

**DEFAMATION IN NIGERIA ELECORAL POLITICS: LEGAL
REMEDIES AND CHALLENGES**

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DECLARATION PAGE

I hereby declare that this work is the product of my own research efforts; undertaken under the supervision of Barr. Dr (Mrs) Osuji and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged

CERTIFICATE PAGE

This is to certify that the research work for this dissertation and the subsequent preparation of this dissertation by Joshua Yemi Omoifo (LAW1906202) were carried out under my supervision.

DEDICATION

This Project work is dedicated to the only one who is Mighty. The owner of true knowledge –
God, whose hand guided me through every challenge, and whose grace sustained me
throughout.

ACKNOWLEDGEMENT

This Project work... it's so much more than a collection of words on a page. It's a piece of me. Every word, every idea, every late-night thought poured into it carries something deeply personal. But the truth is, I didn't walk this journey alone. I couldn't have. There were incredible people by my side. And now, as I reflect on this journey, I'm overwhelmed with gratitude. I need to tell them just how much they mean to me, how much they've shaped not only this project but my life.

First and foremost, I owe a massive debt of gratitude to my Project Supervisor, Dr. (Mrs.) O. Osuji. She was not just a supervisor but a force of nature who was absolutely instrumental in shaping this project, and honestly, in shaping me. From the very first conversation we had, I knew she was different. She wasn't just someone who ticked the boxes and gave generic feedback. She believed in this project, and more importantly, in me. She's a true inspiration, a gem I'll treasure forever.

And then, of course, there is my family, my anchor, my everything. Thank you, Dad, Mom, and to my siblings who have stood by me since the very beginning. Thank you for the love and the support to chase my dreams no matter how big or scary they seemed. Knowing you were there, cheering me on, even when I stumbled and fell made all the difference. It gave me the strength to get back up, dust myself off, and keep going. It was the wind beneath my wings, especially when I felt like I was about to crash and burn.

This acknowledgement, this expression of gratitude... it's not something I'm writing because I have to. It's not just a formality. It's a love letter, really. To Dr. (Mrs.) Osuji, to my family, to everyone who has supported me in ways big and small, I hope you know how much you mean to me. This project is a piece of me, and it exists because of you. It's as much ours as it is mine.

LIST OF CASES

- Aja v Somola* [1973]5 SC 119
- Amann v Damm* [1860] 8CB (NS) 595
- Ayuba v Sule* [2016] LPELR-40263(CA)
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Uren v John Fairfax & Sons Pty Ltd (1966) 117 CLR 118 at 150
Williams v West African Pilot [1961] WNLR 330

LIST OF STATUTES

1999 Constitution of Nigeria

Criminal Code

Penal Code

Cybercrime (Prohibition, Prevention) Act, 2015

Electoral Act 2022

European Convention for the Protection of Human Right and Fundamental freedoms

International Covenant on Civil and Political Rights

U.S. Constitution's First Amendment Act

Universal Declaration of Human Rights, 1948

African Charter on Human and Peoples Rights

ABSTRACT

Defamation has become a serious issue in Nigerian electoral politics, often used as a tool to damage opponents' reputations, mislead voters, and manipulate public opinion. This research paper presents a detailed examination of defamation in Nigerian electoral politics, particularly the 2023 general elections. Specifically, it further identifies various defamation methods employed in Nigerian politics, while examining their causes and collective impact on democratic institutions and electoral integrity. Nevertheless, drawing from comparative analysis of international approaches, particularly the United States and United Kingdom, the study proposes reforms, including the implementation of alternative dispute resolution mechanism, and strengthening of electoral regulations. These recommendations aim to balance the fundamental right to free speech with protection of individual reputation, while promoting more ethical and issue-based political discourse.

Keywords: Defamation, Nigerian Electoral Politics

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND TO THE STUDY

Nigeria's return to electoral democracy in 1999 marked a significant turning point in the country's political history. One of the hinge of this milestone is the promotion of freedom of political speech which is central to any democratically self-governing society, and part of citizens' political participation. In this vein, political speech is vital to a democratic society because it serves citizens' interest in equality, deliberation, truth-seeking and checking official abuse of political powers.¹ Regrettably, democracy and the electoral process in the country till date has been marred by various challenges, which one of them include defamation.

Nigeria's political communication has been characterized by intense rivalry and confrontational rhetoric. The post-1999 democratic era has witnessed an unprecedented surge in defamation cases, particularly during election periods. This surge can be attributed to several factors, which include the expansion of media platforms, intensification of political competition, and most especially, the emergence of social media as a primary channel for political discourse.

To buttress on social media, there is no doubt that its emergence together with digital communication has fundamentally transformed the nature and scope of political defamation. Political actors now face unprecedented challenges in managing their reputation in an environment where information, including potentially defamatory content, can spread like wildfire across multiple platforms. The 2019 and 2023 general elections, in particular,

¹ Peter N. Amponsah, *Libel Law, Political Criticism, and Defamation of Public Figures: The United States, Europe, and Australia* (LFB Scholarly Publishing LLC, New York, 2004).

witnessed unprecedented levels of defamatory content during political campaigns and discourse, raising serious concerns about the impact on electoral integrity and democratic process.

Traditional legal remedies for defamation, including civil litigation and criminal prosecution, have often proved to be inadequate in the context of electoral politics. In addition to that, the lengthy duration of court proceedings, high costs of litigation, and challenges in quantifying damages have limited the effectiveness of these remedies. Moreover, the time-sensitive nature of electoral campaigns often renders post-election legal victories pyrrhic, as the damage to political prospect may already be irreversible.

The Electoral Act 2022² introduced new provisions aimed at regulating electoral conduct in Nigeria. However, the Independent National Electoral Commission (INEC) and other regulatory bodies have struggled to develop comprehensive frameworks for addressing defamation in political campaigns.

Media organizations, both traditional and digital, are not left out as they both have found themselves increasingly entangled in political defamation disputes. The challenge of balancing journalistic freedom with responsibility has become more complex, particularly given the rapid pace of political news cycles and the pressure to maintain competitive advantage in breaking news stories.

Civil society organizations and media watchdogs have attempted to play a regulatory role by monitoring political discourse and advocating for responsible communication practices. Still, their efforts have often been limited by resource constraints and political resistance.

² On Friday, February 25th, President Muhammadu Buhari formally assented the Electoral Bill 2022 into law, amending the previous Act of 2010.

Recent years have seen growing recognition of the legal frameworks and institutional mechanisms to address defamation in electoral politics. This has led to calls for reform in both substantive laws and procedural rules to better handle political defamation cases.

Understanding this background is crucial for appreciating the current challenges and opportunities in addressing political defamation in Nigeria. The complex interplay of legal, political, and technological factors continues to shape the evolution of this important aspect of Nigeria's democratic development, making it a critical area for research and reform efforts.

