

**DEFAMATION AND SOCIAL MEDIA IN NIGERIA: BALANCING
REPUTATION AND FREEDOM OF EXPRESSION IN NIGERIA.**

BY

Kafayat Omokefue IKHELOWA

LAW2002875

**A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW,
UNIVERSITY OF BENIN IN PARTIAL FULFILMENT OF THE**

**REQUIREMENT FOR THE AWARD OF THE DEGREE OF BACHELOR OF
LAWS (LLB) OF THE UNIVERSITY OF BENIN, BENIN CITY.**

NOVEMBER, 2025.

CERTIFICATION

I, **Kafayat Omokefue IKHELOWA**, with Matriculation Number **LAW2002875**, 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.

Kafayat Omokefue IKHELOWA
LAW2002875

APPROVAL

We certify that this project was written and completed by **Kafayat Omokefue IKHELOWA**, with Matriculation Number **LAW2002875** in partial fulfilment of the requirements for the award of a Bachelor of Laws (LL. B) degree.

DR. (MRS) E. A. IYAMU-OJO
PROJECT SUPERVISOR

SIGNATURE AND DATE

DR. (MRS) O. F. OSUJI
PROJECT COORDINATOR

SIGNATURE AND DATE

PROF. BRIGHT BAZUAYE
DEAN, FACULTY OF LAW

SIGNATURE AND DATE

DEDICATION

I dedicate this work to God who has held my hand and also kept me safe and sound all through this journey; and to my wonderful father, Mr. Mohammed Ikhelowa - none of this would have been possible without your constant support, motivation, and prayers. This achievement is yours as much as mine.

ACKNOWLEDGEMENT

I wish to acknowledge the invaluable contributions of everyone who made this project possible.

My deepest appreciation goes to my incredibly amazing supervisor, Dr Elizabeth Iyamu-Ojo who always made time out of her busy schedule to guide and tutor me on how to go about this project. Your dedication to excellence and hard work pushed me beyond limits I never imagined.

To my brother, Ikhelowa Abdulafeez, whose support in all aspects of my journey is unquantifiable, I say a huge thank you. For always showing up when needed and ensuring I was comfortable throughout my stay in this school, I am deeply thankful. This project is a testament to your love and support.

I would also love to appreciate my friends and course mates who made this journey less stressful - in their companionship I found strength.

To Naomi Odion, my friend and sister, I am eternally grateful for your support in all aspects of my life. You are a real one and like I always say, I cannot imagine my life in UNIBEN without you. You hold a special place in my heart.

To Karen, my darling friend and agba chef, thank you for being ever supportive and loving, your presence in my life during this journey definitely made things easier.

To Osas and Osasere, I say a very big thank you for always answering my questions and never being too tired to explain or help when I need it. Your kindness to me will never go unnoticed.

And finally, a special appreciation and acknowledgement to myself for never giving up and always showing up even when it got hard – Kaffy, you are an epitome of strength and resilience and you deserve every good thing that comes your way.

TABLE OF STATUTES

Administration of Criminal Justice Act 2015. Section 82

Constitution of the Federal Republic of Nigeria 1999 (as amended)

Criminal Code Act

Criminal Code Act 2004, Section 373, 375.

Cybercrimes (Prohibition, prevention etc.) Act 2015, Section 24.

Evidence Act 2011

National Mental Health Act 2021, Section 6.

NCCA 2003 Section 4.

NHRCA 2010 S5 (b)

NHRCA 2010 S5(a)

Nigeria Police Force Act, 2010

Penal Code Law

Cybercrime (Prohibition, Prevention) Act 2015

LIST OF CASES

<i>Ayuba v Sule</i> (2016) LPELR-40263 (CA)	-	-	-	-	-	9
<i>Battler v Microsoft Corporation</i> Civil Action No. 23-cv-01822-LKG	-					48
<i>Benue Printing and Publishing Corp v Gwagwada</i> (1989) 4 NWLR (pt.116)-						8
<i>Berezovsky v Michaels</i> (1849) UKHL 25	-	-	-	-	-	40
<i>Carter V B.C Federation of Foster Parents Association</i> (2005) BCCA 395 (Can LII)	-	-	-	-	-	44
<i>Daily Times Nig Plc v Arum</i> (2023) 17 NWLR (PT. 1914) 559	-	-				41
<i>Dalumo v The Sketch Publishing Co. Ltd</i> (1972) LCN/1422 (SC)	-	-				10
<i>Dauda Gbadamosi & Ors v Yusuf Ajibode & ors</i> (2012)	-	-	-			43
<i>Duke of Brunswick v. Harmer</i> (1849) 14 QB 185.	-	-	-	-		40
<i>F.B.N Plc v. Abraham</i> (Suit No. S.C 397/2002 18 N.W.L.R (Pt. 1118) 172 at 190	-	-	-	-	-	39
<i>Godfrey v Demon Internet services</i> (2001) QB 201	-	-	-	-		44
<i>Grant v Torstar corp</i> [2009] SCC 61	-	-	-	-	-	52
<i>Gutnick v Dow Jones</i> [2002] HCA 56;(2002) 77 ALJR 255	-	-	-			41
<i>Haaretz.com v Goldhar</i> [2018] SCC 28	-	-	-	-	-	47
<i>Handyside Case</i> Decided on 7r/12/1976 in Series A NO.24 of EHRR at R 49-						13
<i>Isikwenu v Anor v Iroh</i> [2012] LPELR- (1979) (CA)-	-	-	-	-		47
<i>King v. Lewis</i> (2004) EWCA 1329	-	-	-	-	-	40
<i>Lankesh v Shirvappa</i> [2019] SCC OnLine SC 114	-	-	-	-		47
<i>M'Pherson v Daniels</i> (1829 10 B &C 263)	-	-	-	-	-	10
<i>Media 24 Ltd v SA taxi Securitisation</i> [2011] ZASCA 117	-	-	-			52
<i>Mmaju v Ikwuka</i> (Lagos High Court, 2018) [unreported]	-	-	-			47
<i>Mohammed Hussein Almoudi v Jean- Charles Brisard & Anor</i> [2004] 3 All ER 294.	-	-	-	-	-	40
<i>Nsirim v Nsirim</i> (1990) 3 NWLR (PT 258) 285, 299	-	-	-	-		43
<i>Okedara v Attorney General</i> Suit No CA/L/174/18, 28 February 2019 (unreported)-						29

<i>Olawoyin v Attorney General of Northern Nigeria</i> (1961) ALL NLR 269	-	14
<i>Reynolds v Times Newspapers limited</i> [1999] UKHL 45 (UK)	- -	49
<i>Solomon Okedara v Attorney General of the Federation</i> (CA/L/174/18	-	24
<i>Ugwu v Ararume</i> (2019) 6 NWLR (Pt. 16669) 159	- - - -	12
<i>Walters v OpenAI L.L.C</i> NO.23-13843 (11 TH CIR.2024)	- - -	48

LIST OF ABBREVIATIONS / ACRONYMS

AI	-	Artificial Intelligence
ALL NLR	-	All Nigerian Law Reports
CFRN	-	Constitution of Federal Republic of Nigeria
ECOWAS	-	Economic Community of West African States
F.B.N	-	First Bank Nigeria
FOI	-	Freedom of Information Act
ICPR	-	International Covenant on Civil and Political Rights
J.S.C	-	Justice of the Supreme Court
LFN	-	Laws of Federation of Nigeria
NCC	-	Nigerian Communications Commission
NHRC	-	National Human Rights Commission
NPF	-	Nigeria Police Force
NWLR	-	Nigerian Weekly Law Reports
UDHR	-	Universal Declaration of Human Rights
UNC	-	United Nations Charter

TABLE OF CONTENTS

Title Page	-	-	-	-	-	-	-	-	-	i
Certification	-	-	-	-	-	-	-	-	-	ii
Approval	-	-	-	-	-	-	-	-	-	iii
Dedication	-	-	-	-	-	-	-	-	-	iv
Acknowledgements	-	-	-	-	-	-	-	-	-	v
Table of Statutes	-	-	-	-	-	-	-	-	-	
Table of Cases-	-	-	-	-	-	-	-	-	-	
List of Abbreviations	-	-	-	-	-	-	-	-	-	
Table of Contents	-	-	-	-	-	-	-	-	-	i
Abstract	-	-	-	-	-	-	-	-	-	i

CHAPTER ONE

DEFAMATION AND SOCIAL MEDIA IN NIGERIA: BALANCING REPUTATION AND FREEDOM OF EXPRESSION IN NIGERIA.

1.1	Introduction to Study	-	-	-	-	-	-	-	1
1.2	Background to Study	-	-	-	-	-	-	-	2
1.3.	Statement of the Problem	-	-	-	-	-	-	-	3
1.4	Research Questions	-	-	-	-	-	-	-	4
1.5	Objectives of Study	-	-	-	-	-	-	-	4
1.6	Scope of Study	-	-	-	-	-	-	-	5
1.7	Significance of Study	-	-	-	-	-	-	-	5
1.8	Methodology	-	-	-	-	-	-	-	5
1.9.	Chapter Breakdown	-	-	-	-	-	-	-	6

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.0	Introduction	-	-	-	-	-	-	-	8
2.1	Conceptual Foundations	-	-	-	-	-	-	-	8

2.1.1	Defamation	-	-	-	-	-	-	-	8
2.1.2	Online Defamation	-	-	-	-	-	-	-	10
2.1.3	Freedom of Expression	-	-	-	-	-	-	-	13
2.1.4	Limitation of Freedom of Expression	-	-	-	-	-	-	-	14
2.2	Theoretical Framework	-	-	-	-	-	-	-	15
2.3	Historical Framework	-	-	-	-	-	-	-	16
2.4	Conclusion	-	-	-	-	-	-	-	17

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORKS OF ONLINE DEFAMATION IN NIGERIA.

3.0	Introduction	-	-	-	-	-	-	-	18
3.1	The Legal Framework for Online Defamation In Nigeria	-	-	-	-	-	-	-	18
3.1.1.1	The 1999 Constitution of the Federal Republic of Nigeria (As Amended)	-	-	-	-	-	-	-	18
3.1.1.2	Criminal Code Act (Cap C38 LFN 2004)	-	-	-	-	-	-	-	20
3.1.1.3	Cybercrimes (Prohibition, Prevention, etc) Act 2015 (as amended in 2024)	-	-	-	-	-	-	-	22
3.1.1.4	The Freedom of Information Act 2011 (FOI Act)	-	-	-	-	-	-	-	25
3.1.1.5	The Evidence Act 2011	-	-	-	-	-	-	-	27
3.1.2	Regional/African Legal Regime	-	-	-	-	-	-	-	28
3.1.2.1	African Charter on Human and Peoples' Rights (1981)	-	-	-	-	-	-	-	28
3.1.2.2	African Commission on Human and Peoples' Rights Declaration Of Principles on Freedom of Expression (2002)	-	-	-	-	-	-	-	30
3.1.3	International Legal Frameworks	-	-	-	-	-	-	-	31
3.1.3.1	Universal Declaration of Human Rights (1948)	-	-	-	-	-	-	-	31
3.1.3.2	The International Covenant on Civil and Political Rights (1996) (ICPR)	-	-	-	-	-	-	-	33
3.2	Institutional Frameworks for Online Defamation in Nigeria.	-	-	-	-	-	-	-	34
3.2.1	The Nigerian Police Force.	-	-	-	-	-	-	-	34
3.2.2	Nigerian Communications Commission	-	-	-	-	-	-	-	35
3.2.3	National Human Rights Commission	-	-	-	-	-	-	-	36
3.2.4	The Judiciary	-	-	-	-	-	-	-	37
3.3	Conclusion	-	-	-	-	-	-	-	38

CHAPTER FOUR

CHALLENGES OF ONLINE DEFAMATION IN NIGERIA

4.0	Introduction	-	-	-	-	-	-	-	39
4.1.1	Jurisdictional Complexities	-	-	-	-	-	-	-	39
4.1.2	Inadequacy of Legal and Institutional Frameworks.	-	-	-	-	-	-	-	42
4.1.3	Publication and Republication	-	-	-	-	-	-	-	43
4.1.4	Anonymous Posts	-	-	-	-	-	-	-	44
4.1.5	The Role of Internet Service Providers	-	-	-	-	-	-	-	45
4.1.6	Inadequacy of The Judiciary	-	-	-	-	-	-	-	46
4.1.7	The Impact of AI Assisted Defamation	-	-	-	-	-	-	-	48
4.2.	Balancing Reputation and Freedom of Expression in Nigeria	-	-	-	-	-	-	-	49
4.3	Conclusion	-	-	-	-	-	-	-	51

CHAPTER FIVE

CONCLUSION

5.1	Summary of Findings	-	-	-	-	-	-	-	52
5.3	Recommendations	-	-	-	-	-	-	-	53
5.4	Contributions to Knowledge	-	-	-	-	-	-	-	55
5.5	Suggestions for Further Studies	-	-	-	-	-	-	-	56
5.6	Conclusion	-	-	-	-	-	-	-	56
	BIBLIOGRAPHY	-	-	-	-	-	-	-	57

ABSTRACT

The paper discusses the evolving relationship between defamation law and social media in Nigeria, with a view to assessing how legal regimes can balance individual reputation against the constitutional guarantee of freedom of expression. As public discourse increasingly shifts onto platforms such as X, Facebook, Instagram, and TikTok, the velocity, spread, anonymity, and perpetuity of online communication have increased both the possibility of defamatory harm and the potential claims to free speech protection. Through the use of statutory provisions, including the 1999 Constitution and the Cybercrimes (Prohibition, Prevention, etc.) Act, as well as judicial decisions, this research examines the adequacy of existing legal frameworks in addressing defamatory content within the digital space. It further explores the responsibilities and potential liabilities of users, content creators, and internet intermediaries. The paper thus concludes with policy and balanced regulatory recommendations aimed at safeguarding reputations while at the same time maintaining an open, virile, and vibrant virtual space for free expression in Nigeria.

