

1. **Legislative Reforms and Updates:** Given the rapid growth of Internet communication, the legislative structure must be adequately updated to address new forms of defamation. Governments and legal bodies should review existing defamation laws to include digital communication including social media, blogs and online news platforms. Countries

should also align their laws with international best practices, ensuring stability and fairness in cases of online defamation.

2. To balance free speech and safety against defamation: It is important to protect individuals and organizations from iconic losses, defamation laws should not violate freedom of expression. In particular, a clear legal difference should be set up between the statements of opinion, criticism and defamation to prevent misuse of defamation laws as a tool for suppressing discontent and free speech against journalists and human rights activists.
3. Strong regulation and liability for online platforms: Social media companies such as internet middlemen, such as internet middlemen, must be necessary to apply strict content moderation policies. Governments should make these platforms mandatory to develop transparent mechanisms for flying, review and removal of defamation materials. However, such rules should not create extreme burden on platforms or lead arbitrary censorship.
4. Judicial adaptation and special training: Judges and legal physicians should undergo continuous training on Internet defamation laws and digital communication trends. This will enable the judiciary to make informed decisions in defamation cases related to online platforms. Specific courts or nominated judicial officers can also be established to handle the internet related defamation cases efficiently.
5. Public Awareness and Digital Literacy Campaign: Online defamation, responsible digital communication and defamation statements can help to reduce defamation cases about the legal consequences of defamation statements. Schools, media organizations and civil

society groups should cooperate in educating users on promoting moral online behavior and differences between free speech and defamation content.

6. Encouraging alternative dispute solutions (ADR): litigation can be expensive and time consuming. Encouraging ADR mechanisms such as arbitration and mediation can provide more efficient and less adverse approaches to resolve online defamation disputes. Governments and legal institutions should promote ADR as a viable alternative to court proceedings.
7. Governments should set up a dedicated legal aid program for individuals who cannot have financial resources to take legal action against Defaulters.
8. Coordination of laws in courts: Since defamation of the Internet can cross national borders, international cooperation is important. Countries should work together to reconcile defamation laws and outlines for cross-border enforcement. Mutual Aid Treaties (MLATs) and international conferences should be strengthened to address the complications of prosecuting in a global digital location.
9. Including Artificial Intelligence and technology in defamation detection: Governments and tech companies should invest in Artificial Intelligence (AI) tools that can detect defamation content in real time and destroy. The AI-operated material should be designed to balance accuracy with fairness, making false positives to be reduced by effectively identifying harmful materials.
10. Periodic review of defamation laws: As technology develops, periodic review of defamation laws should be done to ensure that they remain relevant. Multi interest holder consultations should include legal experts, tech companies, civil society and general public, to inform these reviews to create a balanced and adaptable legal framework.

By implementing these recommendations, policy makers and legal physicians can create a more effective and fair legal system to address defamation in the Internet communication age.

### **5.3 Conclusion**

The rapid advancement of internet communication has significantly changed how information is spread and consumed. While it has promoted global connectivity and freedom of expression, it has also given rise to serious concerns about defamation. The traditional legal structure that controls defamation was not originally designed to handle complications of online communication, resulting in various legal challenges that require immediate improvement. One of the major issues in the defamation of the Internet is the ease with which false and harmful information can be spread to a huge audience in a case of seconds. Unlike traditional forms of defamation, online defamation is accessible indefinitely, causing prolonged damage to individuals and organizations. It highlights the need for the update law that addresses the unique nature of digital communication, ensuring that the victims have clear and effective pathways for legal prevention. Another major concern is the balance between protecting prestige and maintaining freedom of speech. Highly strict defamation laws can be misused as a tool for censorship, the ability of journalists, workers and common citizens can be banned to express their views. Therefore, any legal reforms should be carefully prepared to ensure that they protect individuals from defamation without limiting public discourse and democratic engagement. The role of internet platforms is also an important idea in defamation cases. Social media networks, search engines and online publishers often host defamation content, but cannot always be held accountable due to legal safety such as safe port provisions.

Creating the right balance between platform responsibility and user accountability is necessary in creating a fair and just legal system to address online defamation. In addition, the global nature of the Internet faces judicial challenges in prosecuting in cases of online defamation. Since defamation material can be posted in a country and can be accessed worldwide, there is a need for international cooperation to develop harmonious defamation laws and enforcement mechanisms. Mutual Aid Treaties (MLATs) and international agreements can help bridge this difference and ensure justice for victims on boundaries. Education and public awareness also play an important role in reducing online defamation. Encouraging responsible digital communication and promoting digital literacy can help individuals understand the results of defamation statements. Additionally, alternative dispute solution mechanisms such as mediation and arbitration can provide efficient ways to resolve defamation disputes outside the traditional court system. In one tone of immunity, the defamation law should develop to keep pace with internet communication revolution. Legal reforms should prioritize a proper balance between online platforms and challenges generated by international jurisdiction, protecting reputation and maintaining free speech. Strengthening the legal structure, increasing public awareness, and promoting global cooperation are essential steps towards ensuring more equitable and effective approaches to deal with defamation in the digital age.

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