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HATE SPEECH, FREEDOM OF EXPRESSION AND STATE SECURITY LAWS IN NIGERIA



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Abstract

Hate speech has generated much controversies in recent times in Nigeria to the extent that some had harped on the need or otherwise for a special law against it. The phenomenon has polarized the elites, particularly the political class, who obviously are the most responsible for hate speech. As a result, it was suggested that government should declare hate speeches as terror acts in view of troubling activities and misinformation capable of jeopardizing the unity of the country. Stakeholders, particularly security agencies have come out to urge the government to take steps to curb it considering the damage to the national life that it could cause should government fail to tackle it on time. Top government officials warned of the possibility of introducing fresh proactive steps to whip certain elements in line over utterances believed to constitute hate speeches.

In the light of the above, this article examines hate speech as that type of speech that is capable of causing ill-feelings among any groups of people. It includes speech which instigates one tribe against the other or against the government of the day. In doing this, the article attempts to answer a number of questions that have been raised over this development: The questions include:

- (1) Would any step taken by the authority such as enacting a special law on prohibiting speeches considered to be hate speech would not constitute violation of the right of freedom of expression as constitutionally guaranteed for Nigerians under the Constitution of the Federal Republic of Nigeria, 1999 and as protected by important international instruments and charters, especially the *Universal Declaration of Human Rights (1948)*, the *African Charter on Human and People's Rights (1981)*, and the *International Covenant on Civil and Political Rights (1966)*?
- (2) Would the statute not undermine the right of the public to know about the activities of the government, including the security agencies, which in a

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democracy are subordinate to civil authorities as envisaged by the *Freedom of Information Act (2011)*?

- (3) Would such law not abrogate the guarantee of the safety of media professionals and incapacitate the media to carry out the obligation to monitor governance and hold the government accountable to the people as stipulated in section 22 of the 1999 Constitution, (as amended).
- (4) Would such law not constitute an infringement of the right of opposition political parties to take the ruling parties at the federal, state and local levels to task on their policies, programmes and performance?
- (5) Would such law not breach the right of the electorate to hold campaign or electoral promise(s) and encroach of the right of the civil society, unions, pro-democracy activists and so on, to express dissent over government policies that may be considered injurious to their collective and/or individual interests.

Introduction: The Phenomenon of Hate Speech

Hate speech is a speech which attacks a person or group on the basis of attributes such as race, religion, ethnic origin, sexual orientation, disability or gender. It may involve any publication or statement which portrays depravity, criminality, unchastity or lack of virtue of a class of citizens of any race, color, creed or religion or subjects them to contempt, division or obloquy.¹

Hate speech also involve publicly making statements by which a group is threatened, insulted or degraded, due to race, skin colour, national or ethnic origin faith or sexual orientation. Any published information or opinion or other statement that threatens or insults a group because of race, nationality, religion or conviction, sexual orientation, disability or any group active traits is hate speech.

In Ireland, the *Prohibition of Incitement to Hatred Act of 1989* prescribes that words or behaviours which are threatening, abusive or insulting and are intended or having regards to all the circumstances are likely to stir up hatred against a group of persons in the state or elsewhere on account of their race, color, nationality, religion, ethnic or national origin membership of the traveling community or sexual orientation are hate speech.

Though it has been defined as "speech which attacks a person or group on the basis of attributes such as race, religion, ethnic origin, sexual orientation, disability, or gender, there is still a strong contention among commentators on what should pass for a hate speech in the country and where lies the line of demarcation between it and freedom of expression enshrined in the constitution of the county.

