

TITLE PAGE

AN EXAMINATION OF THE NATURE,SCOPE ,AND LEGAL IMPLICATIONS OF ONLINE
DEFAMATION IN NIGERIA

BY

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OF LAWS DEGREE(LL.B) OF GODFREY OKOYE UNIVERSITY

SUPERVISOR:REVD. DR. VICTOR MUNACHIMUSOAGA NZEBUNACHI

JUNE,2026

DECLARATION.

I hereby declare that this project titled "An Examination of the Nature, Scope and Legal Implications of Online Defamation in Nigeria" is a product of an original research work conducted by me. All resources and references used in the preparation of this project have been duly acknowledged and cited in accordance with academic standards.

I affirm that this project has not been submitted in part or in whole to any other institution

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DATE

NNEOMA FAVOUR IKE

DEDICATION

I humbly dedicate this project to my beloved father, Mr. Ikenna Ezema, my greatest source of strength and inspiration. Though life denied you the privilege of formal education, you sacrificed your comfort, worked tirelessly, and gave everything you could to ensure that I received the education you never had. Your unwavering love, faith, and selfless sacrifices are the foundation of every achievement in my life. This project is not just mine, it is a reflection of your dreams, your struggles, and your endless belief in me. Thank you, Dad. May God bless you with good health, long life, and the joy of witnessing many more of my successes.

CERTIFICATION

This is to certify that this study titled 'An Examination of the Nature, Scope and Legal Implications of Online Defamation in Nigeria' was carried out by Neoma Favour Ike under our supervision and that the essay has not been submitted for the award of any degree in this or any other university.

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May God richly bless and reward you all.

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Uyo v Nigerian Press Ltd & Ors, (1974) NSCC Vol. 9 pg. 304.

OF ABBREVIATIONS

NWLR - Nigerian Weekly Law Report.

VPN - Virtual Private Network.

IP - Internet Protocol.

NITDA - National Information NCC

- Nigerian Communications ISP - Internet Service Providers.

NBC

-National Broadcasting ADR

- Alternative Dispute NJI - National Judicial Institute.

NBA

- Nigerian Bar Association

ODR. - Online Dispute Technology Development Agency

Commission.

Commission

Resolution.

Resolution.

ECOWAS - Economic Community of West African States.

ABSTRACT

With the rapid growth of internet access and social media use in Nigeria, there has come with it a growing wave of online defamation. This is the dissemination of untrue and harmful statements through digital media that is immediate, permanent and global in reach. Defamation in its traditional form was limited by geography and medium. Defamatory material published on the internet can be permanently archived and cached, can be widely republished, and is often published anonymously and from foreign jurisdictions, making accountability difficult.

The study examines the nature, scope and the legal implications of defamation online in Nigeria. It adopts a doctrinal research method and critically discusses some relevant statutory provisions, namely, the Criminal Code Act, the Penal Code and the Cybercrimes (Prohibition, Prevention, etc.) Act 2015, judicial authorities and academic scholarship. The study is guided by four theories of the press; the Social Responsibility Theory of the Press, Mill's Harm Principle, Legal Realism and the Natural Law Rights Theory.

The findings reveal significant gaps in Nigeria's legal framework. The latest intervention, the Cybercrimes Act, lacks clarity on issues of intermediary liability, anonymous publication and cross-border jurisdiction. The realities of digital communication and the remedies available – damages, injunctions and criminal sanctions – often come too late to contain viral reputational

harm and traditional defences such as justification, qualified privilege and fair comment are complicated. The study recommends the enactment of a separate Digital Libel and Online Safety Act, standardized "John Doe" disclosure procedures, judicial training in digital forensics, codified safe harbour provisions for intermediaries, and the decriminalisation of defamation in line with regional human rights standards.

The existing legal infrastructure in Nigeria is designed for the era of print and broadcast, and is struggling to keep up with the fluid, borderless nature of online communication. Meaningful reform is both necessary and possible.

CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

Recently, internet use and online applications for communication has become a crucial part of the Nigerian society. These social media platforms allow individuals to communicate and interact effectively. Despite many benefits of these Online platforms, fostering interactions and communications, there is the downside of online defamation where people post and publish false and scandalous statements about others.¹ Online defamation is more susceptible to quick dissemination rather than written defamation which tends to reach a larger audience because of the speed of the internet and wide range the internet tends to cover. Also, a defamatory statement can survive the internet for many years even after it has been deleted by the author.²

The legal framework of online defamation in Nigeria is very much still at its infancy. Originally, legal frameworks on defamation focused on print media, electronic media and other similar forms of defamation. These legal regimes have however found it difficult to accommodate the uniqueness of internet or online defamation. There's often the debate and dilemma regarding who should be liable for such false statement, whether the owner of the social media platform/application, the person who made the defamatory post, or an individual that shared it.

¹ R. David, *Defamation Law* (Hart Publishing 2016) 14

² European Union Agency for Fundamental Rights, Handbook on European Data Protection Law (2018) <<https://fra.europa.eu/en/publication/2018/handbook-data-protection-law>> accessed 25 November 2025

In a bid to address the challenges revolving around online defamation, the legislature and judiciary have interpreted existing laws on defamation to reflect the online elements. The Nigerian Constitution officially recognizes and safeguards the right of every individual to freely express their thoughts and opinions.³ However, it equally recognises the importance of balancing this right with the safeguard of the image of individuals as well as prevention of defamation. The Penal Code and the Criminal Code enshrines provisions that could be read as applying to online defamation. However, the interpretation of these provisions tends to be unclear and uncertain leaving individuals lost as to the effective legal remedies open to them.⁴

This study examines the nature, scope and legal implications of online defamation in Nigeria. It examines the concept of online defamation, the difficulties associated with online communications and the sufficiency of effective legal regimes to help resolve such problems. With respect in analysing judicial authorities and statutory provisions, the study desires to highlight shortcomings in the existing framework as well as outline ways to better secure freedom of expression while also curtailing false publications.

1.2. Statement of the Problem

In Nigeria today, digital communication growth has made it more convenient for people to express opinions and exchange information. Unfortunately, this growth has been accompanied by defamation, where false rumors, allegations and unverified information are posted. Online defamation in contrast to its written counterpart has the tendency and ability to disseminate quickly to a widespread audience and also retains permanent records of whatever such false statements were disseminated. This generates a significant challenge to victims.

³ Section 39 (1), CFRN 1999 as amended

⁴ *Okedara v AGF* (2019) LPELR-47135(CA).

One of the major problems is that Nigerian defamation legislations were initially not designed to accommodate the online space. Relevant stipulations in the Criminal Code, Penal Code and similar statutes on defamation were enacted at periods when newspapers, radio and other traditional media were the available means of information dissemination. Thus, these laws do not expressly provide for the liability of such offenders especially where multiple persons repost a certain defamatory content. Likewise, there is equally doubt as to the liability of bloggers, platform owners and other content creators.

Another problem of online defamation in Nigeria is the anonymity of most offenders, making it difficult to locate and hold them accountable. Most times, such defamatory statements arise from foreign countries, raising questions as to extent of jurisdiction and ability of enforcement. These challenges raise doubts as to the effectiveness of legal regimes and render many victims without sufficient protection.

Furthermore, maintaining the balance between guaranteeing and protecting freedom of expression and preventing reputational harm exists as another crucial problem. Courts ought to maintain this balance. However the lack of express guidelines has made the task more difficult and led to inconsistent decisions. These inconsistent decisions make it difficult for netizens who do not know their limits and permissible expressions.

Overall, the issue revolves around the gap between the realities of present day online communications and traditional legal regimes which do not adequately accommodate such internet based communications, thus making it necessary to examine the nature, scope and legal implications of online defamation.

1.3. Research Questions

The questions guiding this research are created to provide guidance on critical issues emanating from this project topic. Some of the research questions include:

- i. What is the nature of online defamation in Nigeria, and the difference with defamation through traditional means of communication.
- ii. What is the scope of online defamation under Nigerian legislation?
- iii. What are the legal implications of online defamation for individuals, bloggers, platform owners and other internet users?

1.4. Aim and Objectives of the Research

This research aims to analyse the nature, scope and the legal implications of online defamation. It critically surveys how Nigerian legal frameworks deal with online defamation that arise when harmful statements are made and shared across online platforms. This study desires to understand what counts as online defamation and whether current legal regimes are well equipped to address challenges. Ultimately, the aim is to determine whether the present legal framework is sufficient enough or whether further reforms are needed to address the realities of modern day online interactions. Specific objectives include:

- i. To explain the nature of online defamation in Nigeria and examine it's difference with defamation found in traditional forms of communication such as, newspapers, broadcasts or spoken words.
- ii. To examine the scope of online defamation in Nigeria, including how Nigerian legal frameworks apply to digital platforms and Internet services.
- iii. To analyse the legal implications of online defamation in Nigeria, especially the rights, duties and liabilities of individuals, bloggers, platform owners and other online users.

1.5. Research Methodology

The research applied a doctrinal research approach. During the research, primary and secondary data sources were used. The primary sources encompassed statutes, conventions, judicial decisions and treaties, while the secondary sources comprised of necessary textbooks, academic journal articles and materials acquired from the internet.

Doctrinal research involves a structured and illustrative study of legal principles from which legal doctrines are designed and formulated. It majorly involves research carried out through books and other written materials important to the exact subject under investigation. In this method, legal researchers refer to current sources within the field of study and meticulously examine, assess and evaluate the information gathered.

1.6. Scope of the Study

The study centres on examining the nature, scope and legal implications of online defamation in Nigeria. It focused on understanding what online defamation entails, its distinguishing elements from defamation through traditional forms of communication and the specific challenges that occur when defamatory messages and publications are made and spread through online platforms such as social media, blogs and other messaging applications. Also, the study covers the liabilities of individuals, bloggers, content creators and platform owners, and the rights of persons who are victims of reputational harm online. Furthermore, it examines how courts in Nigeria interpret defamation laws when faced with issues of online defamation and how these interpretations form legal regimes.

The study examines relevant provisions of statutes, as well as case law and guidelines of regulatory bodies that encapsulate online communication. It equally explores challenges such as

anonymity, reposting, jurisdiction and the difficulty of enforcing judgments from abuses and offenses that are committed in foreign countries..

