



LEGAL OBSTACLES TO COMBATING IMPUNITY FOR CRIMES AGAINST JOURNALISTS IN NIGERIA

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Table of Content

Executive Summary	03
Introduction	05
Methodology	06
Legal Framework regulating the media and freedom of expression	07
Problematic laws and how they are weaponised against journalists	12
Obstacles to Fighting Impunity Press Freedom Violations	18
Conclusion	21
Recommendations	22

1.0

Executive Summary

Nigeria is one of the countries in West Africa with the longest unbroken democratic governance since the mass return of the sub-region to democracy some three decades ago after the military interventions of the 1960’s-90’s.

In line with the new democratic outlook, the country has adopted a liberal constitution which guarantees press freedom. Section 39 (1) and (2) respectively of Nigeria’s 1993 Constitution enshrines the right **“to freedom of expression, including freedom to hold and to receive and the right “to own, establish and operate any medium for the dissemination of information, ideas and opinion.”**

It is also signatory to a number of international conventions on human rights. These Convention on Human and People’s Rights (ACHPR), the Universal Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which commit signatory States to uphold the right to freedom of expression.

Access to information and civic participation in public discourse received a major boost with the adoption in 2011 of the Freedom of Information Law which protects the confidentiality of sources and is aims to enhance information disclosure.

While this show of commitment is impressive, it has not led to any real initiatives to deliver on them. On the contrary, authorities have erected a range of legal restrictions and adopted practices that undermine freedom of expression, particularly on media platforms. The Freedom of Information Act, particularly sections 27 and 28, is supposed to override other restrictive laws. Nonetheless, public officials often cite the latter laws such as the Official Secrets Act, the Penal Code, the Criminal Code and the Evidence Act to deny access to information requests.¹

The Cybercrime law has become a catch-all trap for critical journalists and citizens and its victims over the years are endless. Public officials and powerful individuals easily manipulate the police to arrest journalists for critical publications, under criminal defamation.

Also, section 45 of the 1999 Constitution (as amended) places limitations on the freedom of expression in the interest of defense, public safety, public order, public morality or public health. The restriction of press freedom on these grounds is applicable to print, electronic, and online media. The police and other public authorities have been the ones who decide

1 Madubuike-Ekwe and Mbadugha, Obstacles to the implementation of the Freedom of Information Act 2011 in Nigeria - file:///C:/Users/Felicia%20Antonio/Downloads/ajol-file-journals_479_articles_168833_submission_pro of_168833-5653-434238-1-10-20180328.pdf

that a publication or speech undermines public order, national defense and public morality. Many of the time, journalists and citizens arrested for alleged breaches of this law would have had their rights violated by the time a court decides otherwise.

In many cases, however, the victim is released after spending some time in custody without the matter being sent to court.

This arbitrariness does not only constitute a major obstacle to the safety and security of journalists, but also undermines press freedom, freedom of expression and the public's right to information.

Besides the manipulation of certain laws to restrict the press freedom and the civic space generally, the authorities, particularly the police and security agencies also act in total impunity, often disregarding the law. In December 2019, the Department of State Services (DSS), - now State Security Services (SSS) [pounced on](#)² a journalist suspect and carried him off into detention right at the precincts of the court that had ordered his release. Omoyele Sowore, publisher of the Sahara Reporters online news, had no appeal against the lawless conduct of the DSS operatives.



² https://punchng.com/drama-as-dss-operatives-storm-abuja-court-to-rearrest-sowore/#google_vignette
last UPR review

1.1

Introduction

Press freedom is a fundamental pillar of any democratic society, with the media serving as an enabler of the broader right to freedom of expression and democratic participation. A press freedom enables journalists and media organisations to report freely, investigate issues of public concern, and hold those in power accountable.

The right to freedom of expression is anchored on the need for citizens to contribute ideas to shape policy and demand better public service. Recognising this need, the people of Nigeria have adopted a Constitution that guarantees the right to freedom of expression, including the freedom to receive and impart ideas and information. Section 39 of Nigeria's constitution states that:

“Every person shall be entitled to freedom of expression, including freedom to hold and to receive and (2) states that “without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinion.”

During its [2018 UPR review](#)³, Nigeria committed to protect and promote fundamental human rights, including

freedom of expression and to create a safe and conducive conditions for the work of human rights defenders, activists and journalists. Nonetheless, the country has continued to record several freedom of expression violations including the mass killing of [#EndSars demonstrators](#)⁴. In its [assessment](#)⁵ of freedom of expression under President Muhammadu Buhari's eight-year rule, the MFWA said “The Buhari government blatantly refused court orders, journalists were killed and harassed, media outlets were fined and attacked for bogus infractions, Twitter – which gave a platform for many citizens to express their voices – was banned for months, and civil protesters were intimidated and killed.”

The continued repression and the lack of progress on Nigeria's 2018 UPR commitments were evident in the latest [UPR review in 2024](#)⁶. The country again accepted 279 recommendations, including those on the protection of freedom of expression and ensuring a safe and enabling environment for journalists and civil society.

It is clear that the effectiveness of the several fine legal texts guaranteeing press freedom is undermined by other contradicting laws which impose restrictions. These include the criminal

³ <https://www.upr-info.org/en/review/Nigeria>

⁴ [tps://mfwa.org/endsars-protests-cause-extensive-press-freedom-freedom-of-expression-violations/](https://mfwa.org/endsars-protests-cause-extensive-press-freedom-freedom-of-expression-violations/)

⁵ <https://mfwa.org/country-highlights/why-nigerias-new-president-must-reverse-buharis-depressing-freedom-of-expression-record/>

⁶ <https://ishr.ch/latest-updates/nigeria-upr-ensure-a-safe-working-environment-for-journalists-and-human-rights-defenders/>

code and penal code, criminal libel, anti-terror laws, the Official Secrets Act, the cybercrime law, as well as the shariah laws in force in the northern States. Sometimes, ambiguities in the laws are exploited to impose restrictions on press freedom and the civic space.