1.2 STATEMENT OF PROBLEM

The occurrence of defamation in Nigerian electoral politics has become an increasingly concerning phenomenon. Recent studies, such as Okolo, et al. (2023), documented that 'majority (52%) percent of the participants indicated that the law of defamation was violated on social media to a large extent during the 2023 general election campaigns in Nigeria'.³ Furthermore, the existing legal framework and institutional mechanisms have proven inadequate in addressing this challenge. This gap in enforcement together with the rapid technological advancement and the complex nature of Nigerian politics, have necessitated an urgent need for this study, in order to address this growing challenge to Nigeria's democratic development

1.3 RESEARCH QUESTIONS

The pertinent questions this research aspires to answer include;

- i. What is the current state of defamation in Nigeria electoral politics, and how often does it occur?

³ Ololo et al. *The Violation of the Law of Defamation in Political Campaigns on Social Media During Nigeria's 2023 General Elections* (2023).

- ii. Are there any existing legal remedies available to victims of defamation in Nigeria electoral politics, and how effective are they in addressing the issue?
- iii. What are the challenges in enforcing defamation laws in Nigerian electoral politics, and how can they be overcome?
- iv. How does Nigeria's approach to defamation in electoral politics compare to other countries, and what lessons can be learned from their experiences?

1.4 AIM AND OBJECTIVES OF THE STUDY

The aim of this study is to critically examine the complex issue of defamation in the context of the Nigerian electoral politics, with a view to investigating the causes, impact, and the efficacy of existing defamation legal frameworks, in order to propose recommendations for strengthening and promoting electoral integrity in Nigeria. The objectives of this project can be broken down into several key areas:-

1. To examine the concept of defamation: this includes understanding what constitutes defamation, and its various forms.
2. To analyze the legal frameworks available: this project seeks to investigate the existing legal frameworks and remedies for defamation in Nigeria, including both civil and criminal laws.
3. To investigate the impact of defamation on electoral politics: this includes examining the method of defamation in Nigeria's electoral politics, and how it affects the credibility of candidates, the integrity of the electoral system, and public trust in institutions.
4. To identify the challenges in addressing defamation in Nigerian electoral politics: this involves looking into the obstacles and challenges that hinder the effective application of legal remedies for defamation in Nigerian electoral politics

5. To propose recommendations for reform: Based on the analysis and findings, the project aims to suggest reforms and improvements to the legal framework and practices to better address defamation in Nigerian electoral politics.

1.5 SCOPE AND LIMITATIONS OF THE STUDY

This research focuses specifically on political defamation in Nigeria's electoral politics, using the 2023 general elections as a case study, its various methods, causes, subsequent impact on the country's democratic development, and proposed legal reforms.

However, this study is without no limitations.

- i. There is the limited access to judicial cases and documentations specific to electoral defamation in Nigeria, given the inconsistent record-keeping practices in the country.
- ii. The study's timing during a non-election period may not fully capture the intensity and variety of defamatory practices typically observed during active electoral campaigns.
- iii. The dynamic nature of digital communication further poses a challenge, as new forms of defamatory content and distribution emerge frequently, making it challenging to maintain current documentation of all various methods of political defamation.

1.6 SIGNIFICANCE OF THE STUDY

This significance of this research is to offer valuable insights for legal practitioners and lawmakers, on the legal challenges and proposed reforms to political defamation. In addition to that, for electoral bodies, specifically the Independent National Electoral Commission (INEC), this study's findings and recommendations will provide a structured approach for

managing political defamation, potentially improving the quality of Nigeria's electoral processes.

1.7 RESEARCH APPROACH

This study adopts a doctrinal research approach, with empirical investigation of how defamation laws operate within Nigeria's electoral politics context. This include a review of primary legal sources which include:

- i. The Constitution of the Federal Republic of Nigeria (as amended)
- ii. The Electoral Act 2022
- iii. The Cybercrime (Prohibition, Prevention) Act
- iv. Relevant case laws on political defamation from international jurisdictions.

This study also include the review of secondary sources such as academic journals, law reviews and legal commentaries.

1.8 CHAPTER ANALYSIS

This paper is divided into five chapters. Chapter one is the introduction. Chapter two examines the definition of defamation, focusing on its components. Chapter three discusses the legal frameworks governing defamation in Nigeria. Chapter four centers on the method of defamation in Nigerian electoral politics, its causes and impact on democracy. Chapter five mirrors on the reform proposals for combating defamation in Nigerian electoral politics.

CHAPTER TWO

CONCEPTUAL THEORETICAL FRAMEWORKS

2.1 CONCEPTUAL CLARIFICATIONS

2.1.1 MEANING OF DEFAMATION

The word defamation is derived from Latin word, "*Diffamare*", which means '*Spreading evil report about someone*'. The Black's Law Dictionary defines defamation as the act of harming the reputation of another by making a false statement to a third person.⁴ In *Benue Printing and Publishing Corp. v Gwagwada*,⁵ the apex court in Nigeria defined defamation as any imputation which may tend to lower the plaintiff in the estimation of right-thinking members of the society generally, cut him off from society or expose him to hatred, contempt or ridicule.

From the above definitions, it is uncontroversial to state that the tort of defamation is primarily linked with the protection of one's reputation.

The classic statement of what constitutes 'reputation' for the purposes of defamation law is taken from Lord Denning's judgment in *Plato Films Ltd v Speidel*:⁶

... a man's 'character', it is sometimes said, is what he in fact is, whereas his 'reputation' is what other people think he is. If this be the sense in which you are using the words, then a libel action is concerned only with a man's reputation, that is, with what people think of him; and it is for damage to his reputation, that is, to his esteem in his eyes of others, that he can sue, and not for damage to his own personality or disposition.⁷

⁴ Black's Law Dictionary, 9th Edition, pg 479.

⁵ [1989] 4NWLR 439.

⁶ [1961] AC 1090.

⁷ Lord Denning's distinction between reputation and character has been subsequently endorsed. *Re T and Director of Youth & Community Services* [1980] 1NWLR 392 at 395 per Waddell J; *Melbourne v R* [1999] 198 CLR 1 at 15-16; 164 ALR 465; 73 ALJR 1097 per McHugh J; *O'Hagan v Nationwide Pty Ltd* [2001] 53 NSWLR 89 at 91 per Meagher JA.

According to Windeyer J, the ‘law does not protect reputation that a man has, but only the reputation that he deserves’.⁸ Consequently, it is axiomatic that the tort defamation purports to strike a balance between freedom of speech and the protection of reputation.⁹

2.1.2 TYPES OF DEFAMATION

Defamation could be classified into libel and slander. Lopes LJ defines libel in *Monson v Tussauds*,¹⁰

... libels are generally in writing or printing, but this is not necessary; the defamatory matter may be conveyed in some other permanent form. For instance, a statue, a caricature, an effigy, chalk marks on the wall, signs, or pictures may constitute a libel.

Simply put, whereas libel is a defamatory statement expressed in a fixed medium, especially in writing but also a picture,¹¹ sign or electronic broadcast, slander is a defamatory statement expressed through speech or made in a transient form.¹²

It is worth noting that a firms or corporation may be defamed within Nigeria’s jurisdiction.¹³

The right of a company to sue for defamation was first asserted unanimously in *Metropolitan*

⁸ *Uren v John Fairfax & Sons Pty Ltd* [1966] 117 CLR 118 at 150; *M’Pherson v Daniels* [1829] 10 B & C 263 at 272; 109 ER 448 at 451 per Littledale J.

⁹ David Rolph, *Reputation, Celebrity and Defamation Law* (Ashgate Publishing Company 2008).