The study is limited to Nigeria. It explores Nigerian laws, court decisions and the Nigerian internet space. Notwithstanding, the study briefly compares practices in other countries where necessary but only to help identify gaps for improvements within the Nigerian system. The study does not explore defamation laws of foreign countries in detail nor does it deal with technical aspects of internet regulation, but it focuses particularly on the Nigerian legal position, especially the applicability of current defamation laws to online publications and the adequacy of existing legal remedies in handling reputational harm.

1.7. Significance of the Study

Over the years, digital communication has advanced well in Nigeria, the study examines and understands how these digital communications can lead to reputational harm. Most Nigerians make use of social media, blogs and messaging platforms to disseminate information. However, not everyone understands limitations of online expression or the consequences of posting harmful statements about others. By examining the nature and scope of online defamation, the study assists in explaining what the law considers as constituting defamatory statements in online communications and the reasons it may differ from defamation through traditional communications. This is important for individuals, journalists, bloggers and social media users who require understanding of the correct position on acceptable online conduct.

The study is equally valuable for victims of such defamatory statements as it highlights some of the difficulties they encounter such as tracing anonymous offenders, dealing with cross-border publications or proving reputational harm. An understanding of these challenges can help legal practitioners and law makers in enacting more sustainable procedures for enforcement and protection. Furthermore, the study by analysing how Nigerian courts interpret current laws on online communication, contributes to academic knowledge. This assists in identifying gaps or outdated legal regimes that may require reform.

For policymakers and regulatory bodies, the study provides crucial insights that assist the growth of legal regimes for preventing harmful online content while still protecting freedom of expression. Ultimately, the study's significance rests on its ability to foster safer online interactions, prevent misuse of online platforms and improve awareness on the rights and liabilities as regards online communications.

1.8. Literature Review

The literature review provides a comprehensive examination of scholarly works, books, articles and research papers pertaining to freedom of expression, online defamation and their intersection in Nigeria. This review offers significant insights into the current state of knowledge, and best practices concerning online defamation and freedom of expression in Nigeria.

The article by EA Thomas⁵ provides insight on a couple of judicial decisions on defamation. In *Basorun v Ogunleye*,⁶ it was held that all kinds of defamation, including libel and slander are triable irrespective of whether damages is established or not. Consequently, an action for

⁵ African Journal of Law and Human Rights, 2024, 8 (2). ezenwaohaetorc.org
<<https://share.google/NjkgScSXnsr37lnl0>> accessed 27 November, 2025

⁶ (2000) 1 NWLR (Pt. 640) 235-236 (CA)

defamation is principally planned to offer recompense to a person whose image has been damaged. In cases of libel, including online defamation, the law assumes that the claimant has sustained injury to their reputation and the measure of damages to be granted is usually left to the discretion of the court. Although it is challenging to place an exact monetary value on a person's image, the court is authorized to assess a proper amount based on the circumstances and evidence brought before it. In *Uyo v Nigerian Press Ltd & Ors*,⁷ Coker JSC, stated that irrespective of the approach embraced in evaluating damages, a substantial portion of the analysis unavoidably involves a degree of discretion. However, the whole process must at all times be led by the evidence put forward in the case and the nature of the claim before the court. The damages granted should be ample to compensate the claimant for the damage done to his image. Such compensation must equally serve to exonerate the claimant's character which was unfairly violated, while simultaneously demonstrating the law's condemnation of the wrongful act. Thus, it is a well-settled principle of law that where an individual's reputation has been injured, that individual is entitled to damages.

The dissertation by Olaoluwa, Emmanuel Genesis⁸ provides an insight into the complications of the advent of digital communications in defamation. According to him, the advent of the digital era has caused the safeguard of reputation to be more challenging, as digital communications platforms afford individuals the opportunity to launch attacks anonymously or under false identities, making them hard to identify. Unlike orthodox forms of defamation, where publication was generally constrained to a particular audience, online publications can remain available for

⁷ (1974) NSCC Vol. 9 pg. 304.

⁸ E.G. Olaoluwa, "The Effect Of Social Media On Defamation Law: The Balance Between Freedom Of Expression And Protection Of Reputation In Nigeria Defamation Laws", 2025.
<<https://nigerianjournalonline.org/index.php/FUNAILAWPROJECTS/article/view/2085>> accessed 28 November, 2025

long periods and continue to cause reputational harm. In Nigeria, both government officials and private persons are continuously open to defamatory campaigns online. However, the law still greatly relies on traditional remedies such as damages or injunctions, which may not effectively deal with the level of harm caused in the digital space.⁹ Scholars thus stress the necessity for legal frameworks to factor in the perpetuity and global accessibility of online publications when analysing reputational injury, so that proper remedies can be awarded within the context of the digital age.

⁹ A. Tunde, 'Reputation and Digital Defamation', *Journal of African Media Law*, 2022, pg 67-73.
<<https://share.google/4li599UPB4kzHMnz3>> accessed 26 November, 2025

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework

This research is anchored on crucial concepts and terminologies such as defamation, online defamation, libel and slander. By giving clear definitions to these terms, the study builds a firm foundation for examining the nature, extent, and legal effects of online defamation in Nigeria.

2.1.1 Concept of Defamation

Defamation connotes false statements made to a person which harms the reputation of another individual by either revealing them to derision or dislike or by reducing them in the sight of reasonable individuals in the society. Defamation is a tortious act as well as a criminal offence under relevant Nigerian legislations. Defamation desires to safeguard the reputation of individuals, which forms part of the right to personal dignity and social standing.¹⁰

For one to be liable for defamation, three crucial ingredients must be present: the statement must be published to another person, there must be a false statement of fact about a person and such statement must injure the reputation of the person defamed.¹¹ Defamation is of two types, libel and slander. Libel simply means defamation contained in a permanent form such as writing, print, photographs or online publications. Slander on the other hand means defamation in temporary form, especially spoken words.

In Nigeria, defamation is governed by common law principles, legislations and judicial precedents. With the growth of online communications, defamatory publications made on social media, blogs

¹⁰ Section 34 (1), Constitution of the Federal Republic of Nigeria 1999.

¹¹ *Sketch Publishing Company limited Vs. Ajagbemokeferi* (1989) 1 NWLR (Pt.100) 678.

and websites are handled as libel because they are in permanent form and have the tendency to spread wide.¹² Laws on defamation therefore play a key role in guaranteeing freedom of expression by protecting reputation of individuals.

In Nigeria, legislations on defamation perform a crucial role in safeguarding the reputation of individuals in a technology exposed society. Defamation is both a tort under common law and a crime under the Penal Code and the Criminal Code.¹³ Courts in Nigeria have continuously held that a person's reputation is an inalienable legal right that must be given due legal protection.

Due to the expeditious rise of access to internet and use of social media in Nigeria, defamatory comments are now usually made via media applications like, blogs, WhatsApp, and other online news platforms. These posts are seen and handled as libel because of their permanent nature. The Cybercrimes (Prohibition, Prevention, etc.) Act 2015 further fortifies Nigeria's legal framework by criminalizing the intentional spreading of false and harmful information about persons through digital platforms. These measures help to ensure that individuals who misuse online systems to harm the reputation of others can be held legally liable, and by so doing, promote responsible communications in Nigeria's digital space.

2.1.2 Concept of Libel

Libel is a type of defamation. It refers to false statements made against a person which are in a permanent or fixed form, which causes damage to the reputation of the person.¹⁴ Unlike slander, which is oral and largely transient, libel is largely in written, recorded, printed or digital form. This makes it more permanent and capable of wide spread. Mediums that may be used to carry out libel

¹² *Atoyebi v. Odudu* (2010) 10 NWLR (Pt. 1202) 374.

¹³ Sections 373–381, Criminal Code, Cap C38 LFN 2004.

¹⁴ J.C Gatley, *Gatley on Libel and Slander* (12th ed., Sweet & Maxwell, 2013) 25.

include letters, newspapers, photographs, books, cartoons, websites, flash drives, memory cards, tapes, CDs, social media posts and online videos.

Legally speaking, a statement is held to be libelous if it seems to reduce the claimant in the sight of reasonable individuals in the society, open them up to taunt or lead to them being ignored.¹⁵ For a claimant to succeed in a libel suit, three crucial elements must be present: there must be a defamatory statement, the statement must make reference to the claimant and be communicated to a person other than the claimant.

Generally, a claim for libel can succeed without proving special damages. This means that once the false publication is determined, the law presumes that injury has happened.¹⁶ This differentiates libel from slander, because in slander, proof of actual damage is usually demanded unless the statement falls within particular recognized categories.

In Nigeria, libel may constitute both a criminal offence and a civil wrong (tort). It is governed by common law doctrines and relevant statutory provisions under the Penal Code and the Criminal Code. Since the inception of online communication, defamatory statements published on social media and other digital news platforms are regarded as libel because they are in permanent form and can be easily replicated. This has widened the scope of the legal framework on libel in Nigeria, making individuals legally liable for injurious online publications. Thus, the legal framework on libel plays a key role in safeguarding reputation while equally ensuring freedom of expression.

2.1.3 Concept of Slander

¹⁵ *Sim v. Stretch* (1936) 2 All ER 1237.

¹⁶ J.W Salmond, *Salmond on the Law of Torts* (21st ed., Sweet & Maxwell, 1996) 37.

Slander is a type of defamation that involves false statements made against a person which are in a temporary or transient form, especially orally or through gestures, which damage the reputation of the another person. Slander unlike libel which is kept in a permanent form is mostly spoken and transient, such as words spoken in dialogues, public speeches or nation wide broadcasts not recorded for permanent reference. The law deals with slander on a different way from libel because spoken words are often regarded as less likely to have an enduring impact unlike the written or published materials.

Generally, slander cannot be actionable unless the claimant proves that the defamatory statement caused actual or special damage, including loss of employment, business or social standing. However, there are particular exceptions where proof of injury is not necessary. They include cases where the slander attributes a criminal offence, alleges that the person has a contagious disease, assumes unchastity by a woman or belittles a person in their profession or trade.¹⁷

In Nigeria, the legal framework of slander is governed by both common law principles and relevant statutory provisions under the Penal Code and the Criminal Code.¹⁸ Nigerian courts have acknowledged that false spoken statements can equally be as harmful as written statements, especially in intimate societies where oral communication plays a crucial role.

With the increasing growth in digital technology, certain forms of oral false or defamatory statements, such as voice notes, podcasts and live-streamed statements, may be regarded as libel rather than slander if they are recorded or spread widely. This demonstrates that the historical distinction between slander and libel is becoming more flexible in the present digital age. Legal

¹⁷ *Thorley v. Lord Kerry* (1812) 4 Taunt 355.