CHAPTER ONE

DEFAMATION AND SOCIAL MEDIA IN NIGERIA: BALANCING REPUTATION AND FREEDOM OF EXPRESSION IN NIGERIA.

1.1 INTRODUCTION TO STUDY

The advent of social media has revolutionized communication in Nigeria and the world at large, enabling instantaneous sharing of information, ideas and opinions across borders. However, this advancement has brought many challenges, one of which is online defamation. This issue has now become even more critical with the widespread usage of Artificial intelligence in the Nigerian digital space. AI systems have the ability to fabricate and disseminate defamatory statements and pictures at an unprecedented scale¹ using deepfakes. This study sheds more light on the impact AI has made in defamation in Nigeria legal system and the need for Nigeria to implement legal restrictions to address the rising surge of the use of AI to destroy individuals' reputation.

This study analyses the implications of the fundamental human right to freedom of expression on the right of an individual to protection of reputation in Nigeria. This study was written with the aim of proposing a strategy to strike a balance between the right to freedom of expression and the right to protection of reputation on social media.

To achieve the purpose of this study, a doctrinal method was used. Certain issues like the use of AI mentioned above and the inadequacy of the current laws were highlighted. To this end, certain recommendations were suggested which included enactment of laws and an institutional body to address the rising growth of online defamation in Nigeria.

¹ The impact of AI on Tort of defamation and Cybercrimes. <https://www.legalempemrers.com.ng//the-impact-of-on-the-tort-of-defamation-and-cybercrimes/>

1.2 BACKGROUND TO STUDY

Social media is an essential communication, public discussion, and opinion exchange channel in contemporary Nigerian online life. Social media platforms such as X (previously twitter), Facebook, Instagram, WhatsApp and TikTok has allowed people to participate in political discussions, share news instantly and amuse themselves.

With increased openness comes more space for the flow of information, but it also creates space for defamation, where vicious falsehoods about people or communities are spread widely without being verified. This rise of online forums has led to an increase in instances of online defamation, posing challenges to individuals' reputation and responsible use of digital communication.²

The most significant legal question that comes up is how to properly balance the right to freedom of expression, as guaranteed by section 39 of the 1999 Constitution, with the right to the protection of dignity and reputation, under section 34. While freedom of expression is a precondition of democratic society, its abuse by way of personal attacks, making allegations without proof, or misrepresentation of facts, causes real harm to people's reputation. As a result of technology such as artificial intelligence, it has become possible to create imitations that look real – whether it is an image, video, soundtrack, etc. While not the main focus of this study in itself, those innovations indicate the increased sophistication level of online defamation and further call for revising protections.

² Freedom of expression in the Digital age: Challenges and opportunities in Nigeria (2019) *Journal of communication and media studies*, 5(2);45-58

1.3. STATEMENT OF THE PROBLEM

Freedom of speech is a fundamental right in every democratic society and Nigeria is not excluded.³ However, it is not very difficult to misuse this right in the age of the internet as the lines are blurred, this is where the issue of online defamation arises. Online defamation is the act of making false statements about an individual on digital platforms which damages a person's reputation.

More and more people are becoming susceptible to on-line reputational damage on social media where news spread like wildfire in minutes and anonymity covers most of them from accountability. To this issue, we must add the increasing misuse of technology such as AI to create realistic but fake images or videos that will inappropriately depict people in embarrassing and implicating circumstances. Although such cases are rarely litigated under Nigeria laws, there is an increasing potential for abuse which further complicates the legal control of defamation on the internet.

The challenge lies in balancing the right to freedom of expression with the need to address and prevent online defamation, as it can have severe consequences for individuals and businesses alike.⁴

Although we have the Cybercrimes Act, tort-based defamation laws and other legal mechanisms at our disposal, these are more or less ineffective against the growing menace of online defamation.

³ See CFRN 1999, S39(1)

⁴ Elias Magin 'The risk of defamation: An analysis into the driving factors determining the outcome of commercial defamation cases' (2019) researchgate https://www.researchgate.net/publication/339509176_The_Risks_Of_Defamaion_An_Analysis_Into_The_.....>>>

1.4 RESEARCH QUESTIONS.

1. What are the existing laws and regulatory institution(s) governing defamation and freedom of expression within the Nigerian context?
2. How effectively are the relevant enforcement agencies within Nigeria implementing the laws concerning defamation on social media?
3. What are the limitations faced in striking an equilibrium between freedom of expression and the reputation of the netizens in Nigeria.
4. In what ways do artificial intelligence technologies complicate the verification of evidence concerning online defamation, the methods of publication, and the attribution of liability in court?
5. What, in Nigeria, are the policy suggestions and legal propositions that could be implemented in order to achieve a more optimal balance between freedom of expression and online defamation?

1.5 OBJECTIVES OF STUDY

- a. To analyze defamation on social media and freedom of expression in the Nigerian legal context.
- b. To Analyze the phenomenon of defamation on social media platforms, and to determine the effectiveness of the available legal remedies.
- c. To Analyze the gaps in the legal framework and policies that enable online defamation to be perpetrated anonymously or through AI-generated content.
- d. To Analyze the extent to which freedom of expression needs to be curbed in order to protect the rights of others.
- e. To Analyze the legal policies that may be explored to protect rights within the context of the modern digital world.

1.6 SCOPE OF STUDY

This research focuses on social media defamation in Nigeria and the associated legal consequences. The research will explore the impact that modern technologies, especially AI tools, have on the creation and distribution of defamatory content, as well as the corresponding legal responses to such trends.

1.7 SIGNIFICANCE OF STUDY

This study contributes to the emerging discourse on legal boundaries of digital rights, legal reform, and the evolving boundaries of law, technology, and expression. It presents an idealized model of how the law must be able to address new forms of online defamation, generated or manipulated by AI, without encroaching on fundamental rights.

The study aims to guide the conclusions that aid legal practitioners, lawmakers, students, and other stakeholders interested in tort law, media law, and internet policy. It aims to ultimately influence policies that safeguard freedom of expression and reputation in the digital landscape of Nigeria.

1.8 METHODOLOGY.

There are two main methods of research, which are the doctrinal and non-doctrinal methods of research. A non-doctrinal method of research examines various aspects of the law such as the social, economic, historical or philosophical elements that affect the operation of the legal system. Empirical or observational research methods such as surveys, interviews, case studies or statistical analysis, are used in non-doctrinal research methods to collect data and to investigate how the law affects the society. It also includes cross-disciplinary approaches that draw from other fields of study like anthropology, sociology, economics or political science.

A doctrinal research method on the other hand is a traditional or library based research. It is used to interpret case laws, principles, legal doctrines and statutes to fully understand and examine the legal framework around a certain issue or topic, it involves reviewing and synthesizing the available legal sources such as law textbooks, court judgements and legal commentaries. The doctrinal research method focuses on the systematic study of legal principles, ideas, and regulations.

This research adopts a doctrinal research methodology by critically examining primary sources such as The Nigerian Constitution, The Cyber Crimes Act of 2015, The Evidence Act of 2011, among other relevant laws to the subject matter. It will also incorporate Nigerian and comparative case law, commentaries, journal articles, and relevant reports.

Special attention will be paid to how foreign courts and policy makers respond to artificial intelligence and such technology as it relates to defamation in other jurisdictions. The focus, however, remains on Nigerian Law and the restrictions, as they exist, today.

1.9. CHAPTER BREAKDOWN.

CHAPTER ONE: INTRODUCTION

Identifies the issue of defamation when using social media in Nigeria. It also justifies the need for reconciliation between the right to freedom of expression and protection of personal reputation. The chapter introduces the research question, objectives, methods, and scope of study. It also recognizes the rise of such new technologies as AI to make it harder to deal with the challenge of online defamation.

CHAPTER TWO: CONCEPTUAL AND THEORETICAL FRAMEWORK.

Analyzes key concepts including defamation, freedom of speech, online rights, and legal concept of reputation. It discusses the theoretical basis for reconciling conflicting rights as well as relevant literature. It also examines how new trends in technology, such as AI-created content, are redefining defamation worldwide and in Nigeria.

CHAPTER THREE: THE LEGAL AND INSTITUTIONAL FRAMEWORKS.

Addresses the Nigerian laws and regulating agencies covering defamation and expression like The Constitution, Cybercrimes Act, and the Evidence Act. It also ventures into the contribution of the police, judiciary, and communications agencies in managing online defamation and concludes that newer forms like AI enhanced images or video defamation are not so well known.

CHAPTER FOUR: CHALLENGES OF ONLINE DEFAMATION IN NIGERIA.

Discusses the practical and legal hurdles to controlling defamation on online platforms. These involve problems of anonymity, jurisdiction, lax enforcement, poor law and sluggish justice. It also discusses the new threat of AI-assisted defamation like deepfakes and how Nigerian institutions are not prepared to handle it.

CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

Condenses the evidence and points out loopholes in the law. Provides recommendations on legal reforms, institution-building, judicial effectiveness and accountability of digital platforms. Points to the need for creating responsive laws capable of addressing customary and new trends of cyber-defamation in a manner respecting human rights and public interest.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.0 INTRODUCTION

This chapter theorizes key concepts of the study, it also provides the historical background of the study, as well as the theoretical framework.

2.1 CONCEPTUAL FOUNDATIONS

A conceptual foundation is an observation and analysis of already present information i.e ideas, principles, or theories that form the basis or framework of a particular topic. Certain concepts of the study will be examined for further clarification in order to fully comprehend the study.

2.1.1 DEFAMATION

Defamation is defined as a matter likely to injure the reputation of any person by exposing the person to hatred, contempt, or ridicule or likely to damage any person in their profession or trade by injury to their reputation. Such matter may be expressed in spoken words or in words legibly marked on any substance whatever or by any sign or object signifying such matter otherwise than by words and maybe expressed either directly or by insinuation or irony.⁵ Defamation, is “any statement which may deteriorate the reputation of the plaintiff in the estimation of right thinking persons of the society to expose him to contempt or ridicule”⁶ Whoever, by words either spoken or reproduced by mechanical means or intended to be read by signs or by visible representations makes or publishes any imputation concerning any person, intending to harm or knowing or

⁵ Section 373 of the Criminal Code Act

⁶ *Benue Printing and Publishing Corp v Gwagwada* (1989) 4 NWLR (pt.116)

having reason to believe that such imputation will harm the reputation of such person is said to defame that person.⁷

A content is defamatory if it harms a person's reputation by making them look hateful, contemptible or ridiculous in the eyes of others. It is also defamatory if it damages someone's professional or business standing by harming their reputation within their trade or profession.

Defamation can occur in two ways – either verbally as slander or in written or permanent form as libel. A person's reputation can also be attacked through actions or gestures that amount to defamation.