¹⁰ [1894] 1QB 671 at 692.

¹¹ Black’s Law Dictionary, 9th Edition, pg 999.

¹² Per ABBA AJI J.C.A in *Ayuba v Sule* [2016] LPELR-40263(CA) (Pp. 6-7 paras E); *Chief Nya Edim Ekong v Chief Asuquo E. Otop & Ors* [2014] LPELR-23022(SC).

¹³ *Duyile v Ogunbayo and Sons Ltd* [1988] 1NWLR (Pt. 72)601 at 611; *Edem & Anor v Orpheo Nigeria Ltd. & Anor* [2003] LPELR-SC. 171/199 (Pp. 22-24, paras. G-C).

Saloon Omnibus Company (Limited) v Hawkins.¹⁴ In this case, the claimant had asserted in his declaration that the libel had caused the company to be ‘greatly damaged, injured and brought into public disgrace and contempt, and the value of the property of the Company and of the shares therein was depreciated’. The defendant pleaded that he could not be sued as he was a shareholder. The claimant demurred to the plea. The court agreed that the defendant’s plea failed. Pollock CB analyzed the position as follows:

... that a corporation at common law sue in respect of a libel there is no doubt. It would be monstrous if a corporation could maintain no action for slander of title through which they lost a great deal of money. It could not sue in respect of an imputation of murder, or incest, or adultery, because it could not commit those crimes. Nor could it sue in respect of a charge of corruption, for a corporation cannot be guilty of corruption, although the individuals composing it may. But it would be very odd if a corporation had no means of protecting itself against wrong; and if its property is injured by slander it has no means of redress except by action. Therefore it appears to me clear that a corporation at common law may maintain an action for a libel by which its property is injured.

Defamation of an unincorporated group is treated entirely differently from defamation of a company. No action lies at the suit of the group, so the only possible civil remedy is by individual members’ actions.¹⁵

¹⁴ [1859] 4 H & N 87.

¹⁵ *Electrical, Electronic, Telecommunications and Plumbing Union v Times Newspapers Ltd* (1980] QB 585 at 595.

Furthermore, under common law, a dead person cannot be defamed except it amounts to an injurious falsehood. Statements that disparage a person in his reputation in relation to his office, profession, or may also be defamatory.¹⁶

Defamatory statements are usually made in perceptible or permanent form such as written or printed in a newspaper, book, circular caricature, photography, film, recorded audio materials, recorded radio programmes and television broadcast.

Spoken words that are prima facie defamatory are not actionable, provided that they were uttered merely as vituperation and were so understood by those who heard them to so.¹⁷ The burden is on the defendant to prove that his listeners understood the words in a non-defamatory sense. On the contrary, if the defamatory words are written or printed, the plea that it is a mere vulgar abuse cannot avail the defendant any defence.¹⁸

2.1.3 ELEMENTS OF DEFAMATION

In Nigeria, the position of the law is firmly established that in an action for defamation, the plaintiff will only succeed if he is able to prove the essential ingredients of the tort, which are

- i. That the statement was defamatory

¹⁶ *N.T.A v Babatope* [1996]4NWLR (Pt.440)75; *Okolo v Midwest Newspaper Corporation* [1997] 1SC33, *Dumbo v Idugboe* [1983]1SCNLR29; *Newswatch Comm. v Atta* [2002]2NWLR(Pt.646)537; *Edem v Orpheo (Nig) Ltd* (2003)13NWLR(Pt.836) 537.

¹⁷ Winfield & Jolowicz on Torts, 19th Edition; Sweet & Maxwell; *Bakare v Ishola* [1959]WNLR 106.

¹⁸ *Benson v West African Pilot Ltd* [1966]2NWLR(Pt.536)153, where Ikpeazu J held the defendant liable in defamation. In his judgement, he stated: “the present actions ... concerned ... with the publication of those words in their written form by the defendant. There is a distinction in law between the spoken vulgar abuse and the written one. The former is not actionable while the latter is.”

A crucial part of any defamation claims is proving that the words were defamatory.

Ascertaining the meaning of those words is therefore a fundamental matter. Furthermore, a defendant might well seek to justify the words in a sense different to the sense that the claimant alleges they bear. Again, ascertaining the correct meaning of the words is the key question.

The most important development in construing defamatory words took place around the start of the eighteenth century, when the Court of King's Bench laid down that defamatory words had to be given their ordinary natural meaning.¹⁹

In some cases, certain types of statements are considered defamatory either by libel *per se* (libelous within themselves) or libel *per quod* (libelous because of the context in which they are spoken). Libel *per se* denote that the defamatory meaning was clear on the face of the language used; in such a case the claimant did not need to prove that he suffered damage. Libel *per se* applies to statements that accuse a person of a crime or impute that the person has a contagious or heinous disease;²⁰ or injure a person's reputation in his or her business, trade, profession, or vocation; or charge a person with sexual immorality.²¹ However, "where the defamatory nature of the writing does not appear upon the face of thee writing, but rather appears only when all of the circumstances are known, it is said to be libelous *per quod*, as distinguished from libelous *per se*..."²²

¹⁹ *Baker v Pierce* [1704] 6 Mod 23

²⁰ *Jones v Jones* [1916]2 AC 481 at 500

²¹ *Guccione v Hustler Magazine, Inc* [1986] where a false statement that a married person had live-in girlfriend implied that the person was engaged in sexual intercourse with someone other than his spouse, or was committing adultery, and, therefore the statement was held libel *per se*.

²² *Electric Funance Corp. v Deering Milliken Research Corp* [1967]

As stated by Odigie, in determining whether the defamatory statements are capable of a defamatory meaning, the judge must construe the words according to the fair, natural and ordinary meaning.²³ This means the judge must be an ‘ordinary, reasonable reader’. An ‘ordinary, reasonable reader’ reflects what Lord Atkin, describes as ‘right-thinking members of society generally’,²⁴ what Jordan CJ sees as ‘ordinary decent folk in the community, taken in general’,²⁵ and what Griffith CJ embodies as ‘a man of fair average intelligence’.²⁶

ii. That the statement referred to the claimant

The tort of defamation is not committed unless the defamatory statement refers to the claimant. Defamation law does not provide a remedy to a plaintiff merely for the insult to his or her dignity but because there has been an adverse impact on other people’s perception of the plaintiff. No such impact is possible if the plaintiff is not identifiable from the defamatory matter.

In *Aja v Somola*,²⁷ the Supreme Court held stated that once the identity of the plaintiff is put in issue, the onus shifts to the plaintiff to prove that he is the one referred to in the publication.

In *Williams v West African Pilot*,²⁸ it was held that it is imperative that plaintiff’s identity is easily ascertainable, and that any doubt about such identity is fatal to plaintiff’s claim.