¹ *Beauharnais v. Illinois*, 3433 US (1952)

Hate speech as a recent development in Nigeria is as a result of a divisive politics in the country. It is a manifestation of frustration and intemperate expression of that state of mind which is inconsistent with the age-long cultural upbringing, moral uprightness, discipline, confidence and respect of Nigerians, without being subservient, in interactions which Nigerians are noted for. Hate speech involves speaking openly without any legal constraint, even when the speech is manifestly uncivil. Hate speech legislation attempts to uphold a public good by protecting the basic dignitary order of society against hate attack. But such legislation needs to be drafted with care. Its aim is to confine the application of legal sanctions to speech-acts, which directly and deliberately seek to make it impossible for their targets to live lives of basic dignity in our society. The Hate Speechlaw ought to focus on victims of hate crimes, and defending them. Hate speech are motivated by bias or prejudice towards particular groups of people. Violence and crime known as hate crime are motivated by racism, xenophobia, religious intolerance, a person or group, disability, sexual orientation, gender identity, political views or any forms of intolerance based on any forms of discrimination of hatred which may result in physical assault and murder. Hate speech thus encourage violence and terror against the victims. Furthermore, history of cases of genocide and ethnic cleansing revealed that victims are first exposed to hatred through hate speeches disseminated through various hostile media and methods.

Hate Speech and Similar Concepts

The need to distinguish or differentiate hate speech from similar concepts or phenomena is imperative because of the tendency to equate hate speech with any of those concepts such as defamation, sedition, incitement and other free speech restricting laws.

Defamation refers to a false statement made by a person against another person whether published or unpublished which causes injury to that person's reputation thereby exposing him to hatred, contempt or ridicule or likely to damage that person in his profession or trade. The effects of any defamatory statement could be to:

- a. lower the plaintiff in the estimation of right thinking members of the society
- b. expose him to hatred, contempt or ridicule, or
- c. cause other persons to shun or avoid him, or
- d. discredit him in his office, trade or profession, or
- e. Injure his financial credit.²

²Yinka Olomogboji, 2016, Human Right and Civil Liberties in Nigeria. Princeton at p. 231

Defamation at civil law is a tort while it is also an offence under criminal law. As an offence it attracts one year imprisonment and where the falsity of the statement is known to the person making it, then the person would be liable to two years imprisonment.³ From the above definition of defamation it is very clear that it is not the same as hate speech. Hate speech is a speech which is directed as an attack against a person or group of persons on the basis of certain attributes of the person or group of persons such as race, religion, ethnic origin, sexual orientation, gender etc. Thus, hate speech unlike defamation is not a speech targeted at the reputation of a person particularly in connection with his trade or profession with a view to exposing such a person to hatred, contempt, or ridicule. Be that as it may, there are provisions on Criminal defamation in the Criminal Code which could be said to cover aspects of hate speech. According to section 88A of the Criminal Code Act, any person who publishes or offer to publish the pictorial representation of any person living or dead, or publishes or circulates any publications, or sings, plays, sells, lets, any such record or sounds shall be guilty of an offence if the words used are likely to provoke any section of the community. Under section 60 of the Criminal Code, it is provided that any person who without justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read or any sign or visible representation, tending to expose to hatred or contempt in the estimation of the people of any foreign state, any person exercising sovereign authority over that state is guilty of a misdemeanor and is liable to imprisonment for two years.

Generally no statement would be actionable as defamation if the statement is true. Seditious on the other hand is a criminal offense punishable under section 51(1) of the Criminal Code Act.⁴ According to the section any person who:

- a) does or attempt to do, or make 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, distribute or reproduce any seditious publication;
- d) imports any seditious publication, unless he has no reason to believe that it is seditious, shall be guilty of an offense and liable on conviction for a first offense to imprisonment for two years or to a fine of two hundred thousand naira or to both such imprisonment and fine for a subsequent offense to imprisonment for three years and any seditious publication shall be forfeited to the state.

³Section 375 of the Criminal Code Act. See also section 392 of The Penal Code

⁴Cap. 77 LFN 1990

The exceptions to the above are provided under section 50 (2) of the Criminal Procedure Code Act to the effect that an act, speech or publication will not constitute sedition if it was meant only:

- a) to show that the president or the governor of a state has been misled or mistaken in any measure in the federation or a state or
- b) to point out error or defect in the government or constitution of Nigeria or of any state thereof, as by law established or in legislation or in the administration of justices with a view to the remedying of such error or defect or
- c) to persuade the citizens or other inhabitant of Nigeria to attend to procure by lawful means the alteration of any matter in Nigeria as by law established or
- d) to point out with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill will and enmity between classes of the population of Nigeria.