Spoken defamatory statements communicated orally or through other transient forms of expression causing harm to a person's reputation are referred to as 'slander'. Slander is a form of defamation published in a transitory form; by words spoken or other audible or visible forms, significant sounds, looks, signs or gestures.⁸

Libel on the other hand consists of an attack of a person's reputation and it is expressed in a form that is permanent. Libel involves defamatory statements conveyed through permanent mediums such as written words in books, letters, notices, newspapers etc. An example is "a statement published on the newspaper, an effigy, a picture etc."⁹ Libel is actionable per se essentially, meaning that it is actionable without any proof of special damages.

There are elements a plaintiff is required to prove in order to succeed in a defamation claim and they include:

⁷ Section 391 Penal Code Law

⁸ *Ayuba v Sule* (2016)LPELR-40263 (CA)

⁹ LawTeacher.net, 'Defamation, Libel, and slander lecture (2018)<<https://www.lawteacher.net/lectures/tort-law/defamation/?vref=1>> accessed 14 November 2025.

Defamatory statement must refer to the plaintiff: In order for a plaintiff to have an action in defamation, the statement made by the defendant must be referring to the person who is alleged to be defamed. The statement must not refer to the person's name explicitly, as long as it can be generally understood by a reasonable person, that the remark belongs to the plaintiff, it is defamation. To this end, **Fatayi Williams** quipped that the defamatory statement must not necessarily be verbatim in referring to the plaintiff, that is, it is not compulsory that the plaintiff should be referred to by name, all that is required is that the words be understood by reasonable persons to refer to him.¹⁰

Secondly, the statement must be false and must lack accuracy. Defamation involves an element of moral wrongdoing, hence the statement in question must be untrue. It is important to note that a person cannot claim to have lost a reputation or right which they were never entitled to in the first place.¹¹

The last vital element is publication. Publication means communicating a defamatory statement to at least one person other than the person it is about (the plaintiff). In other words, a statement is deemed published when it is communicated to a third party, it means making the statement known to the public.¹²

2.1.2 ONLINE DEFAMATION

The world has become a global village due to the ease with which people can spread information and misinformation with just a single click on the internet. Defamation has now gone past character assassination through word of mouth or through writing in newspapers or magazines and has broadened into usage of social media to spread false and damaging news.

¹⁰ *Dalumo v The Sketch Publishing Co. Ltd* (1972) LCN/1422 (SC)

¹¹ *M'Pherson v Daniels* (1829) 10 B & C 263

¹² *Okotcha v Olumesi*

Online Defamation occurs when any person knowingly sends a message or other matter by means of a computer system 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.¹³

Online defamation involves untrue statements made on digital platforms like social media, blogs, or websites. It occurs on various platforms including Facebook, Instagram, X (formerly known as Twitter), Tiktok, LinkedIn, Reddit, and other blogs and review sites.

The increase in online defamation can be attributed to the ease of sharing information on digital platforms and because online communication happens instantly, content can spread rapidly and can either enhance or cause damage to a person's reputation in a matter of seconds.

Most recently, AI has been used to propagate defamation online through several tools like chatbots, text generators, image and video generators. The recent trend on social media is the use of AI to generate deepfakes. Deepfakes are a type of synthetic media, that is media that, instead of capturing the 'real' world is produced by AI powered or at least (AI adjacent) digital tools based on training data.¹⁴ Deepfakes are one of the rapidly evolving technology that use AI to create or manipulate images by combining or altering already existing visual content, often with deceptive intent.

¹³ Section 24 Cybercrime ((prohibition, prevention) Act 2015

¹⁴ Kalpokas and J. Kalpokiene, Deepfakes: A Realistic Assessment of Potential Risks and Policy Regulation. (Springer, 2022).

Deeptrace, a security company, projected that the number of deepfake videos online has increased to about 15,000 in 2019 alone and continues to increase rapidly.¹⁵ Deepfakes are very believable and they successfully lead people to believe that someone did or said something that never happened, hence they play a huge part in the spread of defamatory content online. The use of deepfakes to impersonate people online poses a significant risk to people's reputation.

It is important to highlight that there are currently no particular legal restrictions guiding the creation of deepfakes in Nigeria. The only barriers on the type of content that people might create using technology are those set by laws against fraud, harassment, defamation, copyright infringement and those protecting personal data.

Furthermore, the borderless nature of the internet adds complexity to the jurisdictional aspects of online defamation.¹⁶ Since cyberspace is non-territorial, identifying a system of law that is applicable and which court has competent jurisdiction to adjudicate over online defamation issues is very complex.

Publication is also an intriguing aspect of online defamation. Publication, in terms of the digital environment, may occur through clicking of links, viewing and sharing of content. This changing nature of dissemination affects the conventional definition of "place of publication" given that online materials can be accessed from virtually anywhere around the world. It then becomes trickier to identify the appropriate jurisdiction for legal action. The involvement of intermediaries also introduces further complexities with regard to the issue of online defamation, whereby internet service providers and online platforms may inadvertently contribute to the dissemination of such defamatory material by facilitating user activity leading to the distribution of such content. Thus, the determination of the

¹⁵ Josephine Uba 'Deepfakes in Nigeria: Protection and Legal Framework against Deepfake Attacks in Nigeria.(2021) Olisa Agbakoba Legal website < <https://oal.law/deepfakes-in-nigeria-protection-and-legal-framework-against-deepfake-attacks-in-nigeria/>> accessed 15 November 2025.

¹⁶ *Ugwu v Ararume* (2019) 6 NWLR (Pt. 1669) 159.

degree of liability and responsibility for the re-publishing of a defamatory statement within the context of the digital domain remains one of the essential issues in contemporary defamation law.

2.1.3 FREEDOM OF EXPRESSION.

Freedom of expression is one of the fundamental human rights provided for under the Constitution of the Federal Republic of Nigeria 1999 (As amended).¹⁷ It is essential to the functioning of a democratic society, allowing individuals to express opinions, disseminate information, and hold government accountable.¹⁸

A strong indicator of a nation's respect for the rights of its citizens is the extent to which they can express themselves freely. Freedom of expression is one of the basic requirements for a democratic society. This position was reiterated by the European Court on Human rights in the *Handyside Case*,¹⁹ where it was held that the right to freedom of expression is one of the essential pillars of a democratic society and is indispensable to its further growth and development.

Freedom of expression holds immense value for humankind, it is through free exchange of ideas that harmony coexists with social progress and development, just as suppression produces conflicts and instability.

However, the right to freedom of expression is not unlimited and although freedom of expression is important, it must be balanced against other competing rights in society. In some cases, freedom of expression has to be restrained to ensure public order, national security, or protection of the rights of others.

¹⁷ Section 39 of the 1999 constitution of the Federal Republic of Nigeria (as amended)

¹⁸ Deborah Dada ' Freedom of expression VS Defamation Laws In Nigeria : Legal Balance & Nigerian Jurisprudence' (2025)<<https://www.mondaq.com/nigeria/libel-defamation/1650600/freedom-of-expression-vs-defamation-laws-in-%7C-legal-balance-nigerian-jurisprudence>>.accessed November 15 2025.

¹⁹ Decided on 7/12/1976 in Series A NO.24 of EHRR at R 49.

2.1.4 LIMITATION OF FREEDOM OF EXPRESSION

Freedom of expression is a non-absolute right. What this means is that there are circumstances where the law allows the government to limit the expression of that right. The Nigeria constitution which provides for the right to freedom of expression also provided for circumstances where this right may be restricted. Section 45 of the 1999 Constitution provides that the rights guaranteed under Section 39 are not absolute. It states that nothing contained in Section 39 shall invalidate any law which is reasonably justifiable in a democratic society for the purpose of:

- Preserving public safety, order, morality or health; and
- Safeguarding the rights and freedoms of others.

The clause, “reasonably justifiable in a democratic society” forms the constitutional basis for laws that place limits or boundaries on some forms of expression.

The court is the legal body that is authorized to decide when to limit the right to freedom of expression. In *Olawoyin v Attorney General of Northern Nigeria*²⁰, the court held that for restriction of a fundamental human right to be considered justifiable, it must:

- a. be necessary in the interest of public morality and
- b. not be excessive or disproportionate to the objective it seeks to achieve.

In Nigeria, certain laws impose limits on the right to freedom of expression, and they include the law of defamation, this law permits a derogation from this right as it is reasonably justifiable for the protection of the rights of others, specifically the right to safeguard one’s reputation.

Consequently, there are certain recognized exceptions to the right to freedom of expression, one of which is reflected in the law of online defamation. The exercise of this right must take into accordance, the corresponding right of others to safeguard their

²⁰ (1961) ALL NLR 269.

reputation. As stated earlier, the court plays an important role in striking a just balance between freedom of expression and protection of reputation.

2.2 THEORETICAL FRAMEWORK

The theoretical basis of this research is founded on normative theory. A normative theory provides a guiding framework for evaluating what is ethically right or wrong. It provides standards and norms for judging behavior, laws, or social practice. In the context of freedom of expression and defamation, it helps navigate the complicated balance between protecting individual rights and upholding social interests.

In the area of defamation, different normative views have been posited by scholars. This includes the moralized view, the non-moralized view and the dual view – first and second version.²¹

The moralized view holds that a statement is defamatory if we ought to think less of that person if the statement is true. This view transcends individual emotions and puts into consideration the moral fabric of society. It also analyses the ethical effects of defamatory statements, considering not only the harm inflicted by the victim but also the moral accountability of the speakers/writers.

The non moralized view is concerned with the psychological and social consequence of a statement. It would define defamation in terms of the actual damage to an individual's self-esteem, dignity, and reputation that results from other people factually thinking less of them. The concern of this view is the real world distress and injury suffered by the victim, regardless of whether that statement should logically lead to that reaction.

The dual view represents a holistic framework that tries to reconcile both dimensions. It admits that defamation has both a personal and emotional dimension as captured by the non-moralized view and also a social and ethical one as captured by the moralized view.

²¹ Adam Slavny, 'The Normative Foundations of Defamatory Meaning' (2018) *Law and Philosophy*, 37:527

This is to say that defamation is not just about emotional distress but a complex issue that needs to balance between protection of individual reputation and protection of social and ethical standards.

2.3 HISTORICAL FRAMEWORK

The historical development of freedom of expression and defamation in Nigeria is deeply rooted in both its pre-colonial and colonial pasts. This evolution is essential for understanding the importance in present day Nigerian society.

Well before the colonial British era, the indigenous Nigerian societies regulated speech based on oral traditions and customs, prescribing communication practices and ensuring punishments for the propagation of falsehoods, offering early, indigenous insights of how defamation was managed within a community.

British colonial rule introduced the principles of the English common law, forming the basis for the Nigerian defamation Laws. In an effort to maintain control and suppress dissent, the colonial powers also instituted restrictions on freedom of expression that had a lasting effect on Nigeria's legal system.²²

In the year 1960, Nigeria gained independence. This opened up new avenues to establish an independent legal framework. Freedom of expression was recognized as a basic human right under the new constitution of Nigeria.²³ This signified the nation's commitment to protecting individual's liberties while allowing for necessary limitations on those liberties to protect the general welfare of the society.²⁴

The coming of the digital era has made issues of freedom of expression and defamation so much more complex. Increase in number of online platforms revolutionized not only

²² C. Okonkwo 'The Legal Basis of Freedom of Expression in Nigeria' (1978) 8 (2) *California Western International Law Journal*;260

²³ CFRN 1999 S 39 (1)

²⁴ CFRN 1999 S 45 (1)

how information is shared but created a new gateway for public engagement and expression. It also brought the challenge of online defamation, as increased speed and ease of information sharing requires a re-evaluation of existing legal frameworks.²⁵

2.4 CONCLUSION

In conclusion, this chapter has provided a conceptual, historical and theoretical presentation of the foundation of defamation laws in relation to protection of reputation and regulation of freedom of expression in Nigeria. The conceptual analysis of freedom of expression, defamation, online defamation, the analysis of the historical background and theoretical justification gives us pre-requisite knowledge on successive defamation in the digital era and how much of it manifests on social media platforms in Nigeria.

²⁵ Onyekachi Duru 'The Impact of AI On The Tort Of Defamation And Cybercrimes' <<https://www.legalempereors.com.ng/the-impact-of-ai-on-the-tort -of-defamation-and-cybercrimes/>> accessed 15 November 2025.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORKS OF ONLINE DEFAMATION IN NIGERIA

3.0 INTRODUCTION

This chapter focuses on the various laws governing online defamation in Nigeria. This includes the fundamental law – The Constitution, the Cybercrimes (prohibition, prevention) Act 2015, the Criminal Code and so on. The chapter also provides an in-depth analysis of the principal regulatory agencies and their regulatory frameworks.