²³ Dennis Odigie, *Law of Tort (Text and Cases)*

²⁴ *Sim v Stretch* [1936] 2 All ER 1237 at 1240

²⁵ *Consolidated Trust Co Ltd v Browne* [1948] 49 SR(NSW) 86 at 88

²⁶ *Slatyer v Daily Telegraph Newspaper Co Ltd* [1908] 6 CLR 1 at 7

²⁷ [1973]5 SC 119

²⁸ [1961] WNLR 330

If the claimant is mentioned by name, there is usually no difficulty in establishing the requirement of reference to the claimant, but the claimant need not be named, even asterisks might give sufficient indication of who was meant,²⁹ for the issue is whether “the words used such as, reasonably in the circumstance, would lead persons who know the plaintiff to believe that he was the person referred to.”³⁰

If a statement defames a group, an individual member of that group can only sue if the statement is clearly understood to refer to the specifically.³¹

iii. That the statement were published.

Overtime, it has been held that the essential part of the cause of action in defamation is the publication of the defamatory statements complained of.³² Therefore, it is trite law that an action for defamation cannot be sustained, without proof of publication.

According to Parke B, publication is defamatory if it is ‘calculated to injure the reputation of another, by exposing him to hatred, contempt, or ridicule’.³³ However, for the purpose of defamation law, the term, ‘publication’, is used in a specialized sense. In lay terms, a publication might refer to a physical object, such as newspaper or a book. For the purpose of

²⁹ *Bourke v Warren* [1826] 2 Car & P 307

³⁰ Per FATAYI-WILLIAMS, JSC in *S.B Dalumo v The Sketch Publishing Co. Ltd* [1972] ALL NLR 567. For example, what this means is that if a statement is made is published that “the new doctor at the clinic is incompetent and has botched several surgeries.”, and Dr. Alex, happens to be the only new doctor at the clinic, even though he wasn’t named explicitly, a reasonable person aware of the recent hiring would understand the statement to refer to Dr. Alex. This is because there is no other new doctor at the clinic to whom the statement would reasonably apply.

³¹ For example, if an article titled, “All members of the X political party are corrupt.”, is published, while this statement may not name a specific member of X political party as corrupt but applies to the entire group, it could still be defamatory and brought by an individual member who feels their reputation has been damaged.

³² *Toomey v Mirror Newspapers Ltd* [1985] 1 NSWLR 73 per Hunt J

³³ *Parmiter v Coupland* [1840] 6 M & W 104; 151 ER 340

defamation law, publication of a defamatory statement entails its communication, rather than simply its composition.

In *Bashorun v Ogunlewe*,³⁴ OGUNTADE, JCA described publication as the communication of the alleged defamatory statement or matter to at least one person other than the plaintiff himself.³⁵ This means that the defamatory statement must be conveyed to a third party in a comprehensible form. The third party needs to be able to understand the defamatory impact of the statement, otherwise no harm is done to the plaintiff's reputation.³⁶

The element of comprehension as part of publication also informs the principles relating to the publication of defamatory statement in a foreign language. If a defamatory statement is conveyed to a recipient in a language with which that recipient is not familiar, there has been no effective defamatory publication because the defamatory statement is not comprehensible to the recipient.³⁷

The communication can take various forms, including publishing the defamatory statement in a newspaper, magazine, book, blog post, or social media post. Given that reputation is comprehended as a social phenomenon, not a purely personal or private interest, if the alleged defamatory statements were communicated to the plaintiff only, then no action for defamation would be maintained.

Where publication is alleged to have been made to several persons, the names of the persons to whom the publication was made must be stated. If his name is unknown, he must be described in such a manner that discloses his identity.

³⁴ [2001]1 NWLR (Pt. 640) 221

³⁵ See also *Consolidated Trust Co Ltd v Browne* [1948] 49 SR(NSW) 86 at 89 per Jordan CJ

³⁶ *Dow Jones & Co Inc v Gutnick* [2002] 210 CLR 575 at 600

³⁷ *Jones v Davers* [1597] 78 ER 747; *Amann v Damm* [1860] 8CB (NS) 595;

Where a person induces publication against himself, no cause of action arises. In other words, where the plaintiff makes to a defamatory comment (oral or written) known to a third party, he cannot complain that the defendant has defamed him. Any publication made under such circumstances is self-induced.

CHAPTER THREE

LEGAL FRAMEWORKS GOVERNING DEFAMATION IN NIGERIA

3.1 INTERNATIONAL LEGAL FRAMEWORKS FOR DEFAMATION

It is trite that no society can attain optimal development without protecting the rights' associated with people's freedom of expression. To Lovell (1937), freedom of speech and expression simply refers to the right to express one's beliefs, ideas, opinions and convictions freely through any means of communication either by words of the mouth, writing, printing, signs, gestures, among others.³⁸

³⁸ *Lovell v City of Griffin* [1937] 303 US 444

According to the Universal Declaration on Human Rights³⁹, ‘everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information, and ideas through any media and regardless of frontiers’.⁴⁰

Article 19 of the International Covenant on Civil and Political Rights further provides for the right to freedom of expression as follows.⁴¹

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print in the form of art or through any other medium of his choice.

Subsection (2) further establishes that:

Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Article 9 of the African Charter on Human and Peoples Rights also provides for the protection of the right to freedom of expression in the following terms:

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinion within the law.

³⁹ Article 19 of the Universal Declaration of Human Rights, 1948

⁴⁰ L.J Udofa ‘The Law of Defamation in Nigeria’ *International Journal of Advanced Legal Studies and Governance* 2(1) (2011): 76

⁴¹ E. Malemi, *Mass Media Law and Press Law* (Princeton Publishing Co. 2009)

However, it is also instructive to note that freedom of expression, even if a universal right, is not absolute. There are recognized limitations to this right, which include the law of defamation. Article 29(2) of the Universal Declaration of Human Rights explicitly provides that:

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 19 (3) of the International Covenant on Civil and Political Rights (ICCPR) establish that:

The exercise of the rights provided for in paragraph 2 of this Article carries with it special responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as provided by law and are necessary.

(a) For respect of the rights or reputation of others.

(b) For the protection of national security or public order or of public health or morals.

Furthermore, Article 10 of the European Convention for the Protection of Human Right and Fundamental freedoms presents freedom of expression as a right balanced with limitations.

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

The exercise of these freedom... may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic

society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others.

In addition, Article 9 of the African Charter on Human and Peoples Rights provides for the protection of the right to freedom of expression. However, in this regard, the African Charter on Human and Peoples Rights simply provides to the effect that the exercise or enjoyment of the right to freedom of expression shall be done within the limits of law.

3.2 LEGAL FRAMEWORKS GOVERNING DEFAMATION IN NIGERIA

3.2.1 THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (1999 AS AMENDED)

The right to freedom of expression is guaranteed and protected in Section 39 of the 1999 Constitution of Nigeria in the following terms:

- a. Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.
- b. Without prejudice to the generality of sub section (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions provided that no person, other than the government of the federation or a state, or any other person or body authorized by the president on fulfillment of a condition laid down by an Act of National Assembly, shall own,

establish or operate a television or wireless broadcasting station for any purpose whatsoever.