Nigeria's Constitution recognises customary systems including the Shariah, which prohibits blasphemy under section 204. Meanwhile, the Penal Codes adopted by 12 Northern States since 2001, allow Shariah Courts to impose death sentences for the same offense. This situation has been criticised as a violation of Nigeria's international human rights obligations and a major barrier to freedom of expression.

2.0 Methodology

This report was produced using data gathered through desktop research, it is complemented by monitoring reports, articles and other [reports](#)⁷ published by the Media Foundation for West Africa (MFWA) or in collaboration with its partner organisations. Press articles and materials from other media defense organisations were also consulted. Interviews with journalists and media freedom activists also provide invaluable material for this report. It uses both quantitative and qualitative analyses to present a general overview of the legal and regulatory landscape of Nigeria.

The broad overview of the laws regulating the media in Nigeria is followed by an analysis of particular laws or provisions that easily lend themselves to manipulation by the authorities to repress media freedom. While bad laws have often been weaponized against the media, there are other factors contributing to the continuous violations and the impunity with which they are perpetrated. The report ends with a call on the authorities to consider a comprehensive review of the legal frameworks regulating the media in Nigeria. It also recommends regular training on the media laws for journalists and effective media defence mechanisms.

⁷ <https://www.mfwa.org/wp-content/uploads/2022/01/State-of-Press-Freedom-in-Nigeria-2020.pdf>

3.0

Legal framework regulating media and freedom of expression

Nigeria has signed unto a number of international human rights instruments including the African Convention on Human and People's Rights (ACHPR), the Universal Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Article 9 of the ACHPR, [Article 19 of the UDHR](#) and Article 19(2) of the [ICCPR](#), guarantee the right to press freedom and freedom of expression.

The ideal espoused in the above international instruments are reiterated in the domestic laws of Nigeria.

- **The Nigerian Constitution** - Section 22 of Nigeria's 1993 Constitution provides that **"the press radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people."**

To be able to exercise the freedom guaranteed above, Section 39 of the Constitution further provides under subsection (1) that "every person shall be entitled to freedom of expression, including freedom to hold and to receive and impart ideas and information without interference; and under subsection (2) that **"without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and**

operate any medium for the dissemination of information, ideas and opinion."

According to this subsection, the President has the authority to license broadcasters. The ideal situation would have been an independent body exercising this power to avoid conflict of interest and assure fairness and transparency in the issuance of broadcasting licenses.

Subsection (3) sets out a number of limitations on the right to freedom of expression and the press:

"Nothing in this section shall invalidate any law that is reasonably justified in a democratic society –

- a. for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or
- b. imposing restrictions upon persons holding office under the Government of the federation or of a state, members of the armed forces of the federation or members of the Nigeria Police Force or other Government security services or agencies established by law.

Section 45 of the 1999 Constitution (as amended) also imposes limitations on the freedom of expression in the interest of defense, public safety, public order, public morality or public health. The restriction of press freedom on these grounds is applicable to print, electronic, and online media.ii.

● The Freedom of Information Act (2011) As Amended

The Freedom of Information Act was enacted on 28 May 2011 as a mechanism to facilitate rights to access to information in Nigeria. The law provides access to public records and information, making them freely available, subject to the extent consistent with the public interest and the protection of personal privacy.

The 32 sections of the Freedom of Information Act extensively address a wide range of issues relating to access to public records. These include the right of access to public information, records of information to be kept by public institutions, applying for and obtaining information and classes of information on which access ‘may’ or ‘must’ be denied. Section 16 of the Act protects the right of journalists not to disclose their sources.

● The Nigeria Press Council Act (1992)

The Act repeals the Nigerian Media Council Act of 1988 and establishes the NPC to “**promote high professional standards for the Nigerian Press and deal with complaints emanating from members of the public about the conduct of journalists in their professional capacity or complaints emanating from the press about the conduct of persons or organisations towards the press and for other matters connected therewith**” Like the NBC, the NPC lacks administrative independence to perform its functions and a bill to amend the Act establishing it before the National Assembly contains provisions that would further curtail

press freedom

The Copyright Act Nigeria (2004) The Act provides for the “**definition, protection, transfer, infringement of and remedy and penalty thereof of the copyright in literary works, musical works, artistic works, cinematograph films, sound recordings, broadcast and other ancillary matters**”

● Cybercrime (Prohibition, Prevention, etc.) Act of 2015

The law was enacted to provide an effective legal framework for the prohibition, prevention, detection, prosecution, and punishment of cybercrimes in Nigeria. There is a specific provision on “Cyber Stalking”, which is gathering information to harass, or sending multiple emails to annoy, embarrass, intimidate, or threaten a person.