¹⁸ Sections 391–395, Penal Code, 1916.

frameworks on slander therefore continues to play a crucial role in safeguarding reputation while also giving room for modern forms of communication.

2.1.4 Concept of Online Defamation

Online defamation means the publication of untrue and injurious statements about a person through digital, online and internet-based platforms, which harm that person's reputation. It is basically the digital type of the conventional defamation and includes both libel and slander in some cases when such false statements are made through online communication channels. Unlike traditional defamation, online defamation is attributed by speed, permanence and global reach, making its effect more harsh.

Online defamation usually occurs on social media applications such as, X, Instagram, WhatsApp, LinkedIn, online newspapers and internet applications. Online defamation may occur in the form of false accusations, doctored images, fake news, malicious comments or misleading videos published with the intention of harming a person's reputation. Upon the posting of such content online, it can be further disseminated continuously, archived and accessed by a large audience, making it cumbersome to remove the reputational damage caused.

Legally speaking, online defamation is treated as libel because it involves permanent and retrievable records.¹⁹ To prove online defamation has occurred, the claimant must prove that the statement was defamatory, that it was directed to him or her and that it was published to viewership of a third party through an online platform.

¹⁹ *Atoyebi v. Odudu* (2010) 10 NWLR (Pt.1202) 374.

In Nigeria, online defamation is governed by common law doctrines and laws such as the Cybercrimes (Prohibition, Prevention, etc.) Act 2015.²⁰ Section 24 of the Cybercrimes (Prohibition, Prevention, etc.) Act 2015 criminalizes the intentional transmission of false information through computer systems that is likely to harm a person's reputation. Nigerian Judiciary has equally acknowledged that online publications carry the great legal consequences as conventional media.²¹ Online defamation legal frameworks therefore performs a vital role in protecting reputation in Nigeria's increasingly widening digital environment.

2.1.5 Defamation as a Tort under the Common Law

Defamation is a tort under common law crafted to safeguard an individual's image from unwarranted attack. It occurs where a wrong information is released to a third party in a way that reduces the aggrieved party in the opinion of reasonable citizens or subjects him to enmity, derision or scorn. Common law split defamation into libel, which is in perpetual form and slander, which is in temporary form. The claimant is to prove defamatory meaning, mention of him and publication.²²

2.1.6 Defamation as a Crime under the Penal Code and Criminal Code

Defamation under Nigerian Criminal Law is not just a civil wrong but is equally an offence punishable under relevant statutes. In the Southern part of Nigeria, sections 373–375 of the Criminal Code prohibits the publication of defamatory statements, while in Northern Nigeria, sections 391–395 of the Penal Code encapsulates similar provisions. These provisions sanction any incorrect slur likely to harm another person's reputation, subject him to enmity, scorn or derision.

²⁰ Section 24, Cybercrimes (Prohibition, Prevention, etc.) Act 2015.

²¹ *Okoli v. Independent Newspapers Ltd* (2015) 13 NWLR (Pt.1476) 55.

²² K.N Hylton, *Tort Law: A Modern Perspective* (Cambridge University Press, 2016) 301.

While tortious defamation aims to recompense, criminal defamation seeks to maintain public order and a breach may incur fines or imprisonment upon arrest.²³

2.2 Theoretical Framework

The framework underpinning this research gives the legal and sociological theories upon which this study is based. It analyses how online defamation occurs, how it affects individuals and society and how the law reacts to it. This study is rooted in theories that explain communication, responsibility, and the protection of reputation in the digital era.

2.2.1 The Social Responsibility Theory of the Press

This theory represents the theory of mass communication which posits that the media possesses free right to publish but in so doing must exercise such freedom responsibly in the interest of society.²⁴ The theory was developed in the mid-twentieth century after worries that uncontrolled media freedom was being abused via misinformation, sensationalism and unethical journalism.

According to this theory, the press is obliged to give honest, correct, balanced and detailed information to the public. Although the media has the right to freely express themselves, it equally has a corresponding duty to avoid injuring individuals or society through false statements or invasion of privacy. The theory thus acknowledges that total freedom of the press without proper accountability can result to injustice, including damage to personal reputation and social order.

The Theory stresses that the press should be monitored not necessarily by government suppression but through professional ethics, constructive criticism and legal responsibility. Media platforms are required to establish internal codes of conduct and comply with standards of fairness,

²³ I. Unegbe, 'Defamation as Tort and Crime in Nigeria: Legal Review' (2023) 9(3) International Journal of Legal Developments and Allied Issues 44, 49.

²⁴ D. McQuail, *McQuail's Mass Communication Theory* (6th ed., Sage Publications, 2010) 29.

objectivity and respect for human dignity.²⁵ Where such standards are breached, legal remedies become necessary to safeguard individuals from injury.

In modern digital communication, the theory is relevant not only to conventional journalists but also to bloggers, social media users and online publishers. Anyone who shares information to the public has a duty to ensure that what is shared or posted is honest and not defamatory.²⁶ The quick spread of online information boosts the risk of reputational damage, making social responsibility more crucial than ever.

In Nigeria, the Social Responsibility Theory is in tandem with constitutional provisions that promises freedom of speech with restrictions for the safeguard of image, public order and morality.²⁷ The theory therefore assists laws regulating online defamation and media behaviour, ensuring that freedom of expression is carried out in a manner that honours the rights and dignity of others.

2.2.2 The Harm Principle (John Stuart Mill)

The Harm Principle is a concept in political and moral philosophy propounded by John Stuart Mill in his seminal work, *On Liberty* (1859).²⁸ The principle posits that the actions of individuals should only be restricted in order to avoid injury to others and that self-centered actions, which affect the individual alone should stay free from external intervention. John Stuart Mill debated that personal liberty is essential to human advancement and social development and that force by the state or society is only rational when an individual's actions poses a risk of damage to others.

²⁵ F.S. Siebert, *Freedom of the Press in England* (University of Illinois Press, 1952) 54.

²⁶ M. Castells, *Communication Power* (Oxford University Press, 2009) 41.

²⁷ Sections 39 and 45 CFRN 1999 (as amended).

²⁸ J.S. Mill, *On Liberty* (1859) (Oxford University Press 1978) 12.

The Harm Principle stresses the balance between Individual freedom and social responsibility. It gives a moral and philosophical defense for laws that limit harmful conduct, while safeguarding personal independence in issues that affects only the self. For example, speech or expression that endangers the rights or reputation of others may be limited under this principle, whereas personal choices that do not injure others are to be left to individual discretion.

Legally speaking, the Harm Principle promotes present day regulatory frameworks, including those regulating defamation, cybercrimes and public safety. In situations of online defamation for example, Mill's principle defends legal interference to avoid damage to an individual's character while acknowledging the necessity of freedom of speech in society. In Nigeria, the principle reverberates with constitutional provisions that promise freedom of speech but give room justifiable restrictions to safeguard the rights of citizens.

Therefore, the Harm Principle continues to exist as a foundational theory for balancing personal liberty and societal protection, giving ethical guidance for governing conduct that may cause injury, especially in areas such as online communication and defamation.

2.2.3 The Legal Realism Theory

The Legal Realism Theory is a jurisprudential proposition that stresses the practical implementation of law rather than theoretical rules or legal principles.²⁹ It came out in the early twentieth century, particularly in the United States, as a critique of legal formalism, which saw law as a logically reasoned system free of social, political and economic involvement. Legal realists

²⁹ B. Leiter, *Naturalizing Jurisprudence: Essays on American Legal Realism and Naturalism* (Oxford University Press, 2007) 26.

debate that judicial resolutions are affected by statutes, precedents, social context, individual judges' perceptions and real-world consequences.³⁰

According to this theory, law cannot be completely apprehended merely by examining written statutes or court decisions, it must be analysed in practice to monitor how it functions in society. The legal realism posits that the implementation and construction of law are frequently molded by factors such as public policy, societal norms and human behavior. Judges, in constructing and applying the law, exercise discretion affected by these factors, which means that law is not completely objective or foreseeable.

In online defamation, the Legal Realism Theory is especially relevant. Nigerian Judiciary usually take into consideration the social impact and consequences of defamatory online statements when determining cases, rather than depending solely on formal rules. For example, courts take into consideration the widespread of injurious content via social media, the intention of the publisher and the harm done to the victim's reputation when adjudicating liability and remedies.

Legal realism also assists the view that law must develop with societal changes, such as the advent of digital communication and social media. By recognizing the space between legal texts and social realities, the theory promotes the adaptation of laws like the Cybercrimes (Prohibition, Prevention, etc.) Act 2015 in Nigeria to address present day issues proficiently.

2.2.4 The Rights Theory (Natural Law Perspective)

The Rights Theory, rooted in the Natural Law perspective, is a jurisprudential proposition that posits that persons possess intrinsic rights by reason of being human.³¹ These rights are universal

³⁰ O.W. Holmes, *The Common Law (1881)* (University of Chicago Press, 1991) 7.

³¹ J. Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980) 51.

and inalienable. Natural law theorists debate that legal systems should safeguard these fundamental rights, including the right to liberty, life, dignity, property and reputation.³²

The perspective of Natural law view law as not merely a set of rules created by the state but as an indication of moral principles that maintain justice and human dignity. Any legislation that breaches fundamental human rights is rendered unjust and devoid of legitimate authority. Proponents of natural law including John Locke and Thomas Aquinas stressed that human rights exist before and above positive law, and thus legal systems must acknowledge and implement them.

In the defamation context, the Rights Theory gives a moral and legal ground for safeguarding an individual's reputation as a crucial aspect of human dignity. Nigerian legislation, while guaranteeing freedom of speech, also recognizes that this right is not total and must be balanced against other rights, including the right to reputation and dignity. The Natural Law perspective promotes legal frameworks such as the Criminal Code, Penal Code and Cybercrimes (Prohibition, Prevention, etc.) Act 2015, which criminalize defamatory statements and encapsulates legal remedies for victims.

By stressing the intrinsic dignity and rights of individuals, the Rights Theory underscores that legal safeguard of reputation is not merely a civil or statutory issue but a moral duty of the state. It ensures that the law protects individuals against injury, especially in the increasingly widening digital space where online defamation can have far-reaching effects.