It has already been buttressed that the right to freedom of expression is not absolute. Under the 1999 Constitution of Nigeria, the right to freedom of expression could be restricted by a law reasonably justifiable in a democratic society, for the purpose of preventing the disclosure of information received in confidence or for the purpose of maintaining the authority and independence of the courts.⁴²

Also, by virtue of Section 45(1) of the 1999 Constitution, the right to freedom of expression and some other fundamental rights guaranteed in the Constitution could be restricted or curtailed by any law that is reasonably justifiable in a democratic society. Though section 45(1) of the 1999 Constitution of Nigeria does not expressly mention the law of defamation as one of the laws restricting the right to freedom of expression, a careful examination of the purpose of the law of defamation brings it within the contemplation of the said constitutional provision as one of the laws that is reasonably justifiable for the purpose of protecting the rights of others, and in this case, the right to protect their reputation.

3.2.2. THE NIGERIAN CRIMINAL CODE AND PENAL CODE

Under the Nigerian Criminal Code, a defamatory matter is one which is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule or likely to damage any person in his profession or trade by an injury to his reputation.⁴³

Furthermore, Section 289 of the Nigerian Penal Code (2008) provides that:

⁴² Section 39(3) of the 1999 Constitution

⁴³ Section 373 of the Nigerian Criminal Code

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.

In addition, Section 375 of the Nigerian Criminal Code criminalizes defamation in the following terms:

Subject to the provisions of this chapter, any person who publishes any defamatory matter is guilty of a misdemeanor and is liable to imprisonment for one year and any person who publishes any defamatory matter knowing it to be false is liable to imprisonment for two years.

In extension, the Criminal Code further provides that anyone who publishes a defamatory matter with an intent to extort money or other property, to induce a person to give and other examples as provided in the Act is guilty of a felony and is liable to imprisonment for 7 years in which such offender can be arrested without warrant.

3.2.3. THE CYBERCRIME (PROHIBITION, PREVENTION) ACT, 2015

It is important to note that the Cybercrime Act did not explicitly provide for the offence of defamation, but cyberstalking. However, cyberstalking often includes spreading false or harmful information about someone online, which can also be considered as defamation. This was provided in Section 24(b) of the Cybercrime (Prohibition, Prevention) Act, 2015, as follows:

Any person who knowingly or intentionally sends a message or other matter by means of computer systems or network or that he knows to be false, for the purpose of causing annoyance, inconvenience danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent commits an offence under this Act and shall be liable on conviction for a fine of not more than N7,000,000.00 or imprisonment for a term of not more than three years or to both such fine and imprisonment.

3.2.4. THE NIGERIAN ELECTORAL ACT, 2015

The Nigerian Electoral Act 2022 does not explicitly mention the word “defamation”. However, Section 123(c) of the Act addresses the issue of false publication and defamation of electoral candidates. This section states:

Any person who before or during an election publishes any statement as to the personal character or conduct of a candidate calculated to prejudice the chance of election of the candidate or to promote or procure the election of another candidate and such statement is false and was published without reasonable grounds for belief by the person publishing it that the statement is true, commits an offence and is liable on conviction to a maximum fine of N100,000 or imprisonment for a term of six months or both

While this section does not use the term “defamation”, it criminalizes the publication of false statement that could harm a candidate’s election prospects. This could be interpreted,

especially if the false statement is made with the intent to damage the candidate's reputation and electoral chances.

CHAPTER FOUR

DEFAMATION IN NIGERIA ELECTORAL POLITICS: A CASE STUDY OF THE 2023 GENERAL ELECTIONS, VARIOUS METHODS OF ELECTORAL DEFAMATION, CAUSES AND IMPACT ON DEMOCRACY

Nigeria's return to civilian rule in 1999 ushered in a new era, characterized by a complex interplay of factors. First is the operation of a vibrant multi-party system, with numerous political parties vying for power. Secondly, is the principle of federal character, enshrined in the Nigerian Constitution, which aims at ensuring equitable representation of different ethnic groups in government. Finally, the Independent National Electoral Commission (INEC) is responsible for conducting and supervising elections in Nigeria. Its role is crucial in ensuring free, fair and credible elections.

It is paramount to realize that while highly valued in democratic societies, freedom of speech has never been an unfettered right. As the US Supreme Court has noted, “speech concerning public affairs is more than self-expression; it is the essence of self-government.”⁴⁴ Without a free flow of information and ideas, the public cannot formulate opinions about its government, elected officials and other matters of public interest.

One basic medium of freedom of speech is political campaigns. Political campaigns serve as the lifeblood of electoral democracy. They provide a platform for political parties and candidates to articulate their policy positions, ideological stances, and their plans for governance.

The practice of defamation in Nigerian elections has evolved into a sophisticated system of tactical maneuvers designed to undermine political opponents. This analysis explores the various methods and mechanisms through which defamation occurs during Nigerian electoral campaigns:

4.1 COMMON DEFAMATION METHODS IN NIGERIAN ELECTORAL POLITICS

4.1.1. Personal Integrity Questioning

One of the most common and damaging defamation tactics used in Nigerian elections is questioning the personal integrity of political opponents. This involves attempts to portray a candidate as untrustworthy, corrupt, or morally compromised. Integrity is a crucial trait for leadership, and when doubts are raised about a candidate’s honesty or character, it can significantly affect public perception and voter confidence.

⁴⁴ *Garrison v Louisiana* [1964] 379 US 64

How This Tactic Works:

Politicians or their supporters strategically spread narratives that paint their opponents as people of weak character. These attacks are often designed to create a long-lasting negative impression, even if there is no solid evidence to back up the claims. The methods used to question a candidate's integrity include:

- i. Accusations of Corruption

Opponents may claim that a candidate was involved in embezzlement, bribery, or fraudulent government contracts. They may highlight past allegations, even if the candidate was never convicted. Leaked documents or manipulated financial records are sometimes used to “prove” corruption. An example is the 2016 Edo State gubernatorial elections, where Adams Oshiomhole, then governor of Edo State who was supporting Godwin Obaseki, the then governorship candidate of the All Progressive Congress (APC), made several public statements questioning the governorship candidate of the Peoples Democratic Party, Pastor Osagie Ize-Iyamu's integrity. Most notably, he alleged that Ize-Iyamu was a “thief” and questioned his accountability with public funds.

- ii. Accusations of Tying the Candidate to Controversial Figures

If a candidate has been associated with unpopular or controversial individuals in the past, those relationships may be exaggerated. The idea is to make voters believe that the candidate shares the same unethical values as their associates.

4.1.2. Moral Conduct Allegations

Another major defamation tactic used during Nigerian elections is making allegations of moral misconduct against political opponents. These attacks are meant to paint a candidate as morally unfit for leadership by accusing them of engaging in unethical or immoral behavior. Since Nigerian society places a high value on moral character (often influenced by religious and cultural beliefs), these allegations can be extremely damaging, even if they are untrue.

How This Tactic Works:

Accusations of moral misconduct can take different forms, but they generally aim to create scandal and generate public outrage. Politicians and their supporters may use this tactic in the following ways:

- i. Accusations of Extramarital Affairs or Infidelity

A common method of attack is to claim that a candidate has been involved in extramarital affairs. This is particularly damaging for politicians who present themselves as religious or family-oriented. Fake or exaggerated stories of secret relationships, hidden children, or scandals involving mistresses may be spread to create embarrassment. Sometimes, manipulated photos, videos, or WhatsApp chats are shared online to make the allegations seem more credible.