Section 21 (1) (b) and 24(b) of the law has been used to arrest, jail and prosecute several journalists in relation to their work in the country. In a recent report, the MFWA highlighted [several cases](#)⁸ of attacks on journalists using the cybercrime law citing. “The collateral damage from its use by state officials and other powerful individuals to persecute critics is therefore too heavy a toll that offsets the benefits of the law,” the report observed. However, the law was amended in 2024 to remove the previous section of the law which made it an offence to send a message via a computer system that was “**grossly offensive, pornographic or of an indecent, obscene or menacing character**” or to send a message or cause any such message or matter to be so sent; or to send a message, knowing it to be false for the purpose of “**causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another**” or to cause such a message to be sent. This provision is now replaced by a new provision that has been analysed could also be subject to abuse based

on the antecedents of the Nigerian Police. The new provision now criminalizes and is limited to pornographic content or contents a sender knows ***to be false, to cause a breakdown of law and order, or to pose a threat to life.*** It should be noted that the Nigeria Police and law enforcement in general enjoy a wide range of discretion which could pose a threat to Nigerian Journalists and Media Practitioners should the meaning of “*to cause a breakdown of law and order*” *should be left to the discretion of law enforcement. What constitutes acts causing a breakdown in law and order was not defined or enumerated in the act and so again, the definition is left at the mercy of enforcer.* For instance What parameters would be used to measure if an act causes a breakdown? Who determines and how do we determine that an act has caused a breakdown in law and order? Could the dissemination of an information exposing corruption in government be likely to be interpreted as intending to cause a breakdown in law and order as we have witnessed in several cases pursued by law enforcement in Nigeria? These are more are thoughts that should be considered when observing the history of the violations Journalists and Media have experienced under repressive governments in Nigeria, including during democratically elected governments.

● The Law of Sedition

The Sedition law in Nigeria was one of the earliest that was enacted during the British colonial era in Nigeria to curtail the spate of criticisms against the administration and put a

check on the press. A statement or publication is said to be seditious when it is intended to incite the people against the federal or state government and to make the people call for a change of government through unlawful means.

Although an Appeal Court had in 1982 ruled that the law should not have any place in a democratic society, the authorities are yet to expunge it from the statutes, and the Nigerian Police continue to charge journalists and civil society activists with it.

● The Official Secrets Act 1962

The Act provides for “securing public safety and for purposes connected therewith”.

The provisions of the Act provides for the ‘protection of official information’; ‘protection of defence establishments’; ‘restriction on photography, etc, during periods of emergency’; ‘control of mail forwarding agencies’ and “Search Warrants”. This Federal Legislation restricts access of journalists and other persons to official information. It makes it an offence on the part of any person to transmit any classified matter to a person to whom it is not authorised on behalf of the government to transmit it or who obtains, reproduces or retains any classified matter (see section 1). Section 9 of the Act defines “classified matter” as “**any information or thing which, under any system of security classification from time to time in use by or by any branch of the government, is not to be disclosed to the public and of which the disclosure to the public would be**

⁸ Nigeria's cybercrime law being selectively applied - IFEX



prejudicial to the security of Nigeria.”

Pursuant to this law, the government may deny access to certain important information, although it might be of public interest. They can also use this law to clamp down on any sensitive publication. On August 5, 2024, police officers arrested Isaac Bristol, an undercover Nigerian journalist and blogger. Bristol, also known as PIDOM, was arrested in his hotel room in Port Harcourt and tortured, according to local media [reports](#). The police accused Bristol of leaking government documents on his Twitter handle between June and July. Other accusations levelled against the journalist charges included cybercrime, and falsely levelling a money laundering allegation against President Bola Tinubu.

● **Obscene and Harmful Publications Act, 1961**

Section 3 (1) of the Obscenity Act of 1961 states that an article shall be deemed obscene if its general effect tends to deprave and corrupt audience or readers who might have either read or heard the matter. The Federal Legislation which seeks to prohibit publication or distribution of any article or object deemed to be obscene and provides a fine or imprisonment not exceeding 3 years or both (section 4 (1)). Section 3(1) in particular contains the provisions for obscenity.

● **Nigerian Criminal Code 1990.**

Section 59 of the Criminal Code Act in Nigeria - Publication of false news with intent to cause fear and alarm to the public. The section reads:

(1) Any person who publishes or reproduces any statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace, knowing or having reason to believe that such statement, rumour or report is false, is guilty of a misdemeanour and liable on conviction to imprisonment for three years.

(2) It shall be no defence to a charge under subsection (1) of this section that he did not know or did not have reason to believe that the statement, rumour or report was false unless he proves that, prior to publication, he took reasonable measures to verify the accuracy of such statement, rumour or report.

- **Section 373 of the Criminal Code Act: Defamation**

Criminal defamation is one of the most serious dangers facing journalists and media organisations. The law defines defamation as **“a matter likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or likely to damage any person in his profession or trade by injuring to his reputation”**.

- **Section 51 of the Criminal Code Act: Seditious**

Is guilty of seditious: **“(1) Any person who: (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention; (b) utters any seditious words; (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; (d) imports any seditious publication, unless he has no reason to believe that it is seditious.”**

The penalty on conviction for a first offence is imprisonment for two years or a fine of two hundred naira or to both. A subsequent offence makes one liable to imprisonment for three years and the seditious publication forfeited to the State.

(2) Any person who without lawful excuse has in his possession any seditious publication is guilty of an offence and liable on conviction, for a first offence, to imprisonment for one year or to a fine of one hundred naira or to both such imprisonment and fine, and for a

subsequent offence, to imprisonment for two years; and such publication shall be forfeited to the State.

● **Nigeria Penal Code Act 1960**

The Act which prescribes seditious as an offence, also listed provisions in sections 416–421 for offences relating to publication either by words, spoken or written, or by mechanical means which are capable of inciting disaffection to the government (s.416); inciting hatred between classes (S.417); false news with intent to cause offence against public peace (S.418) and possession of seditious articles (S.419). Various terms of imprisonment extending to 7 years or fine or both are prescribed under the chapter. The Penal Code Act is the equivalent of the Criminal Code Act in the northern states of Nigeria.