The attitude of the courts starting from the case of *State v. Ivory Trumpet Publishing Co. Ltd.*⁵ is that any law which restricts the freedom of expression guaranteed to the accused person under the Constitution is not reasonably justifiable in a democratic society. Any construction of the law on sedition should be against the background of a profound national commitment to the principle that debate on public issues would be uninhibited, robust and wide-open and that it may well include vehement, caustic and sometimes unpleasantly sharp attacks on government and public officials⁶

Again in *Arthur Nwankwo v. The State*⁷, Belgore JCA held that section 50 (2) and section 51 and section 52 relating to sedition are inconsistent with the provisions of section 36 and section 41 of the 1979 Constitution and are by implication repealed with effect from October 1st 1979.

The implication of the above is that the law relating to sedition is no more existing in Nigeria. Even if it is still in force in the country, it cannot be used to criminalize hate speech as described above since it is a statement or speech directed against a set of people with certain common characteristics already described and not necessarily against the government with a view to inciting hatred and possibly revolt or rebel against the government.

⁵ (1984) 5 NCLR, 736

⁶ Ibid

⁷ (1985) 6 NCLR, 228

Factors Responsible for Clamour for Hate Speech Law in Nigeria

Hate Speeches generally heat up the polity sometimes resulting into violent attacks and killings. Unlike the era of the first republic when political campaigns are mostly issue based, campaigns since the second republic to the current fourth republic are marked by political intolerance, bigotry and outright blackmail accompanied by ethnic and religious based hate speech championed by ethnic and religious irredentist and fanatics threatening opponents with attacks.

In recent times in Nigeria, groups with ethnic roots have joined the fray in the perceived hate speech phenomenon. The resurgence of pro-Biafra agitations, led by the *Indigenous People of Biafra (IPOB)* was laced in ethnic bigotry engendering a counter-force by the Coalition of Arewa Youths (CAY), which issued an October 1, 2017 to persons of Igbo extraction resident in the Northern part of the country to relocate to the South-East. Unrestrained comments from some elders from both divide (i.e. South East and North) only escalated the crisis. A number of ethnic militia and groups had also encouraged hate and intolerance, instead of preaching national integration.

Rumour is one of the most inflammatory and violence causing mechanisms. Non-adherence to journalism ethics, especially on social media and its heterogeneous users, makes proliferation of rumour easy. Another factor is government slow approach in tackling drivers of hate speech in the society, such as unemployment, hunger, poverty and corruption.

Traditional media, social media platforms are majorly responsible for spewing convoluted messages capable of destabilizing the state, making it ungovernable and discrediting government officials and the government. In Nigeria of today, the hate speech being spewed on radio stations across the country is so alarming. Most messages are careless incitement to violence in total disregard of and insensitivity to the multi-religious, multi-ethnic nature of the country. Unfortunately, even the hosts of those programmes do little or nothing to stop these. Oftentimes, they are willing collaborators of hate speech campaigners.

Hate Speech Laws in other Jurisdictions

Many countries have enacted hate speech law in their statute books. These include advance democracies like Canada, Netherlands, United Kingdom, India, France, Australia and even South Africa. This is notwithstanding that the issue has remained a subject of controversy, because of its possible conflict with the fundamental rights bordering on freedom of speech and expression. The factors that necessitated such

legislation ranges from extreme cases of religious bigotry and fanaticism to racial discontents and discrimination, as well as segregation based on color and other forms of hatred and prejudices. In Nigeria, currently, whereas there is an apparent consensus about prevalent hate speeches in the country, as it is seen to have become another albatross for the country, the major point of departure among the people are three-pronged: what constitutes hate speeches, line of demarcation with the fundamental rights of freedom of expression and individual, possibility of abuse by those in authority.

From the angle of enforcement, laws, prohibiting hate speech are of two types. There are those that protect public order. The first type require lower threshold to be violated while the second type requires a higher threshold to be violated and are therefore not frequently enforced. Because enforcement of laws regarding hate speech in the US can interfere with the constitutional right of freedom of speech, the US adopts a Liberal approach. The Belgian *Anti-Racism Law* of 1981 otherwise known as the *Moutreaux Law* is an anti-hate speech and discriminating law.