3.1 THE LEGAL FRAMEWORK FOR ONLINE DEFAMATION IN NIGERIA.

3.1.1.1 The 1999 Constitution of the Federal Republic of Nigeria (As Amended)

The 1999 constitution of the Federal Republic of Nigeria is the supreme authority guiding the balance between freedom of expression and the safeguard of reputation in the laws of defamation especially within the digital space. Section 39(1)²⁶ gives credence to this as it guarantees every individual a right to freedom of expression, including the freedom to hold, receive and transmit opinions without interference. This section reinforces the widespread use of social media as a tool of public expression. This freedom is however, not absolute.

In accordance with Section 45 (1)²⁷ limitations may be imposed as long as they are reasonably justifiable in a democratic society, such as through laws that protect individuals' reputation by means of legislations on defamation. Although the Constitution does not explicitly provide for defamation, both its commission and regulation online and offline are regulated by subsidiary legislation. This omission has

²⁶ CFRN 1999 (As amended)

²⁷ Ibid

prompted a jurisprudential tension between free expression and the protection of personal reputation more explicitly manifested in the social media space where viral defamatory content can swiftly inflict reputational harm, thereby underscoring the importance of a strong constitutional framework to guide judicial interpretation.

The constitutional guarantee of privacy under Section 37²⁸ adds complexity to defamation related cases in the current digital landscape, as it safeguards citizen's personal communications including their online activities against unwarranted intrusions. Social media platforms create ambiguity as to what communication is considered private or public, since even private communications can be screenshot and shared widely becoming potentially defamatory if the publication contains false and injurious information. Given that the constitution has no express provisions that deal with digital or online defamation, the courts have to apply broader tort and criminal law principles which often results in inconsistent judicial decisions. This situation often requires the courts to reconcile the conflicting constitutional rights – right to freedom of expression and right to privacy in cases where defamatory material is posted online. The ambiguity of the constitution on the scope of privacy in digital contexts heightens the challenges of regulating defamation on social media.²⁹

The judiciary has a major role to play in interpreting the constitution so as to ensure that the laws on defamation do not unduly interfere with freedom of expression particularly on social media where public participation is very inclusive. Section 36 (12)³⁰ demands that an offence such as criminal defamation should be clearly defined by the law, yet the broad sometimes inconsistent application of defamation laws in Nigeria have been

²⁸ ibid

²⁹ Adebayo Ogunleye, 'Constitutional law and media rights in Nigeria' (Abuja: Juris press, 2021) 45-50.

³⁰ CFRN 1999 (As amended)

challenged for repressing free speech. The African Commission on Human and People's Rights once argued that Criminal defamation statutes commonly justified under Section 45 impinge on freedom of expression by deterring journalistic or civil involvement. This is particularly true in this current digital era where anyone has the ability to share or publish content. Such criticisms call for constitutional changes or judicial frameworks that clearly address the evolving complexities of online defamation while safeguarding reputational interests.

Despite the fact that the Constitution provides the basic framework for the protection of both reputation and freedom of expression, it has not moved as quickly to adapt to new and rapidly changing realities created by social media and ever evolving technology, where defamatory materials are made even more believable using artificial intelligence tools like deepfakes and can reach global audiences virtually in real time. With no specific provisions for digital platforms, courts have had to use the traditional interpretation of Section 39 and 45. The implications are excessive censorship or insufficient protection of reputation.

Interestingly, the National Mental Health Act 2021³¹ although not focused on defamation, demonstrates the legislative's interest in maintaining human dignity and therefore possibly provides a potential blueprint to achieve the expression-reputation balance. This research recommends constitutional changes that would address online defamation directly and ensure that freedom of expression is safeguarded without jeopardizing the protection of citizens' reputation in Nigeria's digital landscape.

3.1.1.2 Criminal Code Act (Cap C38 LFN 2004)

The Criminal Code Act (Cap C38 LFN 2004) positions criminal defamation as an important tool for reputation protection in Nigeria, containing provisions that

³¹ National Mental Health Act 2021, Section 6.

substantially regulate communication on social media. Section 373 defines defamatory matter as any matter 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 – a comprehensive definition that extends to online publications. Section 375 provides that publishing defamatory matter is a misdemeanor punishable by a one year prison sentence maximally and extended to two years if the publisher knew the statement was false at the time of the publication. Social media users who share or repost defamatory content fall within this criminal liability, raising concerns about excessive enforcement particularly because defamatory intent may be unclear as content in digital spaces are mostly published impulsively and humourously.

The application of the Criminal Code to Social media cases is challenging considering colonial era roots which could not have foreseen the extent and speed of digital communication. Section 375's expansive definition ignores the nuances of social media where retweeting or reposting may inadvertently amplify defamatory content without any malicious intent.³² The African Commission on Human and People's Rights has condemned Criminal defamation laws for suppressing freedom of expression. This concern is manifested in Nigeria where Police often arrest internet users under the Criminal Code despite the absence of clear evidence of intent thus violating the Administration of Criminal Justice Act 2015³³, which prohibits arrests for civil offences. This underscores the need for reforms that clearly separate criminal defamation from civil defamation.

Although deterring defamation and protecting reputation is the main reason for the punitive nature of the Criminal Code's provision on defamation, it may inhibit open

³² Tolu Ogunlesi, 'Defamation and Criminal Liability in Nigeria', *Nigerian Journal of Legal Studies* [2021] (12) (2) 30-38

³³ Administration of Criminal Justice Act 2015. Section 82

discussions on social media platforms as users may self censor due to fear of potential persecution. The failure of the Criminal Code to incorporate an innocent dissemination defense, unlike at common law puts users at risk where they unknowingly disseminate a false statement. This thesis submits that the Criminal Code is not tailored to address the modern realities of online defamation because it does not strike an appropriate balance between free speech and protection of reputation. This therefore, calls for reforms that limit criminal sanctions to only those with malicious intent and reinforce civil remedies for digital defamation.

3.1.1.3 Cybercrimes (Prohibition, Prevention, etc) Act 2015 (as amended in 2024)

The Cybercrimes Act was first enacted in 2015 and was later amended on the 28th of February, 2024. It was promulgated to address the growing risks associated with cyber related offences in Nigeria. The act render acts like hacking, identity theft, cyber stalking and other digital offences as criminal and punishable under the act. Section 24(1)(b) of the Cybercrimes Act addresses “cyber stalking”, it states that :

“any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that he knows to be false, for causing annoyance, inconvenience, danger, insult, injury, criminal intimidation, enmity, hatred, ill will, or needless anxiety to another or causes such messages to be sent shall be liable to up to three years imprisonment or a fine of N7,000,000 or both.”³⁴ This provision specifically addresses online defamation as it covers false posts and comments made with intent to harm reputation. This provision raises several concerns, first, its language is vague and overboard, terms like ‘annoyance’, ‘ill will’, ‘insult’ are inherently subjective hence, the boundaries of the offence are difficult to determine. Secondly, its application has led to the criminalization of dissent as authorities have used it to silence criticism of the

³⁴ Rodiyyah Bashir, Legal Consequences of Social Media : Defamation, Privacy, and Cyberbullying, *Nigerian Journal of Cyber Law* [2023]

Government on various societal issues, leading to allegations of abuse. Another issue regarding the provision is its conflict with constitutional guarantees.³⁵ The Supreme Court has been steadfast in holding that any restriction on freedom of expression must be clear and reasonably justified. The wide, undefined language of this section has thus raised fears that it may be used to suppress legislative criticisms, comments on public affairs and investigative journalism thus highlighting a contradiction with the African Charter on Human and People's rights which prioritizes freedom of expression.

It is important to note that the Criminal code³⁶ and penal code³⁷ already criminalized defamation both with structured requirements including proving falsity, malice and actual harm to reputation. In distinction, Section 24 of the Cybercrimes act allows for criminal prosecution without those stringent safeguards, penalizing posts made online for simply being 'annoying' or 'insulting' even if it is true or made in public interest. A recent case where this was demonstrated was the case of Chioma Okoli, the Erisco tomato paste reviewer who was arrested on the 24th of September 2023 and jailed for three nights because of her critical review of an Erisco Foods product, she was charged with cybercrimes offences after posting a review of a tomato paste produced by the company on her Facebook page. The authorities accused her of defaming Erisco, acting on a complaint filed by the company. This case drew a wide condemnation from many Nigerians who asked that the police drop the criminal charges for a civil one.³⁸ The Nigerian Cybercrimes Act, used to prosecute Mrs Okoli has been largely criticized for targeting critics online and also journalists who speak against influential figures. The law,

³⁵ Ikenna U. Ibe ; Justus U. Ijeoma & Chukwubuike I. Obiano/ The Dichotomy Between Cybercrimes Act 2015 and Freedom Of Expression under Nigeria's 1999 Constitution.

³⁶ Sections 373-381

³⁷ Section 391-395

³⁸ Courts grants Erisco Tomato paste reviewer, Chioma Okoli, #5,000,000 bail by Ameh Ejekwonyilo. <<https://www.premuimtimes.com/news/top-news/699435-court-grants-erisco-tomato-paste-reviwer-chioma-okoli-bail.html>> accessed 15 November 2025

specifically Section 24 is seen as a tool for government and powerful individuals to suppress dissent. Although the law has been amended, it is still viewed as oppressive by many rights advocates.

In a notable case³⁹, the Court of Appeal in Lagos recently dismissed an application challenging the constitutionality of Section 24(1) of the 2015 act for lacking merit. The court upheld the decision of the Federal High Court which had dismissed the argument that the provision was too wide, vague and threatened freedom of expression. For the Court, Section 24 was not vague, and since “cybercrime is incapable of direct definition” the restrictions imposed were necessary in the interest of public safety, public order, public morality, or public health, as provided for under Section 45 of the 1999 constitution (as amended).⁴⁰

By contrast, in March 2024, it was reported that the ECOWAS Court of Justice ruled that Section 24 of the Act was incompatible with Article 9 of both the African Charter on Human and Peoples’ Rights and the international Covenant on Civil and Political Rights and ordered the Nigerian government to reverse the provision.

In response to the widespread criticism, the revised act sought to limit Section 24 to the dissemination of pornography or false information that aims to incite a breakdown in law and order, or an endangerment of life. According to this amended section, no person would be found to have acted criminally when the information disseminated is true and not pornographic. This change is a welcomed development and shows meaningful progress towards strengthening the constitutional guarantee to freedom of expression.

Regardless of the amendment and the ECOWAS Court’s judgment, reports show that journalists and social media users are still being arrested and the police still rely on

³⁹ *Solomon Okedara v Attorney General of the Federation* (CA/L/174/18)

⁴⁰ Templars Thoughts Lab ‘The Cybercrimes (Prohibition, Prevention, etc)(Amendment)Act 2024: A Paradigm Shift for Individuals and Businesses?’ (2024)

Section 24 to justify the arrests. This continuous misuse is probably linked to the failure of the amended act to define what constitutes a “breakdown of law and order” thus allowing the police to interpret the provision broadly and liberally, thereby using it to arrest journalists and online critics under the guise of maintaining public law and order. This paper argues that while the amendment of the Cybercrimes Act shows progress in addressing online defamation, it still needs significant revision to align it with constitutional guarantees and international standards. Its broad scope and harsh penalties creates a stifling effect on public debates and expression of opinion particularly on social media. Proper reforms should develop more specific definitions to phrases like “breakdown of law and order” and acknowledge defences like innocent dissemination and also prioritize civil rather than criminal remedies. In this way, reputational rights will be better balanced with the right to free expression ensuring that social media remains a facilitator of democratic participation without the enablement of unjustified reputational harm.

3.1.1.4 The Freedom of Information Act 2011 (FOI Act)

The Freedom of Information Act 2011 (FOI Act) increases the public’s access to government held records and in so doing, strengthens freedom of expression within the social media environment in Nigeria while simultaneously creating challenges for defamation law.

Sections 1, 2 and 3 of the FOIA 2011 provides for the rights of any person to access public information. Public officials, agencies, or institutions are mandated specifically by Section 1(1) to release information upon requests, empowering citizens to circulate such material online. This often leads to public debates where potentially defamatory claims may be made. Although the provision reinforces the constitutional rights to free expression , the uncontrolled spread of sensitive information on platforms like Instagram,

Facebook, Twitter and so on can damage reputations necessitating legal mechanisms to prevent abuse. For this reason, legal mechanisms are to be put in place to prevent misuse.