The Copyright Act Nigeria (2004) The Act provides for the **“definition, protection, transfer, infringement of and remedy and penalty thereof of the copyright in literary works, musical works, artistic works, cinematograph films, sound recordings, broadcast and other ancillary matters”**

● **Newspapers (Amendment) Act/Newspapers Laws 1964**

This Federal Legislation is regulatory, but it also makes publication of certain statements in a Newspaper an offence (section 4(1)). Some states of the Federation have a similar provision of the offence of publication of false statements in Newspapers. Section 21 (1) of the Newspapers Law of Lagos State Cap N2 Laws of Lagos State, 2003 states as follows: — **“21(1) Any person who authorizes for publication, publishes, reproduces or circulates for sale in a Newspaper any statement, rumour or report knowing or having reason to believe that such statement, rumour or report is false shall be guilty of an offence and liable on**

conviction to a fine or to imprisonment for a term of 1 year.”

● **Sharia law**

The majority of the states in Northern Nigeria operate the Shariah (Islamic law), which criminalises blasphemy. [Sections 114 and 210 of the penal code law of Kano State](#)⁹ impose stiff penalties for various communications considered insulting or offensive to religion. This is a major restriction on free speech and media freedom.

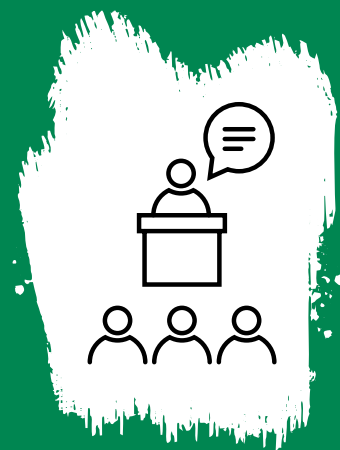
● **Institutions Regulating the media space of Nigeria**

In Nigeria, the broadcast (Television and radio) and print media (Newspaper and magazine) are regulated by National Broadcasting Commission and the Nigeria Press Council. National Broadcasting Commission (NBC) regulates the broadcasting sector in Nigeria. The NBC Act also established the NBC, which is responsible for regulating the broadcasting industry. There is also the Broadcasting Code (BC), which was made by the NBC under the NBC Act. The BC represents the minimum standard for broadcasting in Nigeria.

The Nigerian Press Council (NPC) is a parastatal established by the Nigerian Press Council Act No. 85 of 1992 (as amended in Act 60 of 1999) to ensure the maintenance of high professional standards for the Nigerian Press. Like most other Press Councils around the world, the functions of the Nigerian Press Council revolve around ethical standards. The Council, therefore, has as one of its major functions, the duty to enquire into complaints against the Press from the Public and also into Complaints from the Press about the conduct of persons or organizations towards the Press. Simply put, the Council serves as a buffer between the Press and the public.

⁹ [Sections 114 and 210 of the penal code law of Kano State](#)

3.1 Problematic laws and how they are weaponised against journalists



The laws regulating the media in Nigeria are largely progressive. For instance, there is no legal restrictions on the setting up and operation of newspapers and news websites. The Freedom of Information Act 2011, despite the mixed results from its implementation so far, is a key enabler of access to information.

Section 39 of the 1993 Constitution of Nigeria provides under subsection (1) that “every person shall be entitled to freedom of expression, including freedom to hold and to receive”; and subsection (2) states that “without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinion.”

The object of this freedom is expressed in Section 22 of the Nigerian constitution in these succinct terms: **“The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people.”**

It is, ironically, in the pursuit of this constitutionally-sanctioned objective of holding the government to account that the media comes up against a battery of challenges.

Among these challenges are the authorities’ personalised interpretation and operationalisation of Section 45 of the

Constitution which places limitations on the freedom of expression in the interest of defense, public safety, public order, public morality or public health. The restriction of press freedom on these grounds is applicable to print, electronic, and online media. Then there is the fact that this section of the law falls under the famous chapter II of the Nigerian Constitution regarded as ‘non-justiciable’ because Section 6(6)(C) of the same Constitution takes away the ability and power of the citizens to make the government accountable for the promises in Chapter 2. Section 6(6) (C) is regarded as an ouster clause and it states that; “...shall not except as otherwise provided by this Constitution, extend to any issue or question

as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution”. It should be noted that Chapter 2 mostly contains the political, economic, social, cultural and developmental rights of citizens’ rights, such as rights to education and health,

Nigerian Criminal Code 1990. - Defamation

Chapter 33 of the Criminal Code criminalises defamation. Section 375 stipulates that “any person who publishes any defamatory matter is guilty of a misdemeanour and is liable to imprisonment for one year; and any person who publishes any defamatory matter knowing it to be false, is liable to imprisonment for two years.

[Section 373](#) of the Criminal Code Act defines defamation as a matter likely to injure the reputation of any person by exposing him or her to hatred, contempt or ridicule or likely to damage any person in his profession or trade by injury to his or her reputation. Such manner may be expressed in spoken words or in words legibly marked on any substance whatever or by any sign or object signifying such matter otherwise than by words and maybe expressed either directly or by insinuation or irony.

“Section 59 of the Code criminalises the publication of false news with intent to cause fear and alarm; (1) Any person who publishes or reproduces any statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace, knowing or having reason to believe that such statement, rumour or report is false, is guilty of a misdemeanour and liable on conviction to imprisonment for three years.

Given the need to protect the reputation and image of individuals and organisations from being denigrated in a wanton manner, civil

defamation has been universally accepted as a necessary check on reckless publications. Criminal defamation, however, is considered an extreme and disproportionate inhibition on the duty of the media to expose wrong and demand accountability of public officers. It is therefore, one of the most feared legal obstacles to press freedom. In Nigeria, powerful people deliberately conflate critical publications with defamation, with the police standing ready to act on their orders.

On July 5, 2022- Mr Ikenna Ezenekwe, the publisher of online news platform 247 Reports, was [arrested](#) by security operatives over a publication deemed defamatory of top public official. The Chief of Staff to former governor of Anambra state, Mr Willie Obiano, filed a defamation complaint to the police that an article written by Mr Primus Odili was defamatory of him.