Is Hate Speech Law Unnecessary Considering Extant Laws and Sanctions?

Laws on sedition, defamation including libel and terrorism such as the *Anti-Terrorism Act* 2013 define or articulate appropriate sanctions against certain offences relating to statements promoting hatred, incitement etc. character assassination.⁸ Penal Code and the Criminal Code in force in the Northern and Southern States respectively criminalize offensive or inappropriate language/speech. Sections 417 of the Penal Code provides that:

Whoever seeks to excite hatred or contempt against any class of persons in such a way as to endanger the public peace shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

Section 418 of the same code states that whoever circulates, publishes or reproduces any statement, rumour or report which he knows or has reason to believe to be false with intent to cause or which is likely to cause fear or alarm to the public whereby any person may be induced to commit an offence against the public peace, shall be punished with imprisonment which may extend to two years or with fine or with both. Section 419 of the said Code stated that whoever has in his possession without lawful excuse, the proof of which shall lie on him, any book, pamphlet or paper, gramophone record, tape recording, drawing, printing, photography, cinema film or other visible or

⁸Article 20 prescribes legal sanctions for inciting hatred by providing that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law

audible representation or reproduction, the publication or exhibition of which would constitute an offence under sections 416, 417 or 418, shall be punished with imprisonment for a term which may extend to two years or with fine or with both. Considering the above, our view is that fresh anti-hate speech legislation is unnecessary, because provisions of some of the existing laws could be used to tackle the phenomenon.

Hate Speech and Freedom of Expression?

The right to freedom of expression is one of the fundamental rights recognized in modern states. It is considered as one of the most essential human rights and as such it has been said that it is the matrix, the indispensable condition of nearly every other form of freedom.⁹ The right to freedom of expression is the primary right in any democracy and without it an effective rule of law is not possible. It is an essential and irrepressible attribute of human to speak or express whatever it pleases both privately and publicly. It has been said that it is a condition *sine qua non* for development of political parties and is indispensable for the formation of public opinion and serves as means for influencing the public while at the same time enabling the community to be sufficiently informed. It is the condition of social life that allows member of society to reach the highest level of personal development and optimum achievement of democratic values.¹⁰ Freedom of expression is the right to speak, write or do anything in order to show your feelings, opinion and ideas without any restriction from anybody. It also includes the right to speak, comment, receive, seek and impart information or ideas without any restriction or hindrance of whatever nature. An aspect of freedom of expression is freedom of the press and it implies the right of the press as agent of the public to collect information which it is in the public interest to make known and to tell the public of it. As the bulwark of democracy, the press is under obligation to uphold the responsibility and accountability of the government to the people. Thus, every Nigerian has the right to own, establish and operate any medium for the dissemination of information, ideas and opinions¹¹

⁹ See Justice Cardozo in *Palko v. Connecticut* 302 US 219

¹⁰ See The President of the International Court on Human Right, The Advisory Opinion OC 5/85 8 EHRR, 168 (1985)

¹¹ Several cases have been decided in Nigeria and elsewhere on the scope and nature of the right to freedom of expression for these see the following cases: (1) *Ismaila v. President of Federal Republic of Nigeria*, suit No. FHC/L/CS/329/99 delivered on February 25, 2010 (2) *Senate of the National Assembly v. Momoh* (1982) 2 F.N.R 307 at 311(3) *State v. Ivory Trumpet Publishing co. Ltd.*, (1984) 5 N.C.L.R 736(4) *Omega Bank v. Government of EKiti State* (2007) ALL FWLR (pt. 386) 685 (5) *IGP v. A.N.P.P*(2007) 18 NWLR (pt.1066) 457(6) *AMORC v. Awoniyi*, (1991) 3 NWLR (pt. 178) 245 (7) *Din v. African Newspaper Ltd.* (1990) 3 N.W.L.R (pt. 139) 392 at 408-409 (8) *NAACP v. Alabama* 375 U.S 440 (1958) see also *Thomas v. Collins* (1945) 323, U.S 516 where the court held that there is strong nexus between right to freedom of expression and trade union activities (9) *Whitney v. California*, 274

To underscore the importance of the right of freedom of expression, many states have made provision for it in their constitutions. In addition to national laws there are many international legislative instruments with provisions for protection of the right to freedom of expression and of the press. For example section 39(1) of the 1999 Constitution of Nigeria provides that:

Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart information without interference.