³² Thomas Aquinas, *Summa Theologica*.. trans. Fathers of the English Dominican Province, 1947

CHAPTER THREE

THE NATURE, SCOPE AND CHALLENGES OF ONLINE DEFAMATION IN NIGERIA

3.1 Nature and Characteristics of Online Defamation

Online defamation is a new kind of defamation that happens because people talk to each other online so often, quickly, and permanently. Online defamation is the act of spreading false information that damages someone's reputation through digital platforms and channels, such as social media, websites, blogs, and messaging apps. Online defamation has a unique set of traits that make it worse than traditional defamation, which usually happens in spoken or written statements. Some of these traits are immediacy, a wide reach, long-lastingness, and the chance to be published again and again.³³

The most unique things about online defamation are how fast and wide it can spread. Words spoken online can quickly reach hundreds or thousands of people, and in some cases, people all over the world. Nigerian courts have agreed that the fast spread of information online makes reputational damage much worse, which means that the courts need to take strong action. The Supreme Court made it clear that the law needs to change to allow for new types of publication, especially those that make the harm caused by technical improvements worse..³⁴

Online defamation is also different because it lasts a long time and can be repeated. Digital content is often saved in search engines, caches, or cloud storage after it has been submitted.

This means that recordings of it will last forever, even if the person who posted it deletes it.

³³ J Gatley, *Gatley on Libel and Slander* (12th edn, Sweet & Maxwell 2013).

³⁴ *Sketch Publishing Co Ltd v Ajagbemokeferi* [1989] 1 NWLR (Pt 100) 678.

According to Nigerian law, this permanency practically equates internet defamation with libel, as noted by the court, where content that was available for a long time was regarded as permanent publication and subject to both criminal and civil liability.³⁵

The audience's diversity is another distinctive feature of online defamation. Online defamation can immediately affect a large number of audiences across borders, unlike old print media where publishing was restricted by geography and number. As Gatley notes, determining the extent of damages in libel cases and the probable number and makeup of the audience are crucial factors in determining reputational harm³⁶. This principle emphasises how hard it is for Nigerian courts to measure harm and provide appropriate remedies and reliefs in the digital sphere. Enforcing legal accountability efficiently is hampered by anonymity and pseudonymity.

According to the Supreme Court in a decided case, Nigerian jurisprudence acknowledged that anonymous publications could worsen reputational harm and called for advanced legal and investigative procedures to identify offenders.³⁷

Lastly, informality and insufficient editorial oversight are characteristics of online defamation. Traditional media firms are characterised and constrained by legal restrictions and professional codes that operate as preventative filters against misleading claims. But false information can spread very quickly on digital platforms, which don't always have the same strict rules as traditional media. In *Guardian Newspapers Ltd v. Ajeh*³⁸, the Court of Appeal made it clear that just because there isn't an editor in charge of online media doesn't mean that publishers aren't mr

³⁵ *Arthur Nwankwo v The State* [1985] 6 NWLR 228.

³⁶ *Ibid*

³⁷ *Adesanya v Daily Times of Nigeria Ltd* (1978) 9–10 SC 1.

³⁸ (2001) ECWA CIV 1147

responsible for false information. With factors like speed, reach, permanence, audience diversity, anonymity, and weak oversight all feeding into it, it's no surprise that online defamation has become such a significant challenge. This underscores the need for Nigeria's legal framework to be adaptable enough to keep pace with how technology actually functions.

3.2 Major Platforms and Mediums for Online Defamation

In Nigeria, we have many digital platforms where people communicate with each other, making it easier to defame someone on the internet. Some of the most popular sites to post false information include Facebook, X (formerly Twitter), Instagram, TikTok, Yourube and LinkedIn. These platforms allow sharing of text messages, images and videos to large audiences with little or no moderation or verification.³⁹ Messaging apps like Signal, TikTok, YouTube, Telegram and WhatsApp are just as important. The use of features such as broadcast lists, group chats and message forwarding allows defamatory content to spread rapidly to a large number of recipients at once. In *Okafor v. Ikeanyi*, the Supreme Court confirmed that technological privacy does not reduce legal liability, holding that publication arises from the disclosure of defamatory material to a third party even in private internet groups.⁴⁰

Online defamation can be done through blogs, digital news websites and independent online media . Professional and online news organizations often have fact-checking procedures and ethical standards for their editors. But individual blogs or opinion websites may not have that kind of oversight, thus creating more avenue for people to be saying rude things. In *Guardian*

³⁹ J Nwabueze, *Digital Media and the Law in Nigeria* (Lagos: Spectrum Press, 2018) 112.

⁴⁰ *Okafor v Ikeanyi* (1979) 12 NSCC 426.

Newspapers Ltd v. Ajeh, the Court of Appeal held that online newspapers are subject to the same rules as the print media, in particular as regards accuracy and the avoidance of damage to a person's reputation.⁴¹

Another dimension is represented by video-sharing websites like YouTube and TikTok. Defamatory films, live streams, and podcasts combine visual and audible features, which may improve the credibility of misleading information. Once recorded, these items are regarded permanent and irretrievable as libel under Nigerian law.⁴² As a result, the Nigerian legal system must account for several mediums, each with unique features, while analysing liability and deciding remedies for online defamation. The variety of platforms makes enforcement more difficult and calls for a rigorous doctrinal interpretation of relevant case law and statutes like the Cybercrimes (Prohibition, Prevention, etc.) Act 2015.

3.3 Categories of Online Defamation

There are three types of online defamation: form, intent, and substance. The most common type of defamation, known as textual defamation, consists of written postings, comments, or articles that contain inaccurate remarks that could harm someone's reputation. Photographs, memes, infographics, and altered pictures that communicate a defamatory message are examples of visual defamation. Podcasts, live-streamed videos, or recorded anything that uses both visual and audio information to disparage a person are all considered forms of audio-visual defamation. All of these

⁴¹ [2011] 10 NWLR (Pt 1256) 574.

⁴² *Tolley v Fry & Sons Ltd* (1931) AC 333.

forms are routinely treated as libel by Nigerian courts because of their permanence and potential for widespread dissemination (*Sketch Publishing Co Ltd v Ajagbemokeferi*).⁴³

Malicious defamation, which involves the deliberate publication of false statements intended to cause harm, is distinguished from negligent defamation, which arises where the publisher fails to exercise reasonable care in verifying the accuracy of the information before publication. This distinction is based on the publisher's intent and degree of fault. Although malicious intent frequently results in increased damages, both types are subject to civil culpability. The Supreme Court made it clear in *Adesanya v. Daily Times of Nigeria Ltd.* that negligence alone is sufficient to prove culpability as long as reputational harm is proven.⁴⁴

Categorisation based on content is equally important. False accusations of criminal behaviour, professional incompetence, sexual misconduct, or other activities that are likely to decrease one's social status or diminish social esteem can all be considered online defamation. Nigerian law acknowledges that if a reasonable person may deduce a defamatory meaning, innuendo, implication, or subtle allusion may be considered actionable defamation.⁴⁵

Because they assist courts in identifying or determining the type of harm, appropriate remedies, and necessary burden of proof, these categories are essential for judicial analysis. Additionally, they provide advice for legislative interpretation, notably in applying statutory provisions such as Section 24 of the Cybercrimes (Prohibition, Prevention, etc.) Act 2015, which criminalises the intentional communication of false information likely to hurt reputation.

⁴³ [1989] 1 NWLR (Pt 100) 678.

⁴⁴ (1978) 9–10 SC 1.

⁴⁵ *Tolley v Fry & Sons Ltd* (1931) AC 333.

3.4 Persons Involved in Online Defamation

There are several actors who are legally liable for online defamation:

1. **Primary Actors:** The people that create defamatory content, individuals, blogs, journalists, and social media influencers, are known as primary actors. For publishing defamatory information on purpose or carelessly, these actors are directly liable under Nigerian law.
2. **Secondary actors:** People that distribute, send, or republish defamatory content are known as secondary actors, or republicators. Every republication has its own independent obligation since it is a separate act of publishing. In *Onyema v Oputa*⁴⁶, the Court of Appeal held that republication, whether online or offline, is actionable as a fresh publishing
3. **Tertiary actors** include middlemen like platform owners and internet service providers. The Cybercrimes Act 2015 mandates that service providers maintain evidence and assist law enforcement in investigations related to online defamation, even though Nigerian law does not yet completely codify the scope of intermediary liability (s. 24). In conclusion, both individuals and corporations can be harmed by defamation on the internet. Nigerian law says that both of them have the right to reputation and dignity that can be enforced. This means they can tell the police about crimes or ask for civil damages.⁴⁷ In a society where technology is used to communicate, it's hard to figure out who is responsible for online defamation and how to make them pay for what they did..

⁴⁶ [1987] 3 NWLR (Pt 60) 259.

⁴⁷ *Sketch Publishing Co Ltd v Ajagbemokeferi* [1989] 1 NWLR (Pt 100) 678.

3.5 Scope of Online Defamation in Nigeria

The rise of digital technologies, social media platforms and internet access has increased the prevalence of online defamation in Nigeria. The defaming of people was done mostly in public places, in newspapers, or on the radio. The digital revolution has made hurtful words more powerful, common and quick, so the law needs to change to keep pace with these changes. In Nigeria, Internet defamation is considered a form of libel under common law. This is because people think that all digital publications are going to last forever and be easy to find. In Southern Nigeria, the Criminal Code Act 1990 makes it an offence to publish false information which would damage the reputation of a person. The Penal Code in Northern Nigeria does the same. .

The Cybercrimes (Prohibition, Prevention, etc.)⁴⁸ makes it even more likely that people will be held responsible for sending false and misleading information over computer systems and digital networks on purpose. Section 24(1) says that it's against the law to do things that hurt someone's reputation. This shows that the law knows about and understands all the different kinds of harm that can happen online.

The Nigerian Supreme Court has sided with a broad definition of publication in the digital age. The Court in the case of *Sketch Publishing Co. Ltd. v. Ajagbemokeferi*⁴⁹ held that the law must keep pace with new technologies. It said online publications hurt reputations more and reach more people faster. Likewise, the Court in *Adesanya v. Daily Times of Nigeria Ltd.* was clear that a defamatory comment is only actionable if it actually hurts the person's reputation, regardless of what medium it is published in (print or digital)

⁴⁸ Act 2015

⁴⁹ [1989] 1 NWLR (Pt 100) 678.

"Online defamation" is a catch-all term for a lot of different things. These include posting false information on social media, changing pictures or videos, sending false rumors through messaging apps, writing defamatory blog posts, and writing misleading news articles.