The publisher of Eagles Foresight, [Hammed Olamilekan](#) and [Agba Jalingo](#) of Cross River Watch were both arrested on accusations of defamation for separate publications in 2022 and 2023.

Armed police officers [also arrested](#)¹⁰ the editor-in-chief of Global Upfront Newspapers, Madu Onuorah, at his home in Abuja on May 23, 2024. The arrest followed a defamation petition by a U.S.-based Reverend sister.

On February 7, 2023, a Magistrate Court in Kwara State convicted Gidado Yushau, publisher of the online news portal, News Digest and Alfred Olufemi, a freelancer, on conspiracy and defamation charges. They each chose to pay the 100,000 Naira (US\$219) fine imposed by the Court to avoid serving the accompanying five months in jail. The matter goes back to 2019 when Hillcrest Agro-Allied Industries caused the arrest of the duo over a publication alleging cannabis use at the rice factory. It is important to note that an Appeal’s Court [overturned](#) the judgement a year later.

¹⁰ <https://mfwa.org/country-highlights/nigerian-police-detained-journalist-madu-onuorah-over-alleged-defamation/>

These are but a few cases that illustrate how criminal defamation has been weaponized against journalists who are paying a huge price for only discharging their professional duties.

Nigeria Penal Code Act 1960

The Act which prescribes sedition as an offence, also listed provisions in sections 416–421 for offences relating to publication either by words, spoken or written, or by mechanical means which are capable of inciting disaffection to the government (s.416); inciting hatred between classes (S.417); false news with intent to cause offence against public peace (S.418) and possession of seditious articles (S.419). Various terms of imprisonment extending to 7 years or fine or both are prescribed under the chapter. The Penal Code Act is the equivalent of the Criminal Code Act in the Northern States of Nigeria, and has often been deployed to silence critical journalists and dissent opinion across Nigeria in recent times.

On February 28, 2023, the police in Bauchi State [charged](#)¹¹ Haruna Mohammed Salisu with inciting the public to disturb the Bauchi State Governor, under Section 114 of the Nigerian Penal Code. Salisu faced up to three years in prison under the law. The charges followed the journalist's arrest while covering protests against the Governor during Nigeria's presidential elections on February 25.

In May 2024, the Federal lawmaker, Mansur Soro, representing Darazo-Ganjuwa in the House of Representatives, filed a [criminal defamation](#)¹² lawsuit against WikkiTimes accusing the newspaper of "injurious falsehood, criminal defamation and mischief". The lawsuit filed under the Bauchi State Penal Code, followed the newspaper's investigative report alleging breaches of the Procurement Act by the lawmaker in the execution of "fictitious" projects in his constituency. The parties joined

in the suit were Yawale Adamu (the reporter), and Haruna Salisu Mohammed, the Chief Executive Officer of WikkiTimes.

On February 6, 2024, the police in Kwara State [arrested](#) and subsequently charged four journalists with a range of offenses including as defamation under section 393 of the Penal Code. The four are Adisa-Jaji Azeez, Managing Director and Salihu Ayatullahi, Editor-in-Chief, of the online newspaper, and reporters Salihu Shola Taofeek, and Abdulrahman Taye Damilola. The charges followed a complaint by the Rector of Kwara State Polytechnic over critical publications by [The Informant247](#) news website.

Nigeria's Cybercrime law

One of the legal nightmares of journalists in Nigeria is the Cybercrime Law 2015. The law was enacted in 2015 with the aim to address cybercrimes such as hacking, identity theft, and online fraud - legitimate concerns for any nation. However, certain provisions have turned out to be restrictive and detrimental to free speech and press freedom.

Section 24 of the Act criminalises online content that is "grossly offensive," "indecent," or "false." It punishes individuals who send or post content with the intent to "cause annoyance, inconvenience, or needless anxiety." Media actors and civil society have raised concerns that this provision could be manipulated used to deter investigative reporting, and critical journalism. The vague wording of terms like "offensive" or "indecent" leaves room for broad interpretation, which has indeed been exploited by the security agents to harass journalists, often on the orders of powerful individuals or public officials.

Hammed Olamilekan, founder of a privately owned news website Eagleforesight, whom the

SSS detained on May 13, 2022, for republishing a report about the "alleged criminal records" of Dapo Abiodun, Governor of Ogun State, Nigeria. For close to four months, Bashiru was in detention following a charge against him under Section 24(1) of the Cybercrimes Act, 2022.

On February 5, 2024, the police in Kwara State [detained](#)¹³ Adisa-Jaji Azeez, Managing Director and Salihu Ayatullahi, Editor-in-Chief of the online newspaper The Informant247, when the duo honoured their invitation. The following day, the journalists were charged with conspiracy under section 27(1)(b), and cyberstalking under section 24(1)(b), of [Nigeria's Cybercrimes Act](#)¹⁴, as well as defamation under section 393 of the penal code. The charges followed a complaint by the Rector of Kwara State Polytechnic over critical publications by news website.

In July 2019, Agba Jalingo, the publisher of the online newspaper, Cross River Watch, was [arrested, detained](#) and then charged with treasonable felony, terrorism and cyberstalking under Section 24 (1)b the Cybercrime Law. This followed a corruption story about Ben Ayade, the then-Governor of Cross River State. The journalist spent six months in detention while the trial, which eventually ended in his favour, lasted 30 months.

Jalingo was arrested again and charged with cyberstalking under the same Section 24 (1) b of the Cybercrime Law in August 2022. The journalist had published a story alleging that a relative of former Cross River State Governor Ben Ayade, had engaged someone to write her law exams for her. Jalingo was arrested and detained for several days before being granted bail.