Article XIX of the *United Nations Universal Declaration of Human Rights* provides that:

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

Article IX of the *African Charter on Human and Peoples Rights* provides that:

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

It is submitted that notwithstanding section 39(1) of the Nigerian constitution, Section 45 of the same Nigerian Constitution provides that the right to freedom of speech can be derogated from. It is provided in section 39(3) that the right is subject to any law that is "reasonably justifiable in a democratic society for the purpose of protecting the rights and freedom of other persons or in the interest of public defense, public safety, public order, public morality or public health. The right to freedom of expression not being an absolute right is thus subjected to some limitations because it is recognized that unrestricted freedom of expression could endangered the society. The right to freedom of speech is not absolute more so that one person's right to freedom of speech stops where another person's right to his or her dignity, reputation or property starts.¹² It has been held in *Adikwu vs Federal House of Representatives*¹³ that the Constitutional guarantee of free speech "does not authorize any person to publish false news." In *Senate vs. Tony Momoh*¹⁴ it was held that the Constitutional right to freedom of expression "does not protect the disseminator from disabilities or liabilities such as the law of libel". Specifically, section 39(3) states that:

US 357 (1927) (10) McCartan Turkington Breen v. Times Newspapers, (2001) 2 AC 277 (11) LohelssaKonate v. Burkina Faso, App. No 004/2013, Judgment of 5 December 2014 (12)

¹²See *EFCC vs. Hassan (2014) INWLR pt. 1389 pg. 607 and Ukaegbu vs. NBC (2007) 14 NWLR pt. 1055 pg. 551.*

¹³(1982) 3 NCLR 394 at 412

¹⁴(1983) 4 NCLR 269 at 296

Nothing in this section shall invalidate any law that is reasonably justifiable 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 cinematography films; or
- b) imposing restriction upon person holding office under the government of the Federation or of a State, member of the Armed Forces of the Federation or members of the Nigerian Police Force or other Government security services or agencies established by law.

Press Freedom, Freedom of Information and State Security

In Nigeria, debate of the age-long intricate relationship between press freedom and state security has always dominated public space and discourse. There is a truism that development and peace can only take place when there is security, just as there can be no freedom where there is no state. Events such as reported clampdown on and arrest of suspected members of the Nnamdi Kanu-led Indigenous Peoples of Biafra (IPOB), harassment of and destruction of property belonging to members of the Abia State chapter of the Nigeria Union of Journalists (NUJ) as well as reports from Amnesty International indicting the Nigerian Army of suppression of freedom and human rights violation, provide the context for critical appraisal of this complex relationship.¹⁵ The tension playing out in Nigeria is said to be consistent with a growing global trend by state authorities to use anti-terrorism laws to punish journalists and gag the press under the pretext of state security.¹⁶

For Nigeria, which has also passed an amendment of the anti-terrorism law, this is a dangerous addition to the *Official Secret Act*, 1962, which forbids public disclosure of classified information or any information prejudicial to the security of the country. Sadly, the Freedom of Information Act (FoIA 2011) does not in any way repeal the Official Secrets Act provision or the National Security Act, 2004.¹⁷

¹⁵ See The Guardian Editorial; Between Press Freedom and State Security, The Guardian, Tuesday, October 24, 2017, p. 16

¹⁶ According to a 2012 Human Rights Watch report, since the September 11, 2001 attack on the United States, 144 out of the 195 countries in the world have passed new counter-terrorism laws; laws which permit searches, arrests and detentions without warrants.