- ii. Claims of Sexual Misconduct or Abuse

Opponents may accuse a candidate of being involved in cases of sexual harassment, assault, or exploitation. Even if there is no evidence, such claims can generate widespread condemnation, especially in the age of social media. This

tactic is often used to discredit powerful candidates who seem to have a strong chance of winning.

iii. Allegations of Drug or Alcohol Abuse

A politician may be accused of being an alcoholic, drug addict, or engaging in reckless behavior. The aim is to create doubt about their ability to make sound decisions or lead responsibly. Old videos or photos of the candidate in casual settings (such as a party or nightclub) may be taken out of context to support these claims.

iv. Accusations of Homosexuality or Other "Socially Unacceptable" Behavior

In Nigeria, where laws and societal norms strongly oppose LGBTQ+ identities, accusing a politician of homosexuality can be a highly damaging tactic.

Opponents may claim that a candidate is secretly part of an LGBTQ+ community or has engaged in same-sex relationships, knowing that such accusations could lead to social and political rejection.

v. Attacks on Religious Morality

Politicians may be accused of being irreligious, engaging in occult practices, or being involved in secret societies. If a candidate has ever been seen in controversial religious settings, opponents may use that against them. Some may also be accused of pretending to be religious for political gain while privately engaging in immoral behavior.

4.1.3 Family Background Attacks

In Nigerian elections, a candidate's family background is often weaponized as a means of discrediting them. This tactic is especially effective in a society where family reputation, lineage, and ancestral ties carry significant weight. Rather than focusing on a candidate's personal achievements or leadership qualities, opponents may try to tarnish their image by associating them with negative aspects of their family history.

How This Tactic Works

Politicians and their supporters employ several strategies to attack an opponent's family background. An example is the associating of the candidate with a notorious or controversial relative. In other words, if a candidate's father, mother, siblings, or extended family members were involved in scandals, corruption, or controversial political decisions, political opponents may use it, even if the targeted candidate had no involvement in the relative's actions. An example is the case of Godwin Obaseki in the 2016 Edo State Gubernatorial election, who was heavily defamed to be a traitor to Edo land, based on his ancestral ties which touched on historical sensitive wounds.

4.1.4. Spreading Fabricated Stories in Nigerian Elections

One of the most deceptive and damaging forms of political defamation in Nigerian elections is the spreading of fabricated stories. With the rise of social media and digital platforms, fabricated stories spread faster than ever before. These falsehoods can go viral within hours, making them an effective tool for manipulating public perception, especially in the final stages of an election campaign. This tactic involves creating completely false or highly exaggerated narratives about a political opponent with the intent of misleading the public and

damaging their reputation. Unlike other forms of defamation, which may have some basis in reality, fabricated stories are often entirely fictional and designed purely for political sabotage.

How This Tactic Works

Fabricated stories can take many forms, but they typically share the goal of making a candidate appear corrupt, immoral, dangerous, or incompetent. The most common methods include:

- i. Creating Fake News Articles and Reports

Opponents may sponsor online blogs, websites, or social media pages to publish false reports about a candidate. These articles often appear as legitimate news sources, making it difficult for the public to distinguish fact from fiction.

- ii. Spreading False Social Media Posts

Fake Facebook, Twitter, and WhatsApp posts are created to show a candidate saying something offensive, controversial, or contradictory.

- iii. Manipulating Photos and Videos

Old or unrelated pictures and videos are taken out of context and presented as "evidence" of wrongdoing. Deep-fake Artificial Intelligence (AI) technology may be used to create fake videos where a candidate appears to say or do something they never actually did. For example is a doctored video showing a candidate collecting bribes, even though it never happened.

- iv. Using Fake Leaked Documents or Audio Recordings

Opponents may fabricate and circulate forged documents like government records, bank statements, or any other financial records, or fake audio recordings to falsely implicate a candidate for corruption, fraud or secret transaction.

v. Anonymous Whistleblower Claims

Opponents may invent a "credible source" who claims to have inside information about the candidate's wrongdoing. These sources are often unnamed, making it impossible to verify their authenticity.

4.2 A CASE STUDY OF ELECTORAL DEFAMATION IN THE 2023 GENERAL ELECTIONS IN NIGERIA

As earlier highlighted, the practice of defamation in Nigerian elections has evolved into a sophisticated system of tactical maneuvers designed to undermine political opponents.

During the 2023 Nigerian general elections, several notable instances of electoral defamation occurred among political actors and their supporters. Here are specific instances:

i. The "Tinubu Drug Trafficking" Allegations

According to the research by the Centre for Democracy and Development (CDD), one of the most prominent defamation cases involved allegations against Bola Tinubu regarding supposed drug trafficking in the United States. These claims, which circulated widely on social media platforms and some traditional media outlets, were challenged legally. Studies by Adeleke et al (2023) in the Journal of African Politics documented how these unverified allegations were strategically deployed to damage Tinubu's reputation during the campaign period.

ii. Another notable instance involved accusations against Bola Tinubu regarding his Chicago State University educational credentials, which led to widespread debate and legal actions, and also his health status, which became subject of defamatory

claims. These claims often lacked substantial evidence but were widely circulated through social media networks.

- iii. The 2023 general elections period also witnessed numerous instances of religious and ethnic-based defamation. First, were the spiraling of false claims about the running mate to the presidential candidate of the All Progressive Congress, (APC), Kashim Shettima's alleged connections to terrorist groups. In addition to that, the presidential candidate of the Labour Party, Peter Obi, also faced defamatory attacks through a fabricated audio recording that circulated in February 2023. The audio falsely portrayed him making discriminatory statements against northerners and Muslims. These false claims spread rapidly across X (formerly Twitter), demonstrating the sophisticated nature of political defamation in the digital age. However, the most prominent is the Muslim-Muslim ticket of the All Progressive Congress (APC), which generated significant defamatory content, where false narratives about the "Islamization plans" were weaponized against the Tinubu-Shettima ticket.
- iv. The 2023 general elections campaign period also saw defamatory attacks against the presidential Candidate of the Peoples Democratic Party (PDP), Atiku Abubakar, with various unverified corruption allegations circulating widely. One of these allegations which spread through various media platforms were the Special Purpose Vehicle (SPV) claims made against Atiku Abubakar, which included detailed but contested financial accusations.

Academic analysis suggests that the 2023 elections represented a new phase in Nigerian political defamation, characterized by increased use of digital manipulation technologies,

more sophisticated distribution networks for false information, and more organized and systematic deployment of defamatory strategies. These instances highlights the growing challenges of managing political communication and discourse in the digital age, and the need for stronger legal and regulatory frameworks to address political defamation in subsequent Nigerian elections.

4.3. CAUSES AND IMPACT OF DEFAMATION IN NIGERIAN ELECTORAL POLITICS

The following reasons outline the primary factors contributing to the prominence of defamation in Nigerian electoral politics and their pervasive impact on Nigeria's democracy.\

4.2.1 Political Office as a Primary Avenue for Wealth Accumulation

Historically, political office in a democratic society is considered a sacred trust, a privilege granted by the people to individuals who are expected to serve the public interest. Elected officials are expected to prioritize the well-being of their constituents, ensuring access to quality education, healthcare, infrastructure, and a just and equitable society. They are seen as stewards of public resources, entrusted to utilize them wisely and transparently for the benefit of the nation.