The police on August 17, 2023, arraigned before a Federal High Court in Abuja on a two-count

Chinonso Uba, also known as Nnonsonkwa, who works with Ozisa FM in Owerri, Imo State. Uba was accused of defaming the Imo State Governor, Hope Uzodinma in a Facebook publication that was an allegation.. Uba denied the charges and the judge denied him bail, ordering that he be returned to police custody until September 2023.

The Charge Sheet No: FHC/ABJ/CR/367/2023 showed Uba was charged under Nigeria's Cyber Crime Law 2015 and named the Inspector General of Police as the complainant. This is despite the fact that the charge naming Governor Uzodinma as the target of the alleged defamatory publication that was intended to cause annoyance inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety, contrary to Section 24 (1) (B) Cyber Crime Prohibition Act.

The police in Lagos on May 1, 2024, arbitrarily detained for nine days Daniel Ojukwu, a journalist with The Foundation for Investigative Journalism. Ojukwu was arrested over an online [report](#) alleging corrupt practices by Adejoke Orelope-Adefulire, a former senior Presidential aide.

The rampant use of the provisions of the Act to silence critical voices has claimed several victims as the above cases show. A recent [report](#)¹⁵ by The Africa Report quoting data from the Centre for Journalism Innovation and Development (CJID) sources, stated that 68 attacks on journalists were documented in the seven years prior to the introduction of the Cybercrime law in 2015. The report adds that 750 verified attacks on journalists have been recorded in Nigeria since 2015.

There have, consequently, been a flurry of agitations and advocacy for the repeal of the

¹¹ <https://mfwa.org/issues-in-focus/hounded-beaten-detained-wikkentimes-publisher-recounts-ordeal/>

¹² <https://wikkentimes.com/contact-us/>

¹³ <https://wikkentimes.com/kwara-police-detain-two-investigative-journalists-on-request-of-poly-rector>

¹⁴ <https://ictpolicyafrica.org/fr/document/h52z5b28pjr?page=1>

¹⁵ <https://www.theafricareport.com/348123/nigeria-cybercrime-law-still-used-to-harass-citizens-despite-amendment>

repressive provisions. There was great relief when the ECOWAS Court on March 25, 2022, [ordered](#)¹⁶ the Nigerian government to align the Cybercrime Law with its international obligations. The clamour for reform seemed to have received another massive response when the Nigerian authorities decided to amend the law as demanded by the court and civil society. In February, 2024, President Ahmed Bola Tinubu assented to the bill amending the cybercrime act, after the House of Representative had passed it earlier that month. One of the key features of the [amendment](#)¹⁷ concerned the notoriously elastic Section 24(1) (a) and (b) which has often been used by security agents to harass journalists and other critics. The section broadly defined cyberstalking to include materials that were grossly offensive, indecent, obscene, of menacing character or sent to cause annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, hatred, ill will and needless anxiety.

In the amended version, this definition was narrowed down in the to ***Any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that –***

- is pornographic
- he or she knows to be false, for the purpose of causing a breakdown of law and order, posing a threat to life, or causing such message to be sent,

This means that some acts that previously constituted cyberstalking will not be considered as such moving forward. However, the next couple of months following the supposed amendment showed that the textual changes had changed little in practice and police attitude.

National Security

Like every country, Nigeria has concerns about national security. Consequently, the constitution makes provisions for laws that restrict freedoms in the interest of national security, territorial integrity or public safety, for the prevention of disorder or crime, etc. However, Nigeria's "ever increasing security concerns are being weaponized by the government to crack down on news media in the country and shrink civic space," observes Senami Kojah, an award-winning freelance investigative journalist in a recent [article](#)¹⁸.

The police and the State Security service (SSS) have often invoked "national security" to go after journalists who write on sensitive national issues. What constitutes national security and what kind of publications constitutes a breach of it has always been the judgement of the security forces a priori.

In May 2013, the State Security Service (SSS) [arrested](#)¹⁹ Segun Olatunji, the Ogun State Correspondent of The Punch. Mr. Olatunji went to the offices of the SSS at the invitation of Joseph Okpo, the Ogun State Director of the security agency. Olatunji was subjected to a full day of exhausting interrogation by officers of the SSS on issues bordering on "national security" in connection with the journalist's story. The story published by the Sunday Punch, was based on allegations by two former government security insiders about a spate of high profile killings.

Nankpah Bwakan, a journalist with Newsstar, Francis Zhitta (of Star Pointer) and Nandom Kura (of the News Herald) were [arrested](#)²⁰ on March 10, 2011, and held for three days at SSS premises in Plateau state for "undermining state security." The journalist were accused of possessing and distributing leaflets insulting state governor Jonah Jang, although had picked

them just to read them. Hammed Olamilekan, founder of a privately owned news website Eagleforesight, whom the SSS detained on May 13, 2022, for republishing a report about the "alleged criminal records" of Dapo Abiodun, Governor of Ogun State, Nigeria. For close to four months, Bashiru was in detention following a charge against him under Section 24(1) of the Cybercrimes Act, 2022.

Shariah (Islamic Law)

In the North of Nigeria, several States have blasphemy laws on their statutes, severely limiting open intellectual discourse and debate on religion and culture. Supported by the Hisbah, a rag-tag religious police, the sprawling Shariah Courts ruthlessly enforce these religious laws against alleged blasphemers in trials that often fail to meet basic principles of fair trial. In a recent case, a court in Kano, northern Nigeria, [convicted](#)²¹ an atheist, Mubarak Bala, of blasphemy in connection with his social media posts about the Prophet Mohammed and Islam. Bala was sentenced to 24 years in prison.

A singer, Yahaya Sharif Aminu was [sentenced](#)²² to death on October 10, 2020 for a similar offense in connection with his song which was shared on a WhatsApp platform before it went viral.