¹⁷ Ibid

The Freedom of Information Act was passed into law in May 2011 by the then President Goodluck Jonathan. Its major purpose is to guarantee citizens' rights to information.¹⁸ FoIA falls under the specific context of the right-to-know and the rights to information as enshrined in international human rights law and widely recognized in democratic states. The right to seek and receive information is protected expressly in Article 19 of both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

Nigerians need the right to access information without conditions attached. However, since the Act was signed into law, there is a relatively moderate level of awareness of the FoIA among members of the public in Nigeria. Many people are not aware of the Act while those that are aware do not know the import of the Act. In spite of the laudable and noble objectives of the FoI Act, there has been a lot of challenges towards the effective and efficient implementation of the FoI Act. Among such challenges are: poor record keeping, unwillingness on the part of government officials to accept the new information regime, Attorneys-General' ignorance, and conflicting judgments from the judiciary.¹⁹ There is the need for robust and sustained interventions on the provision of Freedom of Information Act (FoIA) by strengthening FoIA institutions for the promotion of Nigerian citizens' unfettered access to public records and information for transparency and accountability.²⁰

Conclusion

No doubt, hate speech are divisive and destructive, but tackling it require caution and tactics, otherwise, there could be violent and blatant violation of the fundamental right to freedom of speech and the provisions of the Freedom of Information Act, through mindless repression, intolerance and allergy to opposition, criticism and plurality of

¹⁸According to the FoIA, 2011 Explanatory Memorandum "The Act makes public records and information more freely available, provide for public access to public records and information, protect public records and information to the extent consistent with the public interest and the protection of personal privacy, protect serving public officers from adverse consequences for disclosing certain kinds of official information without authorization and establish procedures for the achievement of those purposes." See Abimbola Akosile, "Harnessing the Freedom of Information Acts for Transparency and Development, the Impact an Effective Implementation of the Freedom of Information Act can have on Transparent Governance and Development in Nigeria," being a review of proceedings of a two day training for principal officers of some Ministries on Freedom of Information Act organized by a civil society organization CAFSO-WRAG for Development, with support from the Open Society Initiative for West Africa (OSIWA) in May in Ado-Ekiti, Ekiti State. See ThisDay, Thursday August 17, 2017, at p. 32

¹⁹*Ibid.* Tola Winjobi, CAFSO-WRAG for Development principal coordinator welcome/keynote address.

²⁰ *Ibid*

alternatives. However every citizens and non-citizens have a duty to ensure peaceful co- existence within Nigeria's geographical space and should avoid any action or speech which has the tendency to undermine law and order since such could be regarded as a threat, not just to national unity and stability, but indeed to the individual's personal security.

It is a myth to assume that laws, in and of themselves, always persuade the criminally- inclined to conform. The long term panacea to the problem of hate speeches as with all crimes lies beyond mere legislative rule making or intervention. Though appropriate legislation is an integral part of the policy mix for tackling hate speech, but it can only reduce, such behaviour to a 'tolerable' level it cannot completely eliminate it.

The real solution is for the protagonists and antagonists alike should realize that Nigeria is greater than the sum of its parts. They should all realize that they are all better off as part of Nigeria with all its imperfections, than in an uncertain, ill-defined separate entity.

Emotional trauma could result from the escalating exchange of hate speeches among citizen as is happening across social, political, ethnic and religious divides. And this could be a recipe for anarchy and absence of unity and love for one another and for the country.

No country can develop where the people lack love for one another and patriotism for the country. But there cannot be love and unity in the absence of justice and fairness, which has dogged the management of the country's affairs right from the colonial days. In this connection, citizens have a collective responsibility to remind themselves that only a deliberate approach to institute justice and fair play can take us away from sliding into anarchy.

True peace is not merely the absence of war, but the presence of justice. What Nigerians are experiencing now in the country is war in different dimensions. Nigerians should speak well of their fellow citizens without prejudice to constructive criticisms. And should not, by speeches condemn themselves and the nation. More so that they cannot run away from one another and they cannot deny their Nigerian nationality. The government should restructure what is not right in the polity and the citizens should re-evaluate our individual character. That is the surest way to build the greater Nigeria that we all seek.