The potential this act holds to empower social media users highlights the importance of developing a framework that balances transparency with the protection of reputation.

While Section 14 (1) b excludes disclosures likely to infringe on the reputation or personal privacy of third parties which offers some defense against defamatory posts sourced from official records, the act does not control how individuals then use information disclosed on social media. As a result, misleading or false information can be shared under the guise of public interest in order to escape liability.

Courts in Nigeria find it challenging to apply this exemption in online defamation cases because of the speed and scale of digital dissemination, it is both instant and sometimes so widespread that the true originator or motive behind the post may be difficult to determine. In effect, this limitation in court application demonstrates the inability of the act to fully tackle the issues of reputational damage in digital spaces.

While the FOI Act encourages open communication, it also inadvertently facilitates defamation on Social media, where unverified information can rapidly damage reputations without much legal recourse. Its failure to outline the legal duties of online publishers creates a legal gap that exacerbates the tension between freedom of expression and protection of reputation.⁴¹

This study argues that this act should be amended to impose obligations for the responsible use of disclosed information online, ensuring that initiatives to promote transparency do not undermine individuals' right to reputational dignity in the digital era in Nigeria.

⁴¹ Bimbo Adeyemi, 'Freedom of Information and Digital Accountability' *Journal of Nigerian Public Policy* [2023] (11) (1) 48-55.

3.1.1.5 The Evidence Act 2011.

The Evidence Act first introduced in 2011 also governs the issue of evidence in defamation suits, as it plays a crucial role the process of determining how claims involving social media are proven in courts in Nigeria. According to Section 1(1), any form of evidence deemed relevant in proving the defamatory issue, whether in form of posts, comments or other content will be admissible if it satisfies the judicial test of relevance. In Section 84 (1), the Evidence Act defines electronic evidence to include necessary evidence related to social media content like Twitter, Facebook, and other messages sent through WhatsApp which are essential for proving defamation online.

Although Section 84(1) reflects the realities of social media communication, the technicalities involved in this process can pose a challenge for individuals who lack expertise. The provision concerning the certification of Electronic evidence in Section 84(2) can lead to the non admissibility of credible social media evidence if the proper steps for certification are not followed, which might work to the disadvantages of victims in a case of defamation.

The promotion of the concept of dignity in the National Mental Health Act of 2021, though not related to defamation, shows how the law is beginning to pay attention to personal rights. This suggests a possible direction for revising of the evidentiary laws to better safeguard reputation.

It is no doubt that the Act is innovative in the sense that it renders digital evidence admissible, however the stringent provisions of the law might work to the disadvantage of plaintiffs in an online defamation case. Emerging technologies like deep fakes, manipulated footages and so on create additional challenges due to the absence of clear guidelines from the law in regards to determining the authenticity, admissibility and

preservation of evidence in these aspects.⁴² This research therefore proposes the simplification of certification process, as well as establishing clearer rules for temporary online content, to facilitate fair adjudication in alignment with the rights guaranteed in Section 39 of the 1999 Constitution (as amended) which is to balance expression and reputation in Nigeria's digital space.

3.1.2 Regional/African Legal Regime

3.1.2.1 African Charter On Human And Peoples' Rights (1981)

The African Charter on Human and Peoples' Rights of 1981 was brought into force in Nigeria through the African Charter on Human and Peoples' Rights (ratification and enforcement) Act (Cap A9 LFN 2004), It provides the regional framework for the balance of the right of freedom of expression and the right to reputation protection particularly in the social media era, this is mirrored in Nigerian defamation laws. Under Article 9 (2) individuals are guaranteed the right to communicate and disseminate their views within legal limits, this right justifies the use of social media as a platform for people to engage in public dialogue. Conversely, under Article 27 individuals are directed to respect other people's reputational rights as the article provides restrictions on defamatory content posted online in order to promote public order.

These competing obligations create a legal tension compelling Nigerian courts to navigate the challenges using the African Charter to address the rapid spread of information online while ensuring that it is in conformity with global human rights standards.

⁴² G.V Obamanui, 'Legal Issues and Challenges in the Admissibility of Digital Forensic Evidence in Courts in Nigeria', *African Journal*, Vol 8, page 108.

In light of the Charter's incorporation into Nigerian law through Section 1 of the Ratification of the Charter, it should be noted that the Charter's provisions can be applied in social media defamation suits as it forms part of the domestic law in Nigeria. In *Okedara v Attorney General*⁴³, the Court relied upon the Charter's provision which guarantees the right to freedom of expression online but also established that the right can be limited where there might be potential injury to one's reputation. However, the Charter provides no clear regulations on digital platforms and this complicates its application in an environment characterized by anonymity as well as the universal spread of online content.

Ultimately, the Charter's role in the defamation law in Nigeria demonstrates the importance of having a more precise national law regulating internet communications - one that reconciles the right to express opinions with the right to protection of reputation. The Charter's language, though empowering, creates room for inconsistent judicial outcomes in cases relating to social media relations, particularly as Nigerian Courts overemphasize the protection of reputational rights over the right to freedom of expression in ways that appear disjointed with the Charter's human right principle.⁴⁴

This research paper therefore concludes that, in order for the Charter to be effectively applied in social media defamation cases, clearer domestic guidelines are required and its enforcement under the Ratification Act must be harnessed to build a more balanced legal framework that protects both freedom of expression and reputation in Nigeria's online space.

⁴³ Suit No CA/L/174/18, 28 February 2019 (unreported)68

⁴⁴ Amaka Okechukwu, 'Freedom of Expression and Regional Human Rights', *Nigerian Journal on International law* [2022] (8) (1)30-37

3.1.2.2 African Commission On Human And Peoples' Rights Declaration Of Principles On Freedom Of Expression (2002)

The 2002 African Commission on Human and Peoples' Rights Declaration of Principles on Freedom of Expression is a legal mechanism for the protection of the right to freedom of expression in Nigeria, particularly in relation to defamation cases on social media platforms. Freedom of expression as a fundamental right necessary for participation in a democratic society is enshrined in Principle II (1) of the declaration, categorically including all forms of media, including digital platforms thereby making social media one of the arenas for public discourse.⁴⁵

However, Principle XII(1) provides for reasonable limits when reputation must be safeguarded, and any limitation imposed must be necessary and proportional. This research therefore presents some questions as to Nigeria's use of broad defamation laws that unfairly restrict online speech, especially in matters of public concern.

Adopted in 2002, the declaration represents the efforts of the African Commission to address evolving digital communications while building on the foundational principles of the African Charter for Contemporary media environments. Principle IX (2) reinforces the media's role in spreading information, a role now carried out by ordinary social media users functioning as citizen-journalists but warns against abuses that harm reputation. Although, the declaration has no binding legal force in Nigeria, its principles have shaped judicial decisions; courts cite regional standards when looking to protecting digital expression. The Declaration's emphasis on proportionate defamation regulations critiques Nigeria's reliance on punitive approaches such as provisions within the 2015 Cybercrimes Act that unreasonably constrains social media communication. Principle XII (2) of this declaration calls for decriminalization of defamation, a call that challenges

⁴⁵ Declaration of Principles on Freedom of Expression, Prin II(1); Tunde Olusanya, Regional Standards on Media Freedom in Nigeria (Abuja : Legal minds press, 2022) 25-32.

the state of law in Nigeria, where criminal defamation under the Criminal Code Act has stifled⁴⁶ online discussion. Social media becomes one important area of consideration, with individuals being prosecuted for allegedly defamatory posts, often with little evidence of actual harm.

The Declaration urges the government to take the civil legal approach in defamation cases, a suggestion that the Nigerian Government has refused to follow, considering the stringent penalties imposed under the Cybercrimes act. This signifies the need for a law reform in line with the regional standards that would maintain social media as an avenue for free speech without causing injury to peoples' reputation.

This research paper harnesses the Declaration's provisions to argue for the reconsideration of Nigeria's defamation laws in relation to activities carried out within the social media space. The Declaration's emphasis on proportionate limitations and media multiformity underscores the need to have strong defenses like those pertaining to fair comment and public interest in cases of online defamation which are still poorly developed in Nigerian jurisprudence.⁴⁷ By fostering civil remedies and judicial standards guided by the declaration, Nigeria could do more to balance freedom of expression with protection of reputation, shielding social media users from overzealous litigations while preserving the rights of persons injured by defamatory statements made online.

3.1.3 International Legal Frameworks

3.1.3.1 Universal Declaration Of Human Rights (1948)

The Universal Declaration of Human Rights is a global template of human rights and it significantly influences the Nigerian law on defamation by promoting freedom of expression and also protection of reputation both in the real world and particularly the

⁴⁶ Criminal Code Act 2004, Section 373, 375.

⁴⁷ Yetunde Ojo, "Social Media and Regional Human Rights Standards", *Journal of African Media Law* [2021] (7) (1) 38-45

social media space. Article 19 of the UDHR protects freedom of expression in any media which would cover the use of social media platforms for public debates and Article 12 protects peoples' reputation from arbitrary attacks , suggesting that online speech that are defamatory can be legally restricted.

Although the principles of the UDHR are nonbinding in nature, the principles are evidently mirrored in Nigeria's 1999 Constitution (as amended)⁴⁸ guiding judicial reasoning in defamation cases through its call for balance between freedom of expression and protection of reputation. It acts as a moral and interpretive guide that has influenced constitutional developments and shaped the public's expectation of free speech on social media.

The UDHR was adopted by the United Nations General Assembly in 1948 stemming from post-World War II efforts to codify universal rights, shaping Nigeria's constitutional protections.⁴⁹

In practice, Nigerian courts invoke the values represented by the UDHR when interpreting freedom of expression but the generalized and nonspecific language of the declaration does not offer enough guidance to address the complexities of digital communications. The quick spread of defamatory content through social media platforms like Twitter, Facebook, Instagram e.t.c exposes the gap between of the principles of UDHR on balanced restrictions and the broad defamation laws in Nigeria that risks overly restricting online speech, contrary to the provisions of Article 19.

This paper submits that even as the UDHR reaffirms Nigeria's commitment to freedom of expression, its precepts need to be domesticated through appropriate legislations with specific emphasis on social media. Such reforms would give far greater coherence to the

⁴⁸ Section 39

⁴⁹ Bola Adesina, Human Rights in Post Colonial Nigeria (Ibadan; Unity Publishers,2020) 25-31

protection of reputation under Article 12 and the commitment to open discourse under Article 19 within Nigeria's constitutional context.

3.1.3.2 The International Covenant On Civil And Political Rights (1996) (ICPR)

Nigeria ratified the International Covenant on Civil and political rights 1996 in 1993 and it became legally binding as a defamation law framework that controls the interrelation between the freedom of expression and protection of reputation on social media.

Article 19 (2) of the Universal Declaration of Human rights protects freedom of expression, including exchange of information through any media including online platforms like Twitter, Facebook, Tiktok and so on, Article 19 (3) however permits protective limitations if such restrictions are legal and necessary, a qualification that validates Nigeria's laws on defamation but still raises concerns about excessive limitations in social media contexts.

As an ICPR treaty member, Nigeria's legal framework must be up to par with these international standards yet Nigeria's Cybercrimes Act 2015⁵⁰ applies excess penalties for online speech which create difficulties in fulfilling these treaty obligations.

The United Nations adopted the ICPR in 1966 to transform the UDHR's idealistic principles into legally enforceable rights which now shapes Nigeria's human rights obligations. The Human Rights committee's general comment No.34 explains that Article 19 protects online speech and establishes that defamation statutes must not impose excessive constraints on freedom of expression. Nigeria's Criminal defamation practices typically diverges from this international standard.

The growth of social media increases public dialogue and increases the risks of reputational damages, this creates difficulties for the application of Article 19 (3) as

⁵⁰ Cybercrimes (Prohibition, prevention etc) Act 2015, Section 24.

courts tend to safeguard reputation by relying on the Criminal Code Act to carry out arrests. Nigeria's practices in this aspect puts its ICPR obligations at risk of breach.

The ICPR framework underscores the need for Nigeria to reform its defamation laws to address the issues that comes with the use of social media while meeting international benchmark. The Covenant denounces Nigeria's expansive provisions that risk silencing freedom of expression online specifically among journalists and activists.

This study recommends ICPR based reforms to limit criminal punishments and establish civil solutions, thus protecting reputations without undermining the freedoms guaranteed under Article 19.