However, in Nigeria, this noble perception of political office has been significantly eroded over time. For many, the pursuit of political power is no longer primarily about service to the people but rather a means to amass wealth and consolidate personal influence. The lure of

politics is often tied to the immense financial and material benefits it offers, making public office one of the most lucrative wealth opportunities.

One of the primary attractions of holding political office in Nigeria is the access it provides to vast state resources, including government contracts, financial allocations, and economic privileges. With control over public funds, politicians can easily manipulate government funds for personal gain, engaging in widespread corruption, embezzlement, and other financial mismanagement activities. Public funds meant for developmental projects are frequently diverted into private accounts, while contracts are inflated or awarded to companies owned by political allies and associates.

Beyond the direct misappropriation of funds, many politicians leverage their positions to gain preferential treatments in business dealings. They may use their positions to secure lucrative contracts for themselves or their associates, or to obtain favorable tax waivers or other business incentives unavailable to ordinary citizens. This can create an uneven playing field, where political connections determine financial success, leaving many hardworking Nigerians struggling against systemic inequality.

This pervasive culture of self-interest has significantly altered the nature of political competition in Nigeria, thereby creating a highly competitive and often toxic political environment. As a result, political campaigns are often characterized by smear tactics, character assassination, and widespread defamation, as candidates seek to discredit their opponents by any means necessary all in a bid to gain an electoral advantage, or to secure and maintain their positions of power. The emphasis shifts from genuine political engagement and policy discourse to mudslinging, misinformation, and the destruction of reputations, leading to a significant decline in ethical standards within the political arena.

The consequences of this politicized quest for wealth are severe and far-reaching. Corruption becomes deeply ingrained in governance, eroding public trust in political institutions. Instead of addressing pressing societal challenges, government officials prioritize personal enrichment, leading to gross misallocation of resources and neglect of critical sectors such as education, healthcare, and infrastructure. The result is widespread underdevelopment, increased poverty, and worsening social inequalities, further widening the gap between the rich and the poor

Moreover, this cycle of corruption and self-serving leadership ultimately undermines the essence of democracy. The true purpose of democratic governance is to ensure that power is exercised for the collective good. However, when politicians are driven by personal greed rather than public service, the people's interests are relegated to the background. This fosters widespread disillusionment among citizens, leading to political apathy, voter disenfranchisement, and a weakened civic culture. When people lose faith in their leaders and institutions, the very foundation of democracy is threatened.

4.2.2 Limited Issue-Based Discourse and Emotionally-Focused Campaigns:

A key weakness in Nigerian political campaigns is the frequent absence of substantive discussions on critical national issues such as poverty, unemployment, healthcare, and infrastructure development. Instead of engaging voters with well-researched policy proposals and solutions, many politicians resort to emotional manipulation as a campaign strategy. They exploit public fears, anger, and prejudices to discredit their opponents, rally support for their own candidacies, and divert attention from their own shortcomings. As a result, when voters are driven by fear, anger, or prejudice, they are far less likely to assess candidates

based on their policies, qualifications, or leadership capabilities. Instead, they become susceptible to emotional appeals, supporting candidates who provoke the strongest emotional responses rather than those who offer viable solutions to national challenges.

Moreover, when political campaigns devolve into spectacles of emotional appeals and personal attacks, voters are deprived of the opportunity to make well-informed choices. Instead of evaluating candidates based on their policy platforms and vision for the nation, they are forced to navigate an environment saturated with misinformation and political theatrics. In addition, the normalization of defamation as a political tool discourages qualified individuals from entering politics. Those who fear the reputational damage that can arise from baseless attacks may choose to avoid political involvement altogether, depriving the nation of capable leaders who could contribute to good governance. This leaves room for those who thrive in a system driven by deceit and manipulation, further entrenching corruption and poor leadership.

4.2.3 Inadequate Regulatory Framework:

The legal framework governing electoral matters in Nigeria which is the Electoral Act faces significant challenges, particularly in addressing the widespread issue of defamation. One major problem is the failure to provide clear parameters for what constitutes defamatory statements specifically within electoral campaigns, creating a legal area that can be exploited. In addition to that, electoral defamation as provided in the Nigerian Electoral Act, 2022 appears inadequately equipped to address modern forms of electoral defamation occurring online. For instance, while the Act focused on the printed or published statements as we see in Section 123, it failed to clearly address new forms of political communication, such as social media campaigns, viral misinformation, and the use of spoken defamatory statements.

This lack of clarity can lead to legal loopholes, making it difficult to prosecute offenders or determine the boundaries between legitimate political speech and defamatory attacks.

Perhaps, the most critical issue is the weak enforcement mechanisms. Since the enactment the Electoral Act 2022, no significant prosecution has been carried out under the provisions of Section 123. This gap between legislation and enforcement continues to allow defamation to flourish during critical political moments. The 2023 general elections and the recent Edo gubernatorial elections serves as a perfect example of this.

CHAPTER FIVE

CONCLUSION

5.1 SUMMARY OF FINDINGS

The goal of this study was to demonstrate that defamation has become deeply embedded in Nigeria's political culture, manifesting through various methods that undermine democratic processes and electoral integrity.

First, the study identifies that defamation in Nigerian electoral politics is primarily driven by the perception of political office as a means of wealth accumulation. This has created a highly competitive political environment where candidates and parties frequently resort to

defamatory tactics rather than engaging in issue-based campaigns. The research also shows common defamatory methods which include questioning personal integrity, making allegations about moral conduct, attacking family backgrounds, spreading fabricated stories, and deploying conspiracy theories.

In addition, this study also highlights that existing legal framework, which include the 1999 Constitution, The Criminal Code, Penal Code, and Cybercrime Act 2015, while providing theoretical protection against defamation, have not effectively deterred defamatory practices in electoral politics. This ineffectiveness can be attributed to several factors, including an overburdened judiciary, corruption, and lack of political will to enforce existing laws.

Finally, this study has also advocated for the need for a thorough reform of both legal frameworks and institutional mechanisms for addressing defamation in Nigerian electoral politics. The research indicates that successful reforms must address both the procedural aspects of law enforcement and the underlying political culture in the country that perpetuates defamatory practices.

5.2 RECOMMENDATIONS FOR COMBATING DEFAMATION IN NIGERIAN ELECTORAL POLITICS

As earlier stated, the practice of defamation in Nigerian elections has evolved into a sophisticated system of tactical maneuvers designed to undermine political opponents. However, this section is aimed at exploring the needed reform proposals for combating defamation in Nigerian electoral politics:

1. Faster Dispute Resolution Mechanisms

The slow pace of Nigeria's judicial system makes it difficult for electoral defamation cases to be resolved in a timely manner. In electoral politics where campaigns are often short-lived, delayed justice means that a defamatory statement can achieve its intended damage before the courts have a chance to intervene. If a politician is falsely accused of corruption or misconduct a few weeks before an election, a lengthy legal battle will not prevent the immediate harm to their reputation.

To prevent this, Nigeria should adopt Alternative Dispute Resolution (ADR) mechanisms for election-related defamation cases. These could include the setting up of special courts to handle political defamation cases within a strict time frame, ensuring that disputes are resolved before elections conclude. In addition to that, if a candidate or media outlet is found guilty of defamation, they should be legally required to issue a public retraction or apology within a short period, helping to repair the damage before election day.