God does not make mistake in creating people to belong to different ethnic groups. He has the power to make all belong to one nation, but this is a design of God to prove that He does things according to His wish.²¹

So, attacking one another based on any form of differences is like mocking God or condemning His work. We must be tolerant. The Federal Government must promote works that encourage peace and tolerance. The National Orientation Agency must accept the challenge of re-orientating the people to discourage mutual distrust among Nigerians. The Federal Government must attend to the different agitation in the country and increase efforts to provide basic amenities to people.

Government must incorporate welfare packages and impress it on private organizations to discharge their corporate social responsibilities. Those that deliberately make hate speeches must also be sanctioned or prosecuted as the case may be. Hate speech makers are causing more trouble for the country. Government needs to address the problem of hate speeches urgently, before the whole country is plunged into an avoidable crisis. To address the problem before it gets out of hands, the government has to be firm by arresting those making hate speeches. This has to be done irrespective of their status, religion and where they come from. If there is trouble in any society, it must have been started by some people, not everybody. So, the first step is to identify those involved, arrest them and ensure that they face the law. This will serve as a deterrent to others. Leaders and elders in North are not doing enough to address the issue. If their youths make some inflammatory statements and they are not cautioned, they would believe that they do not do anything wrong. When the hate speeches were being made, and leaders kept mute, hate speeches would only spread.

Government should note the issues raised by the people making hate speeches. When people are agitating about a particular matter and government pretends that it is trivial, a time will come when the trivial issue will become unmanageable. Government should discuss with the agitators and let them know how much the government is working to resolve the issues. Furthermore, government should, as much as possible, continue to engage the people in dialogue. It remains a preferred option.

²¹Allah (God) says in the Holy Qur'an – Q4:1 – that 'Oh mankind, fear Allah, your God that created you from a single soul...the great grandfather of all is Prophet Adam....'

Recommendations

Governments, in line with Section 13 of the FoI Act 2011, should organize "appropriate training for government officials on public right to access information or records held by government or public institutions as provided for in the Act. This training would equip public officials with the necessary skills in relating with the public and providing appropriate records for requesters and in turning down requests within the provisions of Act. Officers dealing with FoIA would therefore be able to develop and maintain proper record keeping for easy access to information by members of the public.

Hate speeches by individuals or groups within the Nigerian political space are symptoms of the general level of frustration and despondency that pervade the country. The suffering and hardship that are faced within the system are so much that people are at their wits' end. Government can address this growing level of hate speeches by ensuring that it provides the lead in promoting equity and social justice among the many ethnic groups in the country. By doing so, no one group or section will feel marginalized. Government must govern with the mindset that these are trying times and must therefore come up with policies and programmes that are designed to ameliorate the suffering of the people. A general re-orientation of the polity is also needed to raise the consciousness of Nigerians on the dangers inherent in hate speeches. Experiences abound about the damage that hate speeches can do to a nation. We had Rwanda, Sierra Leone, Liberia, among others, as examples of countries where hate speeches had led to serious and catastrophic consequences. Our governments at all levels must, therefore, ensure that they deliver on their mandates. They must also try to carry everyone along while dispensing the dividends of democracy.

The need to create periodic dialogues and synergy on FoIA implementation among the key stakeholders including the judiciary staff, the office of the Attorney-General, principal officers of the Ministries, Department and Agencies, the Legislators, Nigerian Bar Association, the CSOs and the media. There is also the need to facilitate policy interface between the judiciary staff, legislators and legal professionals on one hand, and also build the advocacy skills of the CSOs and the Media, and strengthen the skills of key public officials on Freedom of Information Act 2011 so as to facilitate citizens' greater access to information, and promote transparency and accountability in government. Since Nigerians have the right to know and they have the right to request for public documents in public interest, governments are enjoined to provide an enabling environment for Nigerian citizens to make request without being unnecessarily denied access to such public records within the purview of the FoIA.

State actors should entrench the culture of openness while the political class should be sensitized on the need to embrace FoIA in order to improve the image of the government. If transparency is the hallmark of democracy, governments should be open and accountable to the Nigerian citizens.