3.2 Institutional Frameworks For Online Defamation In Nigeria.

3.2.1 The Nigerian Police Force.

The Nigerian Police Force is one of the Country's primary law enforcement agencies and it is tasked with the maintenance of law and order, ensuring security and prevention and detection of crimes. Among its core function is the protection of the rights and freedoms of all individuals in Nigeria as provided for by the Constitution, the African Charter on Human and people's rights and other relevant statutes.⁵¹

The Nigerian Police Force is organized into multiple departments and units and they are burdened with different aspects of policing.

The NPF put measures in place in response to the rise on cybercrimes including online fraud, defamation and other offenses committed through the internet. One of these measures is the creation of a dedicated Cybercrimes Unit in 2017. This Unit is tasked with investigating and combating cyber related offences. The Unit's duties includes examining the use of computers, networks, telecommunications devices and other technological tools whether as tools or as targets for criminal activities.

⁵¹ NPFA, 2010 Section 4.

Officers in the Cybercrimes Units are experts in digital forensics, computer science, and Cybercrime investigation. The Cybercrime Unit is tasked with the following objectives:

Prevention : The unit educates the public on cyber threats and safe online practices through workshops and seminars. It seeks to prevent individuals from falling victim to cybercrimes and also discourage them from involving in them.

Investigation : The unit is in charge of conducting detailed investigations to apprehend offenders when cybercrimes occur. They carry out this investigation using advanced digital forensic techniques to gather evidence from electronic devices, networks and online platforms.

Prosecution: The Cybercrime unit of the Police Force in collaboration with the Judiciary assists prosecutors in building solid cases to ensure cybercriminals are brought to justice.

Capacity Building: The unit continuously improves its skills by training new personnel on emerging cyber threats like AI, new technologies and advanced investigative methods up to par with the current digital era and ensuring effective responses to cybercrime.

3.2.2 Nigerian Communications Commission

The Nigerian Communications Commission is the independent national regulatory body for the telecommunications industry in Nigeria. The commission is in charge of creating an enabling environment for competition among operators in the industry as well as ensuring the provision of qualitative and efficient telecommunications services throughout the country.⁵² It is in charge of overseeing, licensing and supervising telecommunications services and networks across the country, It was established on the 24th of November, 1992 by virtue of Decree No.75 of the Federal Military Government. NCC plays a crucial role in the telecommunications sector, and its key functions includes:

⁵² Nigerian Communications Commission website,< <https://www.iicom.org/member/nigerian-communications-commission-ncc/>> accessed 16 November 2025

Protection of Consumers Interests: The NCC protects consumers against unfair practices relating to tariffs, service quality and also ensures that there is availability of communications equipment and services.

Issuing and Enforcing Regulations : The NCC enforces the provisions of the act. They create and implement the regulations that give full effect to the provisions of the Nigerian Communications Act. These regulations governs licensing, service provision and regulatory requirements for operators .

Advising The Minister On Sector Policy: The NCC assists the Federal Ministry in shaping national telecommunications policy by proffering adept recommendations on Industry trends, regulatory requirements and emerging issues.

Dispute Resolution: The Commission is also in charge of examining and resolving disputes involving licensed operators, subscribers, and other stakeholders in the industry. It uses different methods of conflict resolution such as mediation, arbitration, and administrative reviews to settle industry-related disputes efficiently.⁵³

In addition to these core functions, the NCC also plays a major role in addressing defamation done using telecommunication networks. The commission's regulatory framework prohibits the use of any communication system i.e through phone calls, texts, emails or digital platforms to send messages that are defamatory, abusive, obscene or harmful. This regulatory framework helps to maintain the integrity of the various digital communications channel.

3.2.3 National Human Rights Commission

The National Human Rights Commission abbreviated as NHRC was set up as an independent government agency in Nigeria to promote and ensure the protection of Human rights in Nigeria. The organization was established through the National Human

⁵³ NCCA 2003 Section 4.

Rights Commission Act of 1995 based on the principles outlined in provisions of the UDHR.

The NHRC has the duty to investigate violation of human rights, proffer remedies for the violation of those rights, and also organize programs aimed at educating people on issues concerning human rights. The NHRC provides a platform where individuals can seek justice in the event of violations. In the aspect of online defamation of character, the NHRC deals with the issue by dealing “ with all matters relating to the promotion and protection of human rights guaranteed by the constitution of the Federal Republic of Nigeria, The United Nations Charter and the UDHR. Online defamation is incorporated in the right to dignity which is provided for in the aforementioned statutes”⁵⁴

The commission also acts as a monitoring agency, which investigates all reported cases where there has been a violation of rights like the right to dignity as a result of online defamation⁵⁵. In efforts to avert violations, The NHRC holds seminars, workshops and international conferences aimed at enlightening the public on issues relating to human rights⁵⁶. In addition to these, the NHRC offers support to victims of human rights violation and it helps seek redress on their behalf.⁵⁷ An important aspect of the duties of the NHRC in the protection to right of dignity involves the handling of complaints concerning online defamation.⁵⁸

3.2.4 The Judiciary

The Judiciary established by the Constitution of the Federal Republic of Nigeria acts as the third arm of Government and is saddled with the responsibility of interpreting the

⁵⁴ NHRCA 2010 S5(a)

⁵⁵ NHRCA 2010 S5 (b)

⁵⁶ NHRCA 2010 S5 (f)

⁵⁷ NHRCA 2010 S5 (c)

⁵⁸ NHRCA 2010 S5 (J)

laws and settling disputes.⁵⁹ It is an important organ that helps in the reduction of online defamation of character, the judiciary can be considered as the main instrument that helps in the promotion of the fundamental right while taking into consideration the competing rights between freedom of expression and right to reputation which falls under the right to dignity.

In cases of online defamation, the judiciary gives precedence to the right to dignity while restricting the right to freedom of expression.

In order for the judiciary to successfully administer justice in a case, it must possess the appropriate jurisdiction to deal with the case, as any decision made by the court shall be deemed as *void ab initio* if it lacks jurisdiction over the case. The High Court possesses the appropriate jurisdiction to deal with cases related to defamation.⁶⁰

3.3 Conclusion.

In conclusion, this chapter has analyzed the various legal and institutional frameworks of online defamation in Nigeria and the tools and approaches used by the institutional frameworks to settle online defamation cases.

⁵⁹ CFRN 1999 S6

⁶⁰ CFRN 1999 S46 (1)

CHAPTER FOUR

CHALLENGES OF ONLINE DEFAMATION IN NIGERIA

4.0 Introduction

This chapter discusses the practical and legal hurdles to controlling defamation on online platforms. This involves problems of anonymity, jurisdiction, law enforcement, inadequacy of the laws and so on. It also discusses the new threat of AI assisted defamation like deep fakes and how Nigerian institutions are not prepared to handle it.

This chapter also examines the role internet service providers play in online defamation and also their potential liabilities, ways to reconcile the tension between freedom of expression and protection of reputation will also be explored.

4.1.1 Jurisdictional Complexities

According to Black's Law dictionary, jurisdiction is a court's power to decide a case or issue or a decree.⁶¹ It is the authority by which a court has to decide matters that are laid before it for litigation or to take cognizance of matters presented in a formal way for its decision.⁶²

Jurisdiction is a pressing issue when it comes to applying traditional defamation law in Nigeria because of the borderless nature of social media and establishing jurisdiction is very important for claimants in a defamation case. The internal conflict in the Nigerian legal system has been settled to an extent by various High Court Civil Procedure Rules in Nigeria, for example, jurisdiction was defined as where the act of defamation occurred or where the accused lives, this is according to *Order 3, Rule 4* of the High Court of the Federal Capital Territory (Civil Procedure) rules 2018. Thus, for a claimant to prove that

⁶¹ Bryan Garner, ed., Black's Law Dictionary, ninth edition, (West Publishing, 2009) p.297

⁶² Aderemi J.S.C., in *F.B.N Plc v. Abraham* (Suit No. S.C 397/2002) 18 N.W.L.R (Pt. 1118) 172 at 190

online defamation has occurred, he must prove to the court that identifiable individuals within the court's jurisdiction accessed the defamatory content.⁶³

Despite this rule, the courts still struggle with determining jurisdiction when the defamatory content were accessed and downloaded by people nationwide thus highlighting the borderless nature of social media. Although Nigerian case laws on jurisdiction for online defamation are sparse, guidance can be drawn from foreign decisions.

In a United Kingdom based case, *Mohammed Hussein Almoudi v Jean-Charles Brisard & Anor*⁶⁴ the court held that the burden of proving that a third party read or viewed the defamatory material in question lies on the plaintiff.

The position under English common law concerning jurisdiction in defamation cases was based on the old case of *Duke of Brunswick v. Harmer*⁶⁵, where it was established that each publication of a defamatory statement gave rise to a separate cause of action, depending on the relevant limitation periods. This stance is still held by the English courts till date, that is they have jurisdiction over online defamation claims in any jurisdiction the material is accessed and where the claimant has a reputation in that forum.

This approach was taken by the House of Lords in *Berezovsky v Michaels*⁶⁶ and also the Court of Appeal in *King v. Lewis*⁶⁷, where the courts decided that any jurisdiction in which such defamatory content is accessed can legitimately assume jurisdiction over the matter.

⁶³ O.M Atoyebi, Online defamation: Emerging jurisdictional issues, <<<http://www.omaplex.com.ng> accessed 20 November 2025.>>

⁶⁴ *Mohammed Hussein Almoudi v Jean- Charles Brisard & Anor* [2004] 3 All ER 294.

⁶⁵ (1849) 14 QB 185.

⁶⁶ (1849)UKHL 25

⁶⁷ (2004) EWCA 1329.

The High Court in Australia took a similar stance in *Gutnick v Dow Jones*⁶⁸ where the Judge held that online publishers may be held liable under the laws of any jurisdiction in which the defamatory content is accessible, emphasizing the borderless nature of social media interactions.

The Courts in the United States however apply a stricter test where claimants are expected to prove that the allegedly defamatory material was directed or targeted at the jurisdiction in which the action is filed. This “targeting” doctrine basically restricts the forums in which an online defamation claim can be pursued.

Nigerian jurisprudence is largely consistent with the position of the English courts. In *Daily Times Nig Plc v Arum*⁶⁹, the respondent instituted an action in Enugu state, pleading that defamatory online publications wrongly represented him as a pedophile, rapist and dangerous criminal. He pleaded that inhabitants of Enugu – his friends, relatives and colleagues viewed and downloaded the content. The appellants challenged the jurisdiction of the Enugu court, but the trial court and the Court of Appeal dismissed the challenge. The Court of Appeal held that content posted online is accessible to everybody worldwide without significant barriers and posting any content online shows an intention to make it accessible universally. The court held however that mere passive presence on the internet cannot be regarded as adequate to establish jurisdiction. The court also went on to state that a cause of action in libel is actionable upon publication and any court in the place where such material is accessed or downloaded may properly assume jurisdiction.

⁶⁸ [2002]HCA 56;(2002) 77 ALJR 255

⁶⁹ (2023) 17 NWLR (PT. 1914) 559

In conclusion, both the English and Nigerian courts are willing to entertain online defamation cases once it is proven that the material was accessed or downloaded within their territories.

4.1.2 Inadequacy Of Legal And Institutional Frameworks.

Seeking redress for online defamation in Nigeria is still very tasking due to the fact that the concept itself is relatively foreign in Nigeria laws and practice. The existing laws are not comprehensive enough and are ill equipped to deal with the intricacies digital communication presents. Most of the applicable laws are inherited from the English statutes, which have since been repealed or modified in their country of origin. Ordinarily, laws are expected to evolve alongside the society but the current legal framework in Nigeria does not reflect the realities of the contemporary digital era, for example, the novel problem of deepfakes which was not envisioned in our existing laws of privacy, copyright and defamation. Courts and lawmakers are met with interpretive gaps in extant laws that may permit the creation and dissemination of deepfakes with limited legal repercussions.⁷⁰

Proving harm is also challenging because the effects of deepfakes are often intangible and diffuse and establishing a direct causal link between the content and reputational damage can prove difficult⁷¹. Another problem comes from attribution and jurisdiction because creators often use anonymous or faceless accounts and operate across borders thus challenging enforcement. These problems emphasize the inadequacy of existing legal frameworks and further underscores the importance of reform in our legal system and introduction of other regulatory mechanisms in dealing with defamation in this digital era.