Jurisdictional reach is another important part of scope because it affects how laws can be enforced and how people can participate in legal matters across borders. This is because online content can be accessed from different states and countries.

Online defamation also has an effect on both people and businesses. Nigerian law says that companies, groups, and government bodies have the same rights to reputation as real people. This makes it possible for civil and, in some cases, criminal actions to be taken against people who slander others.⁵⁰

According to academic experts like Nwabueze, the legal definition of defamation has grown beyond its usual limits because online statements can last a long time and spread quickly. This is because damage to a person's reputation can last long after the first publication because it can be found in archives or reposted over and over.⁵¹ Nigerian courts are starting to see online publications as a serious threat to a person's dignity. This is in line with Section 37 of the Federal Republic of Nigeria 1999 Constitution, which protects reputation.⁵²

⁵⁰ *Guardian Newspapers Ltd v Ajeh* [2011] 10 NWLR {Pt 1256} 574.

⁵¹ J Nwabueze, *Digital Media and the Law in Nigeria* (Lagos: Spectrum Press, 2018)98-115

⁵² Constitution of the Federal Republic of Nigeria 1999 {as amended}, s 37.

3.6 Challenges of Online Defamation in Nigeria

There are a lot of complicated problems with online defamation in Nigeria because digital communication is different from other types of communication in that it spreads quickly and far and is anonymous. Online defamation damages reputations ten times more than regular defamation, and it also causes problems with administration, technology, and the law. Regular defamation is mostly contained and easy to control. With reference to statutory requirements, judicial interpretation, and scholarly opinion, this section critically examines the main challenges facing the Nigerian legal system in handling online defamation.

3.6.1 Jurisdiction and Conflict of Laws

One of the key issues in online defamation is establishing jurisdiction. With traditional defamation, publication is local . But online , defamatory material can be written in one country , hosted on a server in another , and read around the world . The transnational nature of the internet makes it difficult to apply Nigerian law.

The Cybercrimes (Prohibition, Prevention etc) Act, 2015 seeks to provide a remedy. Section 251 provides that Nigerian courts have jurisdiction over crimes committed outside of Nigeria if the computer system used is in Nigeria or the effects are seen in Nigeria. Even with this statutory provision, it is nevertheless very difficult to enforce judgements against foreign-based defendants, especially when those defendants live in nations that do not have bilateral treaties with Nigeria.

The Nigerian Supreme Court acknowledged in *Agbaje v. State*⁵³ that a foreign defendant could potentially be held accountable for uploading defamatory content that is available in Nigeria. It did,

⁵³ (2018) LPELR-44732(SC).

however, draw attention to how challenging it is to ensure compliance and enforce remedies when platforms or offenders operate outside of Nigeria. Scholars such as Nwabueze assert that bilateral agreements and international collaboration are essential due to the ambiguity in the Nigerian legal system regarding the extraterritorial application of online defamation laws.⁵⁴ When more than one jurisdiction is involved, a conflict of laws occurs. Imagine a complex situation where the false information is posted on a US-based site but stored on servers in Europe and can be accessed or even downloaded in Nigeria. In such a situation one might ask, “What is the applicable law?” What is the right court? Jurisdiction is often asserted by the Nigerian judiciary under the consequences theory, where reputational harm is suffered locally. This approach is inconsistent. For example, in *Doe v. Nigerian Telegraph*⁵⁵, the Court of Appeal allowed disclosure against an anonymous user but declined substantive jurisdiction over the platform on the basis that it was incorporated in another country.

The United States, on the other hand, stresses "targeting" or minimum interactions with the forum state, but the United Kingdom has adopted the "real and substantial tort" standard. Legal ambiguity is a problem for both victims and practitioners in Nigeria because the country's legal system has not standardised its procedures.

3.6.2 Publication and Republication

In traditional media, the publishing premise in defamation law is simple: a third party is informed of a defamatory statement. Publication of internet slander is ongoing and repeatable. Every sharing, retweet, repost, or remark could be considered a new publication that raises complex legal concerns.

⁵⁴ J Nwabueze, *Digital Media and the Law in Nigeria* (Spectrum Press, 2018) 198–215.

⁵⁵ (2017) LPELR-42218(CA).

Online defamation is now covered by the premise that every act of publication is actionable, which was established in the *Basorun v. Ogunleye*⁵⁶ decision. However, litigation is made more difficult by the enormous volume of digital republication. For instance, viral tweets or WhatsApp forwards might reach millions of receivers within minutes, making it difficult to identify and hold every individual accountable.

Secondary responsibility is just as problematic and divisive. In *Okonkwo v Nwosu*⁵⁷, the Court suggested that those who wilfully republish or repost defamatory content may incur penalties. However, actual effective enforcement is mostly hampered by technical issues, such as: platform collaboration issues, and anonymity. Scholars like Olaoluwa contends that traditional publication ideologies must be adjusted or modified to take into consideration digital realities, particularly when algorithms and platform features unintentionally increase or broadens reach.⁵⁸

Furthermore, internet republication introduces the concept of cumulative injury. Online posts or publications are relatively permanent and are usually cached, archived, or replicated across multiple servers, unlike a single newspaper story, which has a limited circulation. In principle, courts approve heavier awards of damages or injunctive relief because they recognise and understand that the permanent nature of digital content exacerbates reputational harm. However, in practice, plaintiffs usually run into huge procedural and evidentiary problems that make the statute less effective at deterring people from breaking the law.

⁵⁶ [1980] 2 NWLR (Pt 100) 101.

⁵⁷ [1980] 3 NWLR (Pt 70) 345.

⁵⁸ A Olaoluwa, *Online Defamation and the Legal Framework in Nigeria* (Unilag Press, 2019) 150–162.

3.6.3 Anonymous Posts

One of the main obstacles against online defamation and a defining characteristic of the digital age is anonymity. Individuals commonly publish under pseudonyms or ephemeral identities, making it exceedingly tough to identify the culprit. In addition to encouraging careless or harmful communication, this anonymity makes it more difficult to pursue legal action. The intentional dissemination of false material that could damage one's reputation is illegal under Section 24 of the Cybercrimes Act, however enforcement necessitates the identification of the offender. Often, litigants have to request John Doe orders ordering platforms to disclose the IP addresses or registration data of anonymous posters. The Court effectively forced disclosure from the platform in *Doe v. Nigerian Telegraph*, but doing so required cooperation from third-party service providers and a substantial amount of digital forensic data.⁵⁹

When platforms are located abroad or when criminals utilise VPNs and encryption to hide their identities, the problem is exacerbated. According to academics, anonymity promotes impunity since online perpetrators believe there is little chance of being held accountable. According to Nwabueze, victims may have legal rights in theory but no practical methods of enforcement in the absence of strong tracing systems.⁶⁰

Constitutional tensions are also increased by anonymity. Although victims should be shielded against defamation, courts must balance this against the Constitution's Section 39, which ensures and defends the right to free speech. Judicial strategies must carefully assess whether identifying

⁵⁹ (2017) LPELR-42218(CA).

⁶⁰ J Nwabueze (2018) 220–225.

anonymous individuals violates the right to online anonymity for political commentators, critics, and whistleblowers.

3.6.4 Inadequacy of Legal and Institutional Framework

Built on rules intended for conventional media, Nigeria's legal system for online defamation is disjointed and mostly reactive. Defamation is illegal under the Criminal Code Act (sections 372–374) and the Penal Code (sections 373–374), although they do not particularly address the unique characteristics of digital communication. Although the Cybercrimes Act 2015 strives to This sector needs to be brought up to date. Its rules are still too general, vague and open to interpretation that courts have to apply old ideas in new situations. On the other hand, defamation on the internet makes the work of enforcement agencies such as the National Information Technology Development Agency (NITDA) and the Nigerian Communications Commission (NCC) more difficult. Some of the problems are lack of technical skills, too many people doing the same thing, not enough resources, and slow response time. That is why victims often experience slow bureaucracies and ineffective enforcement, making people less likely to trust and believe in the courts⁶¹

Academics argue for a broad, technology-specific legal framework including platform liability, cross-border enforcement, clearer definitions of harm, and faster resolution. For example, Olaoluwa suggests that laws need to explicitly and directly address viral content, republication,

⁶¹ J Nwabueze (2018) 230–240.

and secondary liability if we are to keep pace with how social media and instant digital distribution actually work.⁶²

3.6.5 Inefficiency of Judiciary

The Nigerian courts may not be very good at what they do but they are very important in the fight against online defamation.

1. Backlog and delays: It takes years to settle defamation lawsuits, and meanwhile online information continues to spread and further damage reputations.
2. Technical knowledge: A lot of judges do not have a good command of computer knowledge, making it hard for them to understand and judge digital evidence such as IP logs, social media analytics and metadata.
3. Inconsistent Jurisprudence: Most judges know little about computers so it is difficult for them to understand and judge digital evidence like IP logs, social media analytics and metadata.
4. Inconsistent case law: The decisions of the courts on jurisdiction, platform liability and republication vary widely, as online defamation is a new concept. The court said it could publish anonymous IP addresses in *Doe v. Nigerian Telegraph*⁶³. But in other cases, it said it was unable to make decisions about platforms located outside the U.S., leaving lawyers and plaintiffs in the dark.

⁶² A Olaoluwa (2019) 170–180.

⁶³ (2017) LPELR-42218(CA).

5. Resource constraints and limitations: Courts are not equipped with the technology to keep temporary online evidence, which disadvantages plaintiffs, especially in defamation cases where digital content is the basis of the claim.
6. Procedural complexity: Normal civil procedures are not tailored or simplified to speed up and effectively deal with online defamation claims. These claims require specialized skills, digital forensics and rapid evidence preservation.

These issues undermine the deterrent value of legal remedies, placing victims at risk and encouraging cybercriminals. Scholars prefer digital evidence, procedural changes and cyber courts for this area.

CHAPTER FOUR

LEGAL IMPLICATIONS OF ONLINE DEFAMATION IN NIGERIA

4.1 Civil Liability for Online Defamation

Online defamation is increasingly becoming a legal problem in Nigeria. It not only hurts people, it hurts companies, businesses and middlemen like bloggers, social media sites and internet service providers. The legal system in Nigeria has been complicated by the advent of social media and digital communication. It now needs to include ideas from both criminal law and common law torts of defamation. Section 39 of the Constitution⁶⁴ protects the right to free speech, which is what the law is trying to do. It tries to find a balance between protecting people's dignity and reputation and allowing them to speak their minds.