Furthermore, there is the need to repeal all conflicting and inconsistent laws impeding implementation of the FoIA to allow for its effective workability across the nation while the judiciary should synergise pronouncements and refrain from churning out conflicting judgments arising from FoIA litigation.

Partnership between CSOs, media and public officials should be strengthened for the successful implementation of the FoIA in Nigeria. The obsolete Official Secret Act which gags the civil servants should be expunged from statute books, while clampdown on media, should also be repudiated.²²

In the present democratic dispensation, both the Official Secrets Act and other State Security laws have been used to crackdown on journalists, invade settlements and violate the rights of people. The brazen impunity with which public office holders treat subordinates and citizens, and the manner state governors have selectively construed state security with the intention of emasculating perceived adversaries, are all odious manifestations of the abuse of state security laws. All these clearly contravene the right to freedom of expression and the press as stipulated in Section 22 of the Nigerian 1999 Constitution (As amended).²³

However, whilst the Official Secret Act puts a check on the irresponsibility resulting from unbridled and reckless use of freedom of expression, glaring cases of official conspiracy, unjustified silence and disregard for people's lives and property place a heavy burden of truth-telling on the news media. The problem however is that when facts on the ground conflict with interpretations provided by government, especially in an age when social responsibility of the press has been markedly challenged by the emergence of the social media, it becomes difficult to conceal even inconvenient truth. It is even morally despicable for journalists who should cover events in public interest to cover up such states of affairs.²⁴ Furthermore, the ambiguity about what constitutes state security has put the press in a perplexing state of moral judgment. On one hand, military authorities are more assiduous in intervening in incidents that are perceived to infringe on state security, whilst on the other hand, they tend to overlook other horrendous events, which are capable of breaching the peace. In a situation

²² Ibid.

²³ Ibid

²⁴ Ibid

whereby the government of the day is suspected of using the military to promote an inscrutable resurgent colonialism through religious bigotry and fractious ethno-cultural relations, the citizens cannot trust such a government enough to define security for them. How can a journalist understand what state security means when there are varied interpretations to mismanaged security issues in the country?²⁵

This is where synergy between the military and the press comes in. Since information is not only a fabric of human existence but also a necessity for mankind to be free and self-governing, authorities should endeavour to give information that should lead to trust building, provision of peace and rest of mind. As auxiliary guardians of the state, the military should ensure that, loyalty in terms of communication is not solely to the powers that be, but primarily, as it ought to be, to the people whose territorial integrity and internal security they vowed to safeguard. The implication of this information-disseminating function, which duty imposes on the military in times of war and crises, is that the military owes its first loyalty to the citizens, that is, the civil populace.²⁶

Owing to this fundamental loyalty, managers of military information are obliged to tell the truth when relating with citizens; yes, truth that should be managed with utmost sense of responsibility bearing in mind the common good. In this regard, they would need to be predisposed to civility and decency, as well as careful selection of the wording of their language when informing the general civilian populace about state security matters. All this suggests the need for capacity building for persons managing information in the Nigerian military to purge them of the condescending expressions and dismissive posture characteristic of military language. We are in a democracy and that is classically the government of the people – from whom government derives sovereignty.²⁷

Far from being one-sided, the capacity building procedure should also involve educating the press about the world of the military. Because journalists and other arms of the media over-rate the empowering role of news-telling and information dissemination, they tend to see the world from only their professional lenses and arrogate unjustified powers unto themselves and their profession. Often, this leads to clashes of interest in their perceived roles in the state. Aside from periodic sessions with editors and senior managers of public information, embedding journalists into military beats and operations should be greatly encouraged. This is a normal global best practice to build relationships and trust in operations. Professionally, this would forge mutually benefiting discussions about how to recalibrate the balance between

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

state security to which the military is committed and the ideals of human rights, which informed journalistic practice in this democratic age. Besides, it would enable the press to understand the perspectives of the military when interpreting observable facts and properly manage truth in the interest of the common good, which both professions serve.²⁸

²⁸ Ibid