⁷⁰ B. Van der Sloot and Y Wagenveld 'Deepfakes Regulatory Challenges for the Synthetic Society' Computer Law and Security Review (2022) 46, 13.

⁷¹ *Ibid*

In addition to the limited legal provisions, institutional mechanisms for enforcing online defamation laws are also largely inadequate. Only a few agencies such as the Nigerian Police Force and the Nigerian Communications Commission, have roles that touch this area but that is not enough because these bodies were created for more expansive responsibilities and cannot devote enough attention to the effective fight against defamation.

4.1.3 Publication and Republication

Publication is the core of an application of liability in online defamation and it is a very important fact for consideration when establishing jurisdiction. Publication in online defamation cases means that the defamatory statement or content was made available to the public through websites, social media or other digital platforms. A cause of action can arise only where the defamatory material has been communicated to a third party other than the party defamed⁷². In online communication, when false information is passed on, it becomes available to internet users worldwide and therefore increases the damages done to the individual or organization concerned.

One of the major challenges of online defamation is republication, where the original defamatory statement is further shared, distributed or reposted. This challenge has been tackled to an extent through the adoption of the “single publication rule” which provides that a single publication gives right to only one cause of action, regardless of the number of times the content was re-published⁷³. Under traditional defamation principles, each republication constitutes a fresh cause of action⁷⁴, however, this position has been altered

⁷² *Nsirim v Nsirim* (1990) 3 NWLR (PT 258) 285, 299

⁷³ Merriam Webster Legal Dictionary ‘Single publication rule’, < <https://www.merriam-webster.com/legal/single%20publication%rule>> accessed 20 November 2025.

⁷⁴ *Dauda Gbadamosi & Ors v Yusuf Ajibode & ors* (2012)

in the context of online defamation amidst controversies. This rule allows individuals who intentionally publish and republish defamatory content to escape liability for subsequent publications. The rationale behind the principle is that online dissemination occurs with ease – often through a single click and imposing liability for each republication may be too cumbersome.

Nonetheless, each republication causes fresh injury to both the readers and the individual defamed. Information on the internet is meant to be accessed and interacted with continuously by a new audience and each new publication adds to the reputational injury caused. This argument was what the Court of Appeal in British Columbia upheld in the case of *Carter V B.C Federation of Foster Parents Association*⁷⁵, The court refused to adopt the single publication rule, considering that it was not appropriate because of the borderless nature and peculiarities of internet based communication.

Therefore, the adoption of the single publication rule to online defamation is neither sufficient nor fitting. Courts need to recognize the need to permit a fresh cause of action on each republication, especially in the light of multiple reposts and shares which are often made with malice and intention to inflict reputational injury.

4.1.4 Anonymous Posts

A publisher is defined as someone “whose business is issuing material to the public, or a section of the public, who issues material containing the statement in the course of that business”⁷⁶ Through the internet, users can send emails or post messages on forums without disclosure of their true identities. They may make use of pseudonyms or remain anonymous. This anonymity encourages lack of restraint in communication and so the cyberspace becomes very susceptible to defamation.

⁷⁵ (2005)BCCA 395 (Can LII)

⁷⁶ *Godfrey v Demon Internet services* (2001) QB 201.

According to law, anybody who knowingly or unknowingly participates in or assents to the publication of a defamatory matter may be held liable as the original publisher. Thus, an online article can make everyone involved in its publication from author to editor potentially liable, this would present no challenges in traditional publishing but online defamation poses a greater challenge because anonymous accounts make the authors, creators or publishers hard to trace personally and geographically. Unless the actual publishers are identified, the victim of defamation may not be able to get redress for the irreparable damages done to his reputation.

4.1.5 The Role Of Internet Service Providers

A specific statutory definition of Internet service providers (ISPs) was not provided for under Nigerian law. In fact, ISPs are not expressly recognized in the same manner as in many other jurisdictions.

The closest related legislation is the Nigerian Communications Act which describes ISPs as network providers. The relevant guidelines issued pursuant to section 70 (2) of the act enable the commission to make provisions on any matter within its scope of authority.⁷⁷

Under these guidelines ISPs are to ensure that users are informed of published acceptable usage policies or cybercrime prevention instructions issued by the NCC or other authorities and that breaching these guidelines could amount to an offence under the law. The guidelines also establish a limitation of liability for ISPs when acting as content intermediaries, such as mere conduits, caching services, or hosts. They provide that ISPs shall not be held liable for storing information at the request of users and neither will they be held liable for third party information made available through their services, provided they do not modify or tamper with such information. Furthermore ISPs should remove or disable access to unlawful material upon notification, liability arises only

⁷⁷ NCCA 2003 S70(2)

when an ISP creates, edits or contributes to the content or fails to remove the content upon notification rather than when it merely transmit information.

However, these NCC regulations are mere guidelines and do not carry binding legal power. While the NCC may, pursuant to these guidelines, impose sanctions against an ISP, private persons cannot have directly enforceable legal rights based simply on these guidelines.

In conclusion, the NCC guidelines or regulations do not bridge the legislative gap which proper statutory provisions ought to fill which includes :

- The definition of legal rights, duties, and liabilities of ISPs.
- Conferring grounds for legal action against individuals or organizations.

Furthermore, these guidelines are yet to be tested before the Nigerian courts, and this implies that it is still uncertain when the judiciary would uphold rules issued by a single administrative agency like NCC.

4.1.6 Inadequacy Of The Judiciary

The Nigerian judiciary is alarmingly inefficient in handling defamation cases in the current digital era where defamatory content goes viral across different social media platforms. Traditional defamation was based on slower, print based methods of communication but communication online happens in real time and requires efficient and technologically savvy adjudication mechanisms. Nevertheless, courts in Nigeria continue to face challenges like delays in procedure, obsolete conditions for proof and a lack of technological capacity and all these hinder the capability of the courts to handle internet based cases efficiently.⁷⁸

⁷⁸ Ayodeji Esq Awobiye, 'An Appraisal of the Law on Admissibility of Electronic Evidence in Civil Litigation in Nigeria', *University of Ibadan Law Journal* Vol 11.

Outdated administrative and procedural systems make it difficult for the courts to fit into the current digital realities. Although the Evidence Act⁷⁹ covers the admissibility of electronic evidence, authentication of digital content like social media posts, screenshots, meta data or server logs by the courts is most times difficult. Beyond just admitting electronic evidence, the courts also find it difficult to assess the weight of these electronic evidence and this results from a lack of uniform practices for presenting electronic evidence and this leads to inconsistencies in judicial decisions.⁸⁰

The Court in an Indian case *Lankesh v Shirvappa*⁸¹ held that for publication to be proven, digital forensic evidence was needed; this is a requirement courts in Nigeria cannot satisfy due to resource constraints. This weakness has influenced decisions on disputes where digital evidence is at the heart of the case, such as cases related to trust.

The underfunding, poor case management systems, and general lack of staff training limits the Judiciary's ability to handle cases based on these new communications technologies, for example, in *Mmaju v Ikwuka*⁸², the court struggled to determine whether a WhatsApp post has actually been posted – an example of the problem of inadequate staff literacy among judges. The Canadian case of *Haaretz.com v Goldhar*⁸³ recognized that training judges to deal with digital evidence is an essential reform that has not yet been addressed in Nigeria. In customary trust disputes where these informal digital platforms are common, such shortcomings delay justice and leave reputations at

⁷⁹ Section 84 of the Evidence Act 2011

⁸⁰ Adamu Idris Taanimu, Halima Doma-Kutugi (2021) Proof by Electronically Generated Evidence under the Evidence Act 2011, *ABUAD Law Journal*, 9 (1),36-50,<https://doi.org/10.53982/alj.2021.0901.3>-jaccessed 20 November 2025.

⁸¹ [2019]SCC OnLine SC 114

⁸² (Lagos High Court, 2018) [unreported]

⁸³ [2018] SCC 28

risk. In *Isikwenu v Anor v Iroh*⁸⁴, The inability to preserve a defamatory post defeated the plaintiff's case.

These technological constraints and judicial incapacity are key to this study which has indicated barriers to applying defamation law to social media in disputes over trust. The most significant challenge is the failure of Nigeria to equip the courts to handle digital evidence competently, especially in the customary contexts of informal online posts. This study therefore calls for investment in judicial training and forensic infrastructure, with integration of customary evidence practices to ensure that the Evidence act supports Nigeria's pluralistic trust litigants adequately in this digital age.

4.1.7 The Impact Of AI Assisted Defamation

Artificial intelligence systems can create and spread defamatory content in new ways we have never seen before. The systems have, until now always shown how vulnerable they are to harmful instructions and how quickly they can be manipulated into carrying out damaging tasks. One recent example is the use of Grok AI (an inbuilt AI for X app)to undress ladies who tweet their pictures on the app and edit them into compromising positions, this AI has now been regulated by the owner due to the uproar by concerned individuals and such acts have stopped but it still underscores the need for a framework that holds netizens who carry out AI assisted defamation and also the owner of such apps accountable. Traditional defamation standards are not suitable to be applied in emerging AI technologies and this issue brings a pressing concern to lawmakers.

Recent cases in the courts in United states like *Walters v OpenAI L.L.C*⁸⁵ and *Battler v Microsoft Corporation*⁸⁶ are treading new legal grounds on the question of AI generated defamation. Both of these cases indicate that more sophistication in the legal framework

⁸⁴ [2012] LPELR- 19796 (CA)

⁸⁵ NO.23-13843 (11TH CIR.2024)

⁸⁶ Civil Action No. 23-cv-01822-LKG

is required to appropriately handle the different problems arising from content generated from AI.

With the rise of AI defamatory statements online, the US government has expanded its laws to cover online defamation in addition to traditional media. The Communications Decency Act of 1996 was enacted to regulate indecent and defamatory content published on websites and other digital platforms and liability for AI generated defamation is largely shaped by Section 230 of the Communications Decency Act.⁸⁷ The Nigerian legal system ought to borrow a leaf from the U.S as our digital environment continues to advance daily, there is need for reforms in the legal frameworks guiding online defamation in Nigeria in order to protect individuals from the foreseeable harms of AI generated defamation.

4.2. Balancing Reputation And Freedom Of Expression In Nigeria.

Balancing freedom of expression with protection of reputation in the current digital age is one of the most serious challenges plaguing the Nigerian legal system today, considering that platforms like X (formerly known as Twitter) amplifies free expression and defamatory harm in disputing trusts simultaneously.

Section 39 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) guarantees this freedom of expression but it is circumscribed by defamation laws under section 373 of the Criminal Code Act which provides sanctions for individuals who make statements that expose another party to hatred or ridicule. In *Isekwenu v Iroh*⁸⁸, a defamatory Facebook post that accused another of trust fund mismanagement was actionable and thus proved that there was tension between freedom of speech and defamation.

⁸⁷ Disemfon Benson, 'The Impact of AI on Tort of Defamation and Cybercrimes' <<https://www.legalempereors.com.ng/the-impact-of-ai-on-the-tort-of-defamation-and-cybercrimes/> . .accessed 21 November 2025.

⁸⁸ [2012] LPELR-19799 (CA)

At an international level, *Reynolds v Times Newspapers limited*⁸⁹ case developed a public interest defence which strikes a balance between both rights but this is a principle Nigerian courts are yet to embrace fully. Social media democratizes discussion and at the same time expedites the process of reputational damage and this tension makes balancing these competing interests complex. In a recent Nigerian case involving the popular gospel singer, Mercy Chinwo and Very Dark Man, a social media commentator, Mercy Chinwo sued VDM for making defamatory statements against her online and the court awarded damages as well as a public apology from the culprit, this case underscored the need for legal restrictions on free speech. The ‘responsible communication defence’ raised in *Grant v Torstar corp*⁹⁰. allowed free speech if publication is diligent and this framework could serve as a model for Nigeria.

The judiciary, in striking a balance between these competing rights is bound by outdated laws, the South African case, *Media 24 Ltd v SA taxi Securitisation*⁹¹ strikingly held that remedies for defamation should be proportionate in order to prevent suppression of free speech but Nigerian courts apply this principle inconsistently.⁹² Customary litigants suffer disproportionately from online defamation because they are often unfamiliar with legal options, and remedies need to put cultural needs into consideration while also paying attention to freedom of expression.