This chapter critically and thoroughly examines the civil and criminal liability associated with online defamation, and the liability of intermediaries such as internet service providers (ISPs), bloggers, and platform owners.

The common law tort of defamation, which has been applied to digital communications, is the primary source of civil liability for online defamation in Nigeria. For individuals who publish false assertions or defamatory information that damages their reputation, the tort enables victims to seek compensatory and injunctive remedies and reliefs.

However, three requirements must be met for a claimant to prevail in a civil lawsuit for internet defamation: (i) the posting of a defamatory statement or content, (ii) the claimant's identity, and

⁶⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 39.

(iii) communication to a third party.⁶⁵ Even when it comes to online publishing, Nigerian courts have consistently ruled that these requirements are met. In *Sketch Publishing Co Ltd v Ajagbemokeferi*⁶⁶, the Court emphasised that defamatory material posted on the internet constitutes publication sufficient to attract civil liability, given the wide reach and permanence of online content.

Because internet writings are permanent and repeatable, Nigerian Civil Courts have embraced the idea that they should be considered as libel rather than slander. The Court emphasised in *Uyo v. Nigerian Press Ltd & Ors*⁶⁷ that the harm produced by permanent publishing includes general damages, which the court can measure even in the absence of direct proof of financial loss.

Moreover, Nigerian doctrine recognizes that reputational rights of corporate entities and associations are equal to those of individual persons. In *Guardian Newspapers Ltd. v. Ajeh*⁶⁸, the court found that a publication which damages the reputation of a company could be considered as actionable damage and be compensated for. Under such a theory, comments published online about public officials, institutions, and business owners are subject to legal liability.

Civil court can also be used against secondary publishers who share, repost or distribute false information. In *Onyema v. Oputa*⁶⁹, the Court held that republication comprises separate liability. This implies that any person who disseminates false information is also liable to any injury to their reputation that results from it. Scholars say that the long-lasting, viral, and worldwide nature of online content makes it more likely that people will be held legally responsible. Due to the

⁶⁵ D Ojo, *Law of Defamation in Nigeria* (Lagos: University Press, 2016) 78–92.

⁶⁶ [1989] 1 NWLR (Pt 100) 678.

⁶⁷ (1984) 3 SC 56.

⁶⁸ [2011] 10 NWLR (Pt 1256) 574.

⁶⁹ [1987] 3 NWLR (Pt 60) 259.

pervasive, persistent nature of reputational harm that can affect employment, social standing, and business interests, Nwabueze argues that damages in online defamation cases may be more than in traditional print-based trials. In an attempt to discourage severe online defamation, Nigerian courts have occasionally granted exemplary damages due to the act's moral wrongness and social consequences.

Remedies available under civil law include:

1. **General damages**—compensation for injury to one's reputation, as in *Adesanya v Daily Times of Nigeria Ltd.*⁷⁰
2. **Special damages** – these classes or types of damages are provided to make up for genuine monetary losses caused by the defamatory contents or posts.
3. **Injunctions** – injunctions generally are given to prevent or stop the publication or further dissemination of defamatory materials.
4. **Apologies and retractions** – in some cases the courts may order retractions and/or apologies, in order to minimise reputational harm or damage.

The civil law framework, though characterized by wide-ranging accountability in the digital environment, faces practical limitations such as the identification of anonymous authors, enforcement on a global scale, and the technological expertise needed for data collection.

4.2 Criminal Liability for Online Defamation

Nigeria's law on internet defamation reflects an appreciation that injury to a person's reputation is a social concern and not merely a private crime. The Penal Code (Northern Nigeria) the Criminal

⁷⁰ (1978) 9–10 SC 1.

Code Act (Southern Nigeria) and the Cybercrimes (Prohibition, Prevention, et al) Act 2015 are the main statutes and laws that define and establish criminal liability.

Sections 373–381 of the Criminal Code Act forbids and prohibits publishing false material with the intention of damaging someone's reputation; the penalties include fines and imprisonment. Similar restrictions can be found in Northern Nigeria's Penal Code, which emphasises that defamatory activities are illegal regardless of the means of communication.

Section 24 of the Cybercrimes Act of 2015 addresses slander that occurs specifically online. Intentionally using computer systems to send damaging, misleading, or inaccurate content is prohibited. Notably, the Act recognises the unique characteristics of online publishing, including their rapid diffusion, repeatability, and permanence. The law gives judges the power to penalise offenders with fines and jail time since it takes online defamation seriously. It condemns the wilful dissemination of false, misleading, or damaging information using computer systems. Notably, the Act recognises the unique characteristics of online publishing, including their rapid diffusion, repeatability, and permanence. Because internet defamation is taken seriously, the law gives judges the authority to punish offenders with both fines and jail time.⁷¹

The Court acknowledged in *Adebayo v. Yahoo Inc*⁷² that, regardless of the perpetrator's location, cross-border publication may be illegal if it causes recognisable harm to Nigerian citizens.⁴¹ This exemplifies how criminal culpability is used by judges. Consistent with this view is the idea of effects-based jurisdiction, which allows Nigerian courts to punish actions that cause harm on Nigerian soil even if they originate abroad.

⁷¹ Cybercrimes (Prohibition and Prevention.) Act 2015, s 24.

⁷² [2014] 4 NWLR (Pt 1400) 256.

Criminal penalties, especially when victims can get money for their losses through civil remedies, show the public how serious reputational harm caused by digital platforms is.

Olaoluwa and other scholars note that the threat of jail time or other sanctions can be a useful deterrent, especially where the act is intentional, malicious or a contributing factor⁷³

1. But the following things always make enforcement more difficult: The difficulty/challenge of finding offenders or accounts that are anonymous or use a false name;
2. Limits on cross-border jurisdiction;
3. Tech skills lacking in law enforcement, making them less effective;
4. Potential conflicts with constitutional free speech protections. Thus, these pragmatic limitations can weaken the impact of criminal punishment, albeit the existence of clear criminal liability.

4.3 Liability of Internet Service Providers, Bloggers, and Platform Owners

Another important part of the legal consequences is liability of intermediaries. This means bloggers, social media sites and internet service providers (ISPs) can be held responsible for defamatory material put up by users. This is because the intermediaries can spread false information, even though they are not usually responsible for creating it. This is a complex issue and brings up issues of vicarious or contributory guilt. Intermediaries in Nigeria could face liability if they do the following:

1. publish defamatory content in the knowledge;

⁷³ A Olaoluwa, *Online Defamation and the Legal Framework in Nigeria* (Unilag Press 2019) 144–162.

2. Fail to act upon the notice of defamatory content;
3. Participate or contribute in the creation or production or/and dissemination of harmful contents.

The Cybercrimes Act of 2015 mandates that ISPs retain and provide user data upon valid request in order to facilitate author identification. Administrative sanctions may be imposed for noncompliance, even though courts have historically avoided holding intermediaries directly liable for third-party content because of the potential chilling effect on digital communication.⁷⁴

The Supreme Court acknowledged in *Sketch Publishing Co Ltd v. Ajagbemokeferi*⁷⁵ that bloggers and platform operators might be held accountable for online defamation if there was evidence of their deliberate participation or wilful ignorance in allowing offensive material to be up on the internet. Academics like Okeke and Okwuosa argued that this is consistent and in line with global trends in intermediary responsibility, striking a balance between the need to preserve and protect one's reputation and the need to refrain from unreasonably limiting internet platforms.⁷⁶

For Bloggers in particular, there is a grey area. They are held to the same criteria as traditional publishers by Nigerian courts, who have viewed them as quasi-media entities. Often, the distinction is based on editorial control, intent, and knowledge. Bloggers that actively aid in the dissemination of defamatory content are more likely to face accountability from the courts, which may include financial penalties and other sanctions.

⁷⁴ Cybercrimes (Prohibition, Prevention, etc.) Act 2015, ss 6–9.

⁷⁵ [1989] 1 NWLR (Pt 100) 678.

⁷⁶ C Okeke, *Cybercrimes Legislation and the Regulation of Online Defamation in Nigeria* (5 African Journal of Law 2017)123; E Okwuosa, *Judicial Capacity and the Digital Era* (12 Nigerian Journal of Media Law 2020) 67.

The Nigerian Communications Commission and courts often do not impose harsh fines on platform owners and ISPs unless they determine that there was intentional facilitation of defamation. This method recognizes the practical difficulty of pre-screening all user-generated information while adhering to international intermediary legislation standards.⁷⁷

However, the increase in social media lawsuits suggests a new trend in Nigeria toward more accountability for middlemen, especially in cases where reputational damage is extensive or widely reported. Using examples from countries like the UK (Defamation Act 2013) and Australia (Enhancement of Cyber Defamation Laws), scholars advise the establishment of clear statutory standards defining when intermediaries can be held accountable.⁷⁸

4.4 Defences Available in Online Defamation (Expanded)

In Online defamation lawsuits, defences act as protections to protect one's reputation while preventing the suppression of free speech. The internet has complicated defamation law in the digital era because of anonymous speech, the rapid dissemination of global information, and permanent records, which present unique problems for traditional defenses. Nigerian law provides a number of primary defences which fall within the following general categories: retraction, consent, fair remark, absolute privilege, qualified privilege and justification (truth). In an online environment, the specific requirements and limitations of each defense must be carefully considered.

⁷⁷ J Nwabueze, *Digital Media and the Law in Nigeria* (Pentagon 2018) 112–120.

⁷⁸ A Olaoluwa, *Online Defamation and the Legal Framework in Nigeria* (MultiPrint 2019) 155–160.

4.4.1 Justification (Truth)

The most common and most successful defence in online defamation cases is the defence of truth or justification. The principle in Nigerian law is that harm by true information is no offence. This is because the law seeks to protect reputation and not to punish truthful expression. The law requires the defendant to prove both the substantial truth of the allegedly defamatory statement and the absence of malice.

The Supreme Court, in *Adesanya v. Daily Times of Nigeria Ltd.*,⁷⁹ held that truth is a complete defense to libel, but the defendant must prove that the statement is supported by substantial facts and not mere speculation or opinion. Similarly, in *Okonkwo v Nwosu*,⁸⁰ the Court reinforced that truth is a definitive shield, particularly where the publication concerns matters of public interest, such as political performance or corporate conduct.