2. Electoral Reforms

Beyond legal reforms, tackling defamation in Nigerian politics requires significant improvements to the country's electoral processes. To address this, current Nigeria's Electoral law should be amended to:

- i. Clearly provide for the offence of defamation, as pertaining to Nigeria's electoral politics.
- ii. Section 123 of the Electoral Act, 2022 should be amended to adequately address spoken defamation (slander) and modern forms of electoral defamation occurring online. Therefore, political parties and candidates

should be held accountable for false claims made in campaign materials, whether in print, television, or online.

- iii. The current penalties for defamation as provided in the Electoral Act, 2022 also tend to be insufficient in deterring such behavior, particularly for powerful individuals. Given the significant political and personal benefits that can be derived from tarnishing an opponent's reputation, more should be done on this as many politicians view these penalties as minor inconveniences rather than genuine deterrents. This imbalance allows defamatory practices to persist as a common political strategy
- iv. The current Electoral Act should also be amended to empower Electoral bodies like the Independent National Electoral Commission (INEC) the authority to disqualify candidates or sanction parties that engage in defamatory conducts

3. Comparative Analysis

Defamation in electoral politics is not unique to Nigeria. Around the world, democracies face challenges in balancing free speech with the need to protect individuals from false and damaging statements during elections. Countries such as the United States have developed distinct legal approaches to handling defamation, each with its strengths and weaknesses.

5.2.1 COMPARATIVE ANALYSIS OF THE UNITED STATES DEFAMATION AS TO ELECTORAL POLITICS

The United States has one of the strongest legal protections for free speech, particularly in political discourse. The legal framework for defamation is primarily based on the U.S. Constitution's First Amendment.⁴⁵ However, there are still legal avenues for addressing defamation.

i. The Sullivan Standard:

During elections, U.S. courts prioritize free speech, allowing politicians and the public to express a wide range of opinions, criticisms, and even exaggerated claims. This means that government and public figures in the United States, must expect “vehement, caustic, and sometimes unpleasantly sharp attacks” on them on public issues. However, there is a limit. The Sullivan Standard comes from a famous 1964 U.S. Supreme Court case, *New York Times Co. v. Sullivan*.⁴⁶ This ruling set a high bar for public officials who want to sue for defamation.

Under this standard, a politician or government official cannot win a defamation lawsuit just by proving that a statement was false. They must also prove “actual malice”,⁴⁷ which must be done with “convincing clarity”, a standard higher than the normal one of preponderance of the evidence in civil actions

ii. Social Media and Misinformation:

⁴⁵ The U.S. Constitution's First Amendment is targeted at protecting free speech, even when it includes harsh criticism of public officials and political candidates

⁴⁶ (1964) 376 U.S. 254, 270

⁴⁷ Per Justice William Brennan; “The Constitution guarantees require... a federal rule that prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with “actual malice”, that is, with knowledge that it was false or with reckless disregard of whether it was false or not.

In the U.S., defamation laws do not strictly regulate online speech, meaning people can express their opinions freely on social media. However, false political information can spread quickly, especially during elections.

To address this, social media platforms like Facebook and X (formerly Twitter) have been pressured to take action. They have introduced fact-checking systems and content moderation policies to help identify and reduce the spread of false political claims.⁴⁸

5.2.3 RECOMMENDATIONS FOR NIGERIA BASED ON THE COMPARATIVE ANALYSIS OF UNITED STATES

However, while it is essential to combat defamation, it is equally important to protect free speech, particularly in the context of political debates and media coverage. A democracy thrives on open discussion, and any legal reforms must avoid being used as tools for censorship. Unfortunately, in Nigeria, politicians sometimes use defamation laws to silence journalists, activists, and political opponents who engage in legitimate criticism.

⁴⁸ For example is the 2020 U.S. Presidential Election. During this election, false claims about voter fraud spread widely on platforms like Facebook and Twitter (now X). In response, these platforms:

- a. Labeled misleading posts: Twitter added warning labels to tweets that contained false or disputed election information, including some from then-President Donald Trump.
- b. Restricted content reach: Facebook reduced the visibility of posts flagged as misinformation and directed users to verified election resources.
- c. Banned false claims: Both platforms took down posts that spread outright falsehoods about voting procedures or results.

Although, this led to debates over free speech and censorship, with some arguing that the platforms were protecting democracy by preventing misinformation, while others claimed these actions unfairly silenced certain political voices.

To strike the right balance, reforms should ensure that:

- i. Defamation laws do not criminalize honest mistakes or expressions of opinion but focus on malicious falsehoods that can be proven to cause harm.
- ii. There are strong protections for journalists and media houses that report in good faith, ensuring they are not subjected to legal harassment for exposing wrongdoing.
- iii. Social media regulations are designed to curb misinformation without suppressing legitimate political discussions.

5.3 CONTRIBUTIONS TO KNOWLEDGE

This research makes several significant contributions to the existing body of knowledge regarding defamation in Nigerian electoral politics.

Firstly, this study uniquely demonstrates how the perception of political office as a wealth-accumulation mechanism directly influences the nature and prevalence of defamatory practices in Nigerian politics. Secondly, the research provides a novel approach to understanding the gaps between statutory provisions of the offence of defamation and the practical enforcement of defamation as pertains to electoral conduct in Nigeria. Finally, the research develops a unique comparative framework by analyzing approaches to defamation

regulation in different jurisdictions, which include the United States and the United Kingdom. This represents an original contribution to knowledge in comparative law and offers practical solutions for legal reform in Nigeria.

5.4 SUGGESTED AREAS FOR FURTHER STUDIES

Based on the findings and limitations of this research, several critical areas warrant further investigation to enhance a comprehensive understanding of defamation in Nigeria's electoral politics and in a bid to develop more effective regulatory frameworks.

1. Future research should examine the evolving nature of defamation in the digital age, specifically with the advent of Artificial Intelligence (AI). This area of study becomes crucial as technological advancement has continue to transform political communication and campaign strategies.
2. Further comparative research is needed to analyze implementation of defamation laws in other African democracies. Such comparative studies would provide valuable insights for legal reforms in Nigeria.
3. The potential role of specialized courts or tribunals in handling electoral defamation.
4. The psychological influence of defamatory campaigns on voter behavior and decision-making
5. The development of international legal frameworks for addressing electoral defamation

This proposed areas of study are designed to address current gaps in knowledge while anticipating future challenges in this field. In addition, the findings from such research would

be valuable for legal practitioners, electoral bodies, and other political stakeholders involved in promoting electoral integrity and democratic governance in the country.

5.5 CONCLUSION

The conclusion of this study is that defamation has evolved beyond a mere legal issue to become a significant threat to electoral integrity and democratic consolidation in Nigeria. The findings further indicate that the current legal framework on defamation faces substantial challenges in practical implementation, particularly in the area of Nigeria's electoral terrain. However, the researcher concludes that while the challenges are significant, they are not insurmountable. The recommendations offer a roadmap for ensuring not only a free, fair, and ethical electoral processes, but for the broader development of Nigerian democracy.

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