This balance is fundamental for this study because it addresses two competing interests : free expression and reputational protection in trust disputes that are amplified through social media. The gap exists in Nigeria’s failure to incorporate indigenized customary

⁸⁹ [1999]UKHL 45 (UK)

⁹⁰ [2009]SCC 61

⁹¹ [2011]ZASCA 117

⁹² Aminu Muhammad, ‘Electronic Evidence in Nigerian courts’ *Kano Law Review* [2020] (8)(1)25-33.

trust practices into the laws on defamation particularly where digital and oral reputational harm intersects.

This study offers a restructured framework informed by responsible communication principles from international jurisprudence that ensures the protection of reputation while safeguarding free speech and thus assuring fair results for Nigeria's pluralistic trust litigants in this contemporary digital era.

4.3 Conclusion

In conclusion, this chapter has identified a number of serious challenges facing Nigeria's online defamation law, including outdated statutes, jurisdictional complexities, anonymity, the accelerating effect of new technologies like AI, publication and republication. These factors makes it difficult for the legal system to balance the competing right to freedom of expression and protection of reputation, the chapter also discussed the inadequacy of the judiciary and proposed reforms from other jurisdictions Nigeria could model or emulate in order to achieve a balance between these competing rights.

CHAPTER FIVE

CONCLUSION

5.1 SUMMARY OF FINDINGS.

The main objective of this study was a critical analysis of online defamation in the light of the right to freedom of expression. To achieve this, the study traced the historical development of Defamation, explained the concept of online defamation and examined the nature of the right to freedom of expression and the circumstances under which the right might be derogated. It also reviewed the existing legal frameworks and relevant statutory provisions governing online defamation along with the agencies and institutions responsible for enforcing the laws.

Furthermore, major challenges affecting the enforcement of reputational rights in the context of online defamation were identified and discussed, illustrating the current state of legal mechanisms available to protect the victims of online defamation in Nigeria.

5.1 SUMMARY OF FINDINGS

The world is becoming increasingly digital and the internet pervades everyday life. Its pervasiveness does not only affect the cyberspace but also impacts the law considerably and has birthed rights and liabilities, this is the main focus of this study.

This study set out to critically examine online defamation in relation to the right to freedom of expression. In the course of this study, the following observations were made:

- The internet can spread information across several jurisdictions in seconds and this poses immense difficulties for existing legal frameworks and creates jurisdictional problems.
- It is sometimes difficult to ascertain the real publisher of online content as most of such posts are made anonymously.
- The roles and potential liabilities of Internet Service Providers (ISPs) are not clearly defined or addressed by Nigeria's current legal framework.
- There is a conflict between the right to freedom of expression and the right to protection of reputation with the courts having a hard time balancing them out.
- Existing legal mechanisms for redress for online defamation are insufficient and the judiciary, the primary institution for enforcement has been largely inefficient
- The Nigerian legal system is not up to par with the current digital reality in our society. It is ill equipped to handle online defamation cases especially those involving AI.

These findings collectively highlights the urgent need to reform Nigeria's legal framework to address the unique challenges posed by online defamation.

5.3 RECOMMENDATIONS

Based on the results obtained from the findings, this study recommends the following actions :

-Jurisdiction and conflict of laws: Due to the jurisdictional conflicts in the contexts of online defamation, international organizations should bring together relevant stakeholders to constitute a universal convention that clearly defines online defamation,

establishes liabilities for all parties involved, and ensures that individuals have an effective means of seeking redress across jurisdictions.

-Institutional Framework : Considering that the current legal and institutional frameworks in Nigeria are inadequate to tackle online defamation, it is recommended that the National assembly enacts a comprehensive and effective law that reflects contemporary societal realities. Additionally, an agency that focuses on detection, investigation and prosecution of online defamation cases should be established.

- Single publication rule : The research recommends that online defamation should not be subject to a single publication rule. Every act of republication should constitute a new actionable wrong. This is just and ensures that people who maliciously republish defamatory content do not evade liability, Victims should be entitled to pursue redress against all contributors to the harm.

-Anonymous publication and ISPs liabilities : Since it is often impossible to trace the originators of defamatory posts, it has been suggested that ISPs be held vicariously liable for facilitating anonymous posts, similar to the way broadcasters can be held liable for defamatory statements, ISPs should ensure that every post can be traceable to an identifiable publisher.

-Regulation of ISPs :There should be a clear legal framework that outlines the respective roles, powers, functions and liabilities of ISPs. The framework should also enable the courts and private individuals or organizations to institute and pursue legal actions against ISPs when necessary. Institutes and agencies should be empowered to deal with online defamation effectively.

- Awareness and Enforcement : The Federal and state government should enforce measures to curb online defamation by collaborating with non-governmental organizations to educate the public on the nature and character of online defamation and also the legal

consequences. Courts should ensure that the right to the constitutional rights to dignity in Section 34 closely linked to the right to reputation is duly considered alongside the right to freedom of expression without one being prioritized over the other.

-Alternative Dispute Resolution : Due to the slow dispensation of justice by the Nigerian judiciary, online defamation disputes are best handled through alternative dispute resolution methods. This will ensure speed and efficiency, ultimately bringing about timely justice.

5.4 CONTRIBUTIONS TO KNOWLEDGE.

This study contributes significantly to the area of defamation law in Nigeria as well as to practical discourse about the subject by exploring its intersection with social media, an aspect which is under researched within the Nigerian legal environment. It provides an in-depth analysis of how the core features of social media – speed of dissemination, user anonymity and its borderless reach escalate the challenges of regulating defamation and thus sheds light on the dynamic nature of modern digital communication and its legal implications. By emphasizing the deficiencies of Nigeria’s obsolete legal framework, notably the Defamation act of 1961, in addressing challenges like jurisdictional uncertainties, anonymity and introduction of AI assisted defamation, this study reinforces demands for legal reforms tailored to the current digital era.

This study also contributes to international debates around platform regulation by critiquing the very low level of accountability enforced under Nigerian law upon social media platforms where they are largely treated as neutral intermediaries and by providing regulatory models to fit the Nigerian context.

The study contributes to the theoretical understanding of the subject by locating the tension between the constitutional freedom of expression and the protection of reputation within the digital environment provided by social media.

In conclusion, this study creates a sound basis for further research and policy development towards reforming Nigeria's defamation law to meet the demands of the digital age.

5.5 SUGGESTIONS FOR FURTHER STUDIES.

Although this research is holistic, there are still areas that need more in-depth research. Research can be carried out in the area of AI assisted defamation and how much liability ISPs should bear. Further research can be done on the foundational concepts of the work also.

5.6 CONCLUSION

Defamation law in Nigeria has been redefined by the widespread usage of social media thus introducing challenging complexities to the balance between freedom of expression and protection of reputation. To resolve these issues, the reformation of the legal framework becomes a must and a modern framework must be introduced in order to speed up defamatory content removal, clarify jurisdictional issues and to track and prosecute anonymous offenders.

BIBLIOGRAPHY

Books

Bola Adesina, *Human Rights in Post-Colonial Nigeria* (Ibadan; Unity Publishers, 2020)

Bryan Garner, ed., *Black's Law Dictionary*, ninth edition, (West Publishing, 2009)

Kalpokas and J. Kalpokiene, *Deepfakes: A Realistic Assessment of Potential Risks And Policy Regulation* (Springer, 2022).

Journals Articles

Adam Slavny, 'The Normative Foundations of Defamatory Meaning' (2018) *Law and Philosophy*, 37:527

Amaka Okechukwu, 'Freedom of Expression and Regional Human Rights', *Nigerian Journal on International law* [2022] (8) (1)30-37

Aminu Muhammad, 'Electronic Evidence in Nigerian courts' *Kano Law Review* [2020] (8)(1).

Ayodeji Esq Awobiye, 'An Appraisal of the Law on Admissibility of Electronic Evidence in Civil Litigation in Nigeria', *University of Ibadan Law Journal* Vol 11.

Bimbo Adeyemi, 'Freedom of Information and Digital Accountability' *Journal of Nigerian Public Policy* [2023] (11) (1) 48-55.

Declaration of Principles on Freedom of Expression, Prin II(1); Tunde Olusanya, *Regional Standards on Media Freedom in Nigeria* (Abuja : Legal minds press, 2022) 25-32.

Freedom of expression in the Digital age: Challenges and opportunities in Nigeria (2019) *Journal of communication and media studies*, 5(2);45-58

Ikenna U. Ibe ; Justus U. Ijeoma & Chukwubuikem I. Obiano/ The Dichotomy Between Cybercrimes Act 2015 and Freedom Of Expression under Nigeria's 1999 Constitution.

Obamanui G.V, 'Legal Issues and Challenges in the Admissibility of Digital Forensic Evidence in Courts in Nigeria', *African Journal*, Vol 8, page 108.

Okonkwo C, 'The Legal Basis Of Freedom Of Expression in Nigeria' (1978) 8 (2) *California Western International Law Journal*;260

Rodiyyah Bashir, Legal Consequences of Social Media : Defamation, Privacy, and Cyberbullying, *Nigerian Journal of Cyber Law* [2023]

Templars Thoughts Lab 'The Cybercrimes (Prohibition, Prevention, etc)(Amendment)Act 2024: A Paradigm Shift for Individuals and Businesses?' (2024)

Tolu Ogunlesi, 'Defamation and Criminal Liability in Nigeria', *Nigerian journal of Legal Studies* [2021] (12) (2) 30-38

Van der Sloot B, and Wagenveld Y 'Deepfakes Regulatory Challenges for the Synthetic Society' *Computer Law and Security Review* (2022) 46, 13.

Yetunde Ojo, 'Social Media and Regional Human Rights Standards', *Journal of African Media Law* [2021] (7) (1) 38-45

Online Sources

Adamu Idris Taanimu, Halima Doma-Kutugi (2021) Proof by Electronically Generated Evidence under the Evidence Act 2011, *ABUAD Law Journal*, 9 (1),36-50,<https://doi.org/10.53982/alj.2021.0901.3-j> accessed 20 November 2025.

Atoyebe O.M, Online defamation: Emerging jurisdictional issues, <http://www.omaplex.com.ng> accessed 20 November 2025.

Courts grants Erisco Tomato paste reviewer, Chioma Okoli, #5,000,000 bail by Ameh Ejekwonyilo. <<https://www.premuimtimes.com/news/top-news/699435-court->

grants-erisco-tomato-paste-reviwer-chioma-okoli-bail.html> accessed 15 November 2025

Deborah Dada ‘Freedom of expression VS Defamation Laws In Nigeria : Legal Balance & Nigerian Jurisprudence’ (2025)<<https://www.mondaq.com/nigeria/libel-defamation/1650600/freedom-of-expression-vs-defamation-laws-in-%7C-legal-balance-nigerian-jurisprudence>>.accessed November 15 2025.

Disemfon Benson, ‘The Impact of AI on Tort of Defamation and Cybercrimes’
<<https://www.legalempereors.com.ng/the-impact-of-ai-on-the-tort-of-defamation-and-cybercrimes/> . .accessed 21 November 2025.

Elias Magin ‘the risk of defamation : An analysis into the driving factors determining the outcome of commercial defamation cases’ (2019) researchgate
https://www.researchgate.net/publication/339509176_The_Risks_Of_Defamaion_An_Analysis_Into_The_.....>>>

Josephine Uba ‘Deepfakes in Nigeria:Protection and Legal Framework against Deepfake Attacks in Nigeria.(2021) Olisa Agbakoba Legal website<
<https://oal.law/deepfakes-in-nigeria-protection-and-legal-framework-against-deepfake-attacks-in-nigeria/>> accessed 15 November 2025.

LawTeacher.net, ‘Defamation, Libel, and slander lecture (2018)<
<https://www.lawteacher.net/lectures/tort-law/defamation/?vref=1>> accessed 14 November 2025.

Merriam Webster Legal Dictionary ‘Single publication rule’,< <https://www.merriam-webster.com/legal/single%20publication%rule>> accessed 20 November 2025.

Nigerian Communications Commission
website,<<https://www.iicom.org/member/nigerian-communications-commission-ncc/>> accessed 16 November 2025

Onyekachi Duru ‘The Impact of AI On The Tort Of Defamation And Cybercrimes’
<<https://www.legalempereors.com.ng/the-impact-of-ai-on-the-tort -of-defamation-and-cybercrimes/>> accessed 15 November 2025.

The impact of AI on Tort of defamation and Cybercrimes.

<https://www.legalempereors.com.ng//the-impact-of-on-the-tort-of-defamation-and-cybercrimes/>