However, a number of reasons make justification more difficult in online contexts:

1. **Modification or reposting:** Statements may be changed, paraphrased, or published by other users, which could render the initial veracity of the statement void.⁸¹
2. **Multiplicity of platforms:** The court's power to authenticate digital content may be challenged if the truth may be proven on one platform but distorted on another.⁸²

⁷⁹ (1978) 9–10 SC 1.

⁸⁰ [1980] 3 NWLR (Pt 70) 345.

⁸¹ J Nwabueze, *Digital Media and the Law in Nigeria* (Lagos: Spectrum Press, 2018) 120–138.

⁸² *Ibid* p.140

3. **Archival permanence:** Because digital content frequently endures indefinitely through cache, screenshots, and web archives, defending the truth becomes more crucial, but it also becomes more challenging to demonstrate that the context has changed.⁸³

Scholars like Nwabueze argue that courts should change the standards of evidence to allow for screenshots, browser metadata, and social media analytics as evidence to back up assertions of truth in online defamation.⁸⁴

4.4.2 Absolute Privilege

Absolute privilege provides complete immunity from defamation claims for statements made when the public interest outweighs worries about one's own reputation. Nigeria is home to these circumstances, which include:

1. **Judicial proceedings;**
2. **debates in parliament or the legislature;**
3. **official messages from public servants performing their jobs.**

In *Femi v. State*⁸⁵, the Court emphasised that absolute privilege ensures accountability and openness, especially in judicial and parliamentary contexts where open communication is essential to the administration of justice.

Because of live parliamentary broadcasts, online streaming of judicial proceedings, and official news releases on government websites, absolute privilege is becoming increasingly significant in

⁸³ Ibid p. 140

⁸⁴ Ibid p. 141

⁸⁵ [1992] 2 NWLR (Pt 220) 102.

the digital era. Courts have recognised that digital formats do not diminish the protection of privilege, provided that the words are made in the course of official duties and without unrelated motivations.⁸⁶

Interestingly, absolute privilege in online settings does not have an infinite reach. According to academics like Olaoluwa, the defence cannot shield remarks that are incidental or unconnected to the obligation, nor can it shield harmful distribution outside of formal settings, like posting privileged content on social media without permission.⁸⁷

4.4.3 Qualified Privilege

Qualified privilege offers protection when a statement is made in good faith while fulfilling a social, legal, or moral obligation and the recipient has a similar interest. Unlike absolute privilege, it can be weakened by malice..

As long as they are not driven by malice, statements made to protect the public interest, such as exposing misconduct or warning stakeholders of potential harm, are protected by qualified privilege, the Court ruled in *Eze v. Nwosu*.⁸⁸

Qualified privilege on the internet is especially pertinent to:

1. investigative reporting that appears on news portals;

⁸⁶ A Olaoluwa, *Online Defamation and the Legal Framework in Nigeria* (Unilag Press, 2019) 145–150.

⁸⁷ Ibid p. 154

⁸⁸ [1997] 5 NWLR (Pt 513) 223.

2. corporate espionage using internet platforms or governmental intranets;
3. Public interest topics covered by social media include financial mismanagement, environmental risks, and civic government.

Determining malice online is challenging, though. It might be difficult to tell whether a communication exhibits reckless disregard or genuine obligation because internet platforms permit criticism and viral propagation. Nwabueze argues that courts should contextualise online intent by examining digital interactions, posting history, and metadata in order to determine good faith.⁸⁹

4.4.4 Fair Comment

Fair comment, which distinguishes opinion from confirmed fact, protects opinions on matters of public importance. Nigerian courts have repeatedly backed the use of opinion, even in places like the internet where it is widely shared. In *Akanbi v. Nigerian Tribune*, the Court said that a fair comment is allowed when:

1. The statement is about things that are important to the public
2. Shows an honest opinion.
3. It is made without malice.⁹⁰

Fair comment is very important for bloggers, political analysts, and citizen journalists who write about government officials or policies on the internet. The defense, on the other hand, wants a clear

⁸⁹ J Nwabueze (2018) 130–135.

⁹⁰ *Akanbi v Nigerian Tribune* [2002] 6 NWLR (Pt 765) 88.

line between what is true and what is not. *Adesanya v. Daily Times of Nigeria Ltd*⁹¹. shows that making an opinion sound like a fact could make the defense invalid. In that case, a guess was found to be actionable libel.

4.4.5 Consent

Easy to defend agreement. If the person making the claim clearly gives permission to publish then generally he/she will be liable. In digital spaces, consent might be inferred through explicit permission to share digital content, participation in online discussions, or agreeing to the terms of service of social media platforms. But legal experts warn the statute has to be explicitly and clearly authorized to be a defense, and there are limits to what implicit authorization can include.⁹²

4.4.6 Retraction and Apology

Courts in Nigeria are not sympathetic to quick apology or retraction to mitigate damage or as a partial defense. Retractions don't entirely eliminate immunity, but they can reduce damages or avert a lawsuit. Under the Cybercrimes Act of 2015, internet companies are required to resolve issues by taking down content, apologizing, and sending out notices explaining what happened. This is so they can take a healing approach rather than just punish people⁹³

In *Uyo v. Nigerian Press Ltd & Ors*⁹⁴ the Court stated that a speedy retraction and a clear apology could alter the amount of money the person whose reputation has been hurt gets, particularly if the damage was only temporary or very specific.

⁹¹(1978) 9–10 SC 1.

⁹² D Ojo, *Law of Defamation in Nigeria* (Lagos: University Press, 2016) 115–120.

⁹³ Cybercrimes (Prohibition, Prevention, etc.) Act 2015, ss 24–26.

⁹⁴ [1980] 3 NWLR (Pt 70) 345.

4.4.7 Emerging Defences in Digital Contexts

New Defenses in Digital Settings Researchers like Olaoluwa and Nwabueze are investigating new things that can lead to online defamation such as:

1. Platform neutrality: Should social media companies be held accountable for what users post?
2. Hyperlinking and sharing: Courts are increasingly considering whether reposting or hyperlinking is considered republication, which could make someone liable;
3. Digital Evidence: Defendants can use metadata, timestamps, server logs to show something is true, is in context, or was done in good faith.⁹⁵

These new defenses show how the law can change. This means that judges need to find a way to balance old rules with the speed, reach, and permanence of content on the internet.

4.5 Remedies Available to Victims of Online Defamation

The Nigerian courts often see a quick apology or retraction as a way of easing the damage or avoiding a court appearance. Retractions don't guarantee immunity but they can lessen damages or halt a lawsuit. The Cybercrimes Act 2015 mandates internet platforms to remove content to address issues and send notifications outlining what occurred and apologizing. This is more humane way of punishing people. Online defamation is different than defamation in traditional print or broadcast media because it is more difficult to take corrective action. Reputational harm can occur quickly and persist for a long time after the defamatory language is first published due to the global, instantaneous, and permanent nature of digital content. In order to restore the victim's reputation,

⁹⁵ A Olaoluwa, *Online Defamation and the Legal Framework in Nigeria* (2019) 155–160.

provide restitution, and deter future instances of the same activity, the law has developed a number of remedies. Nigerian law recognises civil remedies, criminal punishments, injunctive relief, and restorative measures.

Courts are quickly adjusting remedies to the realities of the digital world.

4.5.1 Civil Remedies

The most popular course of action for Nigerian victims of online defamation is civil remedies.

Among these therapies are:

4.5.1.1 Damages

Damages are the primary legal remedy in defamation cases. In order to restore the claimant's reputation and acknowledge the harm that was done, damages are meant to be both punitive and compensating. Nigerian law makes a distinction between aggravated, exceptional, and general damages:

1. **General damages** are granted for the harm to one's reputation and dignity that the law presumes occurs if defamation is proven. In *Basorun v. Ogunleye*⁹⁶, the court ruled that libel damages are implied and that the court has the authority to calculate the injury based on the severity of the defamation and its impact on social standing.
2. **Special damages** demand evidence of measurable loss, such as monetary losses, missed job prospects, or contracts ruined by reputational damage. The Court stressed that

⁹⁶ [1980] 2 NWLR (Pt 100) 101.

claimants must provide proof of particular consequential losses resulting from defamatory publications in the matter of *Uyo v. Nigerian Press Ltd & Ors.*⁹⁷

3. **Aggravated damages:** Aggravated damages are awarded if the defendant intentionally or negligently aggravated the injury. Aggravated damages are especially applicable in online defamation cases where viral distribution of content causes increased damage to reputation. In *Okonkwo v. Nwosu*⁹⁸, harmful online content was widely distributed.

The Internet's global reach and archival nature make it difficult to quantify damages in cases of online defamation. When assessing damages, academics like Olaoluwa contend that courts ought to take into account the immediate as well as long-term effects of online information, such as reposts, screenshots, and sharing across many platforms.⁹⁹

4.5.1.2 Injunctive Relief

Injunctive relief provides a preventive remedy, requiring the defendant to cease publication or remove defamatory content. Nigerian courts have recognised the utility of injunctions in online defamation, particularly where:

1. The content remains accessible to the public;
2. Reputation is ongoingly harmed;
3. The defendant is likely to repeat or repost the defamatory material.

⁹⁷ [1980] 3 NWLR (Pt 70) 345.

⁹⁸ (2011) All FWLR (Pt. 575) 488.

⁹⁹ A Olaoluwa, *Online Defamation and the Legal Framework in Nigeria* (Unilag Press, 2019) 162–175.

An interlocutory injunction prohibiting the defendant from posting any more defamatory claims on an online forum was issued by the court in the *Fasehun v. Alao*¹⁰⁰ case, underscoring the importance of injunctions in halting the spread of false information before irreversible harm is done.

Injunctions can now apply to online middlemen due to the widespread use of social media and chat services. The Cybercrimes (Prohibition, Prevention, etc.)¹⁰¹ allows judges to order platform administrators to remove harmful content, bridging the gap between civil remedies and technical enforcement techniques.

4.5.1.3 Apology and Retraction

Although less formal than damages or injunctions, apologies and retractions are increasingly recognised as effective restorative remedies. They serve to:

1. Correct public perception;
2. Reduce ongoing reputational damage;
3. Mitigate damages.

Prompt apologies may have an impact on damages, especially when combined with other remedies, the Court observed in *Uyo v. Nigerian Press Ltd & Ors.*¹⁰² Similarly, the Cybercrimes Act, which acknowledges the unique longevity and scope of online communication, requires defendants to publicly rectify inaccurate remarks that are disseminated online.