Sharif-Aminu was charged and convicted under Section 382 (b) of the Kano State Sharia Penal Code Law of 2000. However, on January 21, 2021, the appellate division of the High court overturned the decision over procedural irregularities, and ordered a retrial. Lawyers for Sharif-Aminu appealed the decision, insisting that the High Court should have acquitted and discharged their client by declaring that the Kano State Sharia Penal Code is inconsistent with the secular Constitution of Nigeria. On August 17, 2021, the Court of Appeal affirmed

the decision of the appellate division of the High Court – that the Shariah Penal Code was legitimate and that the case be heard again by the Shariah court.

Still dissatisfied, Sharif-Aminu's lawyers appealed to the Supreme Court to set aside the judgment of the Court of Appeal and enter judgment in favour of their client. In the midst of the legal saga Sharif-Aminu remained in prison, as advocacy for his release increased. The MFWA submitted an [amicus curiae petition](#)²³ to the Supreme Court on behalf of the victim in May 2023. The petition submitted by the MFWA and the International Senior Lawyers' Project, reminded the apex court that "no international court has ever held that the State may take the life of a citizen for having uttered controversial speech." the petitioners said.

While the above cases relate to non-journalists, it's deterrent effect on journalists, especially those reporting from Northern Nigeria, cannot be underestimated. "It is difficult not to feel intimidated by the blasphemy laws and the trend of their use to repress critical discourse on religion. Once you venture to write anything controversial about Islam or religion in general, you are treading slippery grounds. It is not just about the law but the authorities' tendency to pander to the clamour of the zealots. It is really scary", a journalist told the MFWA anonymously."

¹⁶ <https://mfwa.org/ecowas-court-orders-nigeria-to-align-its-cybercrime-law-with-its-international-obligations/#:~:text=The%20MFWA%20welcomes%20the%20Court%E2%80%99s%20ruling%20and>

¹⁷ <https://placng.org/Legist/cybercrimes-amendment-act-exposes-lapses-in-legislative-process/>

¹⁸ <https://www.cima.ned.org/blog/the-weaponization-of-national-security-against-nigerias-free-press/>

¹⁹ <https://www.nairaland.com/1307131/ssr-arrests-punch-reporter-over>

²⁰ <https://rsf.org/en/presidential-election-being-held-attacks-media-increase>

²¹ <https://www.aljazeera.com/news/2022/4/5/nigerian-atheist-jailed-for-blasphemy-over-facebook-posts>

²² <https://mfwa.org/ecowas-court-orders-nigeria-to-align-its-cybercrime-law-with-its-international-obligations/#:~:text=The%20MFWA%20welcomes%20the%20Court%E2%80%99s%20ruling%20and>

²³ <https://mfwa.org/mfwa-petitions-nigerias-supreme-court-in-appeal-case-of-death-penalty-victim/>

3.1.1



Obstacles to Fighting Impunity

Impunity for violations against journalists remains a major concern worldwide, and in Nigeria it is endemic. Journalists are subjected to physical assault, seizure and/ destruction of their equipment, malicious prosecution, arbitrary arrests and detentions almost on a daily basis. Ironically, the police and other state security agents are the leading perpetrators. According to Lagos-based Media Rights Agenda (MRA), law enforcement agencies were responsible for more than 60% of the at least 45 cases of attacks on journalists and media houses [documented](#)²⁴ by the media rights organisation between May 2023 and April 2024.

The security agencies sometimes act above the law to the point of serially defying court orders to uphold the rights of journalists. In a classic case of brazen disregard for the law, the State Security Services (SSS) [pounced on](#)²⁵ Omoyele Sowore, publisher of the Sahara Reporters, and carried him off into detention, right after a court had ordered his release in December 2019.

State security agents also easily lend themselves as pliant tools for the elite to launch reprisal attacks against journalists who publish critical stories about them. In Most cases of press freedom violations, the police action has followed complaints or orders from politicians and other powerful organisations and individuals. The victims are often detained beyond the 24 hours prescribed period for pre-trial detentions. In many cases, no court warrants were secured to remand the suspects.

For example the police detained Olamilekan Hammed, Publisher of the EaglesForeSight news website, for two weeks without trial in 2022, following a critical report on the governor of Ogun State Governor, Dapo Abiodun. The journalist [spent 138 days](#) in detention, [regaining his freedom](#) only after his lawyers filed a suit at the Federal High Court, Abeokuta Division, for the enforcement of the fundamental rights.

Agba Jalingo's long detention and 30-month trial in 2019 was triggered by a critical

publication about the Rivers State governor, Benedict Ayade. In 2022, Nigeria's [federal court](#) dismissed all charges against the journalist, only for him to be arrested again, this time at the instance of Elizabeth Alami Frank Ayade, sister-in-law of state governor. The court eventually acquitted the journalist once again.

It was Security officers close to Bauchi State Governor, Bala Mohammed, who [arrested](#) Haruna Mohammed Salisu of WikkiTimes, while he was covering Nigeria's February 25, 2023, presidential elections at Duguri, in Bauchi State. The journalist alleges that the Governor ordered his arrest for interviewing disaffected voters who were protesting against him (the governor).

Following defamation a complaint by Mr. Willie Obiano, the Chief of Staff of the immediate past Governor of Anambra State, security operatives [arrested](#) journalist Ikenna Ezenekwe in April 2024.

Luka Binniyat, a reporter for the US-based Epoch Times online newspaper, [was arrested](#)²⁶ by the police on November 4, 2021, after a complaint from the Senator for Kaduna South, Danjuma La'ah. Binniyat had written an [article](#) denouncing the Kaduna State government's indifferent response to attacks by bandits on communities in southern Kaduna. He spent 84 days in detention.