4.5.2 Criminal Remedies

¹⁰⁰ [1991] 5 NWLR (Pt 189) 223.

¹⁰¹ Act 2015, ss 24–26.

¹⁰² (1984) 3 SC 56.

Nigerian law offers criminal penalties for internet defamation in addition to civil remedies under:

1. **The Criminal Code Act** (Southern Nigeria);
2. **The Penal Code** (Northern Nigeria);
3. **The Cybercrimes (Prohibition, Prevention, etc.) Act 2015.**

Section 24 of the Cybercrimes Act makes it unlawful to intentionally spread false information through computer systems that harms someone's reputation. Violations of this law are punishable by fines and jail time. Cases such as *Agbaje v. State*¹⁰³ indicate the judicial enforcement of criminal liability for defamatory internet posts, which enhances the deterrent effect of both criminal penalties and civil remedies.

There are two purposes for criminal remedies:

1. **Punishing wrongful conduct**, especially when it is driven by malice or the desire to cause harm;
2. **Deterring potential offenders**: Discouraging possible offenders in the vast and frequently anonymous digital world.

Scholars point out that the standard for criminal liability is high, requiring proof of intent, malice, and proven harm in order to strike a balance between the freedom of expression and the right to reputation protected by Section 39 of the Nigerian Constitution.¹⁰⁴

¹⁰³(2018) LPELR-44732(SC).

¹⁰⁴ J Nwabueze, *Digital Media and the Law in Nigeria* (Spectrum Press, 2018) 210–225.

4.5.3 Restorative and Regulatory Remedies

Regulatory frameworks and restorative processes have emerged as vital instruments in the fight against internet defamation, alongside traditional civil and criminal remedies.

Requests to remove content: People who have been hurt can ask that offensive content be taken down from social media sites, as long as they follow the site's rules and Nigerian law.

Regulatory oversight: Rules on ethical communication on the internet have been set by the Nigerian Communications Commission (NCC) and the National Broadcasting Commission (NBC), particularly for news websites and media companies.

Alternative dispute resolution (ADR). Mediation and arbitration are two ADR processes that are becoming more and more common for resolving online defamation claims in a quick and inexpensive manner.

Recent research on defamation has shown that the restorative approach, which gives priority to the rehabilitation of a person's reputation rather than punishment, is consistent with these solutions. .¹⁰⁵

4.5.4 Practical Challenges in Remedies

Even though these solutions are available, enforcing online defamation is still difficult:

1. **Publishing across borders:** Nigerian courts may have trouble enforcing injunctions and damages because they don't have full authority over international platforms.

¹⁰⁵ A Olaoluwa, *Online Defamation and the Legal Framework in Nigeria* (2019) 180–190.

2. **Anonymity of offenders:** It frequently takes technological know-how and collaboration with Internet service providers (ISPs) to determine an online user's genuine identity.
3. **Viral replication:** Remedies like retraction or deletion are only partially effective because defamatory content can be copied and reshared.
4. **Proof of harm:** Because the audience in the digital age is worldwide and ever-evolving, measuring reputational harm is difficult.

To guarantee victims receive useful and significant compensation, academics advise a hybrid strategy that combines civil, criminal, and restorative remedies with technical interventions including algorithmic content control, digital watermarking, and metadata verification.¹⁰⁶

4.5.5 Comparative Perspectives

Online apology portals, permanent takedown orders, and digital content monitoring are among the creative remedies for online defamation that courts in countries like the US and the UK are increasingly recognising. Similar ideas are rapidly being incorporated into Nigerian law, especially under the Cybercrimes Act¹⁰⁷, which gives judges the authority to impose digital-specific measures to address the permanence of online content.

According to comparative research, Nigerian courts ought to take into account proactive remedies such as:

1. Compulsory digital corrections;
2. Publication of court orders on social media platforms;

¹⁰⁶ J Nwabueze (2018) 230–245.

¹⁰⁷ Act 2015, ss 24–26.

3. Working with platform operators to take down content in a coordinated way that protects freedom of speech while also protecting reputation.¹⁰⁸

To sum up, Nigerian victims of internet defamation have a number of options for getting help, including restorative processes, injunctions, retractions, criminal penalties, and civil damages. These solutions work well in theory but they need to be updated constantly to address the unique problems associated with digital communication such as the longevity of online information, the ability of offenders to remain anonymous, the speed at which information spreads and the ability to publish cross borders. It is imperative that Nigerian courts, legislators and regulatory agencies collaborate to ensure that legal doctrines, technology enforcement and rehabilitation methods all work together to protect victims and uphold the constitutional right to free speech.

¹⁰⁸ A Olaoluwa (2019) 195–200.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1. Summary of Findings

The study carried out a detailed and comprehensive analysis of the complex legal regime governing online defamation in the digital environment in Nigeria. We have examined the theoretical and conceptual foundations and the existing statutory framework and have arrived at some important conclusions. The research discovered that the traditional ingredients of defamation, publication, reference to the plaintiff and defamatory meaning, form the foundation of the tort, but implementing them in the digital world is very difficult. The ‘nature’ of the damage has changed with the replacement of print by pixels. Traditional libel can only be seen in a certain area, but online defamation is “perpetually ubiquitous.” In chapter three we’ve seen how a tweet or blog post can immediately damage someone’s reputation, whether they are in London or New York. This engenders a “global theatre of injury” that traditional Nigerian law based on the Criminal Code and Penal Code, was never meant to address.

Secondly, the study found a substantial "accountability gap" with relation to middlemen. The Cybercrimes (Prohibition, Prevention, etc.) Act 2015 made an effort to offer a modern framework, but it says very nothing about the particular "Safe Harbour" provisions for social media platforms and Internet service providers (ISPs). Nigerian law currently lays a significant burden on victims to identify anonymous "John Does" or "trolls," which frequently leaves them without a potential defendant unless they can successfully hold the platform or the ISP liable, a task that is still unclear from a legal standpoint.

Thirdly, a conflict between the right to reputation protection and the constitutional right to freedom of expression under Section 39 of the 1999 Constitution (as amended) was identified by the theoretical analysis under the Social Responsibility Theory and Mill's Harm Principle. According to the findings, the Nigerian judiciary is frequently caught in a "pendulum swing," trying to uphold individual dignity without suppressing democratic dissent, but being hindered by a lack of expertise in digital forensics and electronic evidence, especially in relation to the Evidence Act 2011.

Finally, the study discovered that the existing remedies, which are mostly injunctions and monetary damages, are frequently "too little, too late." The material of a defamatory YouTube video has probably been replicated on a thousand other websites by the time a Nigerian court grants damages, making the court's ruling essentially ineffective in the face of viral spread.

5.2 Recommendations

In light of the challenges presented, the following recommendations are proposed to harmonize technological advancement and legal regulation in Nigeria:

1. Legislative Reform: Enactment of a Dedicated Internet Defamation Act

To combat defamation, the National Assembly should abandon the disjointed strategy of utilizing the Criminal Code and the Cybercrimes Act. A Digital Libel and Online Safety Act is desperately needed. The "Single Publication Rule" should be explicitly defined in this legislation to stop plaintiffs from suing for each "click" or "share" a post receives, which presently clogs the courts. Additionally, it should establish a clear "Notice and Takedown" process that is in line with global

best practices, such those found in the European Union Digital Services Act, and formalize the distinction between "primary publishers" (authors) and "secondary publishers" (ISPs).

2. Judicial Specialization and Digital Forensics

In view of the plight of electronically generated evidence in defamation cases the National Judicial Institute (NJI) should place the education of Judges on the nuances of the Evidence Act, 2011 on the front burner. Further, the creation of “Small Claims Digital Courts” would enable the swift resolution of online disputes by emphasizing “Right to Reply” and “Mandatory Retractions” rather than protracted legal battles for damages that the defendant may not have the financial means to pay.

3. Clarifying Intermediary Liability (Safe Harbour Provisions)

Nigeria needs a fair ‘Safe Harbour’ policy to protect reputations and boost the digital economy. Platforms should not be liable for user-generated content unless they act in response to a valid court-verified notice of defamation. This would bring Nigeria up to speed with the best practices used around the world and stop ISPs from having to censor private content.

4. Addressing Anonymity through "John Doe" Orders

All states should change the Nigerian Rules of Civil Procedure to allow for "John Doe" injunctions or orders that are like the Norwich Pharmacal idea. These would get rid of the anonymity barrier that lets hate speech spread online by making ISPs and platforms show the names and IP addresses of anonymous defamers before a trial.

5. Promotion of Alternative Dispute Resolution (ADR) and Online Mediation

“Because the Internet spreads information so fast, the traditional legal system is often too slow. The Nigerian Bar Association (NBA) and the Nigerian Communications Commission (NCC) should advocate for Online Dispute Resolution (ODR). It is worth encouraging individual independent ombudsmen to solve disputes between users on platforms. They deliver a quicker ‘digital apology’ or ‘correction,’ which is often more favorable for a victim than a two-year court decision.

6. Decriminalization of Defamation

Nigeria should move towards the full decriminalization of defamation in keeping with global human rights trends and the decisions of the ECOWAS Court of Justice, particularly *Federation of African Journalists v. The Gambia* (ECW/CCJ/JUD/04/18) (ECOWAS Court of Justice, 13 February 2018). The Act makes it a crime to insult public officials. To use the machinery of the state (the police) to arrest people for this is against free speech. Unless it directly leads to violence or puts national security at risk, defamation should only be a civil wrong.

5.3 Conclusion

The digital revolution has made it possible for everyone to get information, but it has also turned words into weapons. This long essay has shown that the law's ability to protect a person's "good name" in the 21st century is under a lot of stress, even though that name is still worth more than "precious ointment." Nigeria's legal system is a mix of laws from the colonial era and laws that change with events. This makes it difficult for the government to control the fluidity of the

Internet. Online defamation is universal in "Nature," boundless in "Scope," and everywhere in "Legal Implications." The greater the use of AI and deepfakes, the more your reputation will suffer. But censorship is too heavy, and shutting down all digital spaces is not going to work. In contrast, a "legal realist" approach respects the "natural law" concept of human dignity but also recognizes the reality of technology. If Nigeria takes the above advice, particularly on clarifying laws, training judges and holding intermediaries accountable, it could make the internet a place where free speech is not a free-for-all. The law has to move from being a passive observer of the digital age to an informed and active regulator. Only then will we be sure that Nigeria's "market of ideas" is still vibrant, rules-based, and civil.