Another concern is that the Cybercrime law, even after the amendment, remains potentially repressive. For example, Section 38 of Nigeria's Cybercrimes Act does not explicitly prescribe judicial oversight before law enforcement can access subscriber information from internet service providers. This leaves journalists at the mercy of the authorities regarding surveillance, privacy and data and breaches.

Also, a number of press freedom organisations contended that section 24 of the law is still vaguely worded. The section criminalises messages sent with the intention of "causing a breakdown of law and order [or] posing a threat to life."

On May 22, 2024, just three months after the revision of the cybercrime law, the police [arrested](#) Madu Onuorah, editor of the Global Upfront online newspaper, in Abuja and charged him under that dreaded law.

In a recent [article](#)²⁷, the MFWA observed that "The line between online journalism and cybercrime remains blurred, even after amendments to Nigeria's Cybercrime Act."

The article cited the detention of Chinonso Uba, a journalist with Ozisa FM in Owerri, Imo State in Imo State and that of Daniel Ojukwu of [The Foundation for Investigative Journalism](#) as evidence of the continued manipulation of the cybercrime law to undermine press freedom. As leading perpetrators of violations, the security agents

²⁴ <https://www.theafricareport.com/348123/nigeria-cybercrime-law-still-used-to-harass-citizens-despite-amendment/>

²⁵ https://punchng.com/drama-as-dss-operatives-storm-abuja-court-to-rearrest-sowore/#google_vignette

²⁶ <https://mfwa.org/issues-in-focus/journalist-luka-binniyat-released-after-84-days-in-detention-mfwa-demands-end-to-prosecution/>

²⁷ [Nigeria's hydra-headed Cybercrime Act retains its venom despite amendment \(mfwa.org\)](#)

have unsurprisingly been negligent in their duty to protect journalists from unlawful violence freely and effectively. The police for instance, often fail to investigate complaints about press freedom violations, especially when the alleged perpetrators are fellow police, military or other security officers. The persistent lack of police reaction regarding complaints of violence against journalists has discouraged many victims from reporting violations against them.

Another formidable impediment to fighting impunity is the increasing use of strategic suits by powerful individuals and groups to intimidate journalists and media organisations. Even when a critical report has backed its allegations with credible evidence, the powerful people against whom such allegations are made, decide to fight back by resorting to vexatious lawsuits. Known as Strategic Lawsuits against Popular Participation SLAPP, they are often used to put financial and psychological pressure on the defendants, distracting them from their work.

Another major impediment to countering impunity is financial difficulties. Litigation is expensive and beyond the economic means of many journalists and media outlets. They consequently fail to take legal action to seek redress for violations. In many cases, the perpetrators get emboldened by the vulnerable position of their victims, who are often forced to accept amicable settlements. Unable to afford prolonged litigation, and often unsure that justice will be delivered, abused journalists and media organisations take consolation in apologies, compensation for medical bills or damaged equipment.

Apart from financial difficulties and the vulnerability that come with it, there is also a safety policy gap. Majority of media houses do not have safety policy that includes training of their journalists. Consequently, they are not sufficiently equipped to stay safe from problematic laws such as those on false publication, defamation and cybercrime, even as they produce critical and impactful content.

Also, falling professional standards and increasingly routine output with little impact undermine public confidence in the media. The public is therefore, disinterested in cases of attacks against the media. The lack of public solidarity with abused journalists emboldens the perpetrators, thus perpetuating impunity.



4.0

Conclusion/ Recommendations

Nigeria's constitution, along with international and African human rights conventions, protects press freedom and the right to free expression. Nigerian authorities are obligated to respect such rights by allowing criticism of the government without fear of retaliation, censorship, or legal sanctions

However, the authorities have shown little commitment to advancing these ideals. The media has been left to its own devices as it faces multifaceted obstacles including police hostility and arbitrariness as well as laws that are weaponised against press freedom.

The cybercrimes law, which penalises a broad range of online communications, remain a deadly tool against press freedom, and must be addressed, given that the recent amendment has failed to blunt the repressive edge of the law.

Addressing these challenges is crucial to ensuring the safety of journalists and the protection of a free and independent press as a major pillar of democracy and an enabler of accountability.

To strengthen the media to enable it play its critical role in national development, there is the need to ensure independent and professional policing and to bring clarity to the Cybercrime law. Nigeria's blasphemy legislations also constitute a major restraint on freedom of expression, and must, therefore, be reviewed or repealed. In order to make Nigeria's media more dynamic and independent, and to expand the civic space, it is recommended that:



A

The government, in collaboration with all stakeholders, should take steps to ensure that laws that criminalise journalism and restrict media operations are repealed or amended. This includes the heavily-weaponised cybercrime law and criminal defamation.



RECOMMENDATION 1

RECOMMENDATION 2

C

An independent board should be established or a special desk set up within the Human Rights Commission to receive and deal with violation complaints involving security agents.



RECOMMENDATION 3

B

The National Press Council and media professional bodies and self-regulation groups like the Nigeria Union of Journalists (NUJ) should be resourced to work effectively and proactively to deal with ethical breaches and complaints by people aggrieved by media content. This will help settle cases before they end up in court or in the hands of the police.



RECOMMENDATION 1

RECOMMENDATION 2

E

The judiciary must protect public interest journalism by dealing expeditiously with SLAPP actions against journalists in order to save them cost, time and stress.



RECOMMENDATION 5

RECOMMENDATION 6

D

National and international media defence bodies should provide journalists and editors with training in media legal issues to enable them avoid needless lawsuits. They should also provide legal and financial support to journalists to defend themselves or seek redress for violations suffered.



RECOMMENDATION 4

F

Media development organisations should continue to work with the media to continuously improve professional standards and mount advocacy for improvement in safety of journalists conditions.



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