

**THE SOCIAL MEDIA BILL: AN AVENUE TO PROTECT THE ONLINE SAFETY OF NIGERIANS****BY****UCHECHUKWU ERNEST AMAEFULE & ASOMUGHA UGONNA****1.0 INTRODUCTION**

The Senate of the Federal Republic of Nigeria on the 5<sup>th</sup> of November, 2019 introduced the Anti-Social Media Bill (hereinafter referred to as the 'bill') to criminalize the use of the social media in peddling false or malicious information. The original title of the bill is Protection from Falsehood and Manipulations Bill 2019. It was sponsored by Senator Mohammed Sani Musa from northern Nigeria. After the bill passed second reading on the floor of the Nigerian Senate, its details were made public. This was trailed by angry reactions by horde of Nigerians including civil society organizations and human right activists who unanimously opposed the bill. International rights groups such as the Amnesty International and Human Rights Watch<sup>1</sup> condemned the proposed legislation. Among the several reasons for the opposition, a major issue was that it is aimed at gagging freedom of speech which is a universal right in a country of over two hundred million people.<sup>2</sup> Opposition political parties also were critical of the bill and accused the government of attempting to strip bare, Nigerian citizens of their rights to free speech and destroying same social media on whose power and influence the ruling party came to power in 2015.

However, despite the sentiments held by many Nigerians in opposition to the bill, this paper shall examine the bill in relation to it as an avenue to protect the online safety of Nigerians. Arguments for or against shall be made in relation to the bill. This paper shall also examine the key provisions of the bill to see whether or not it has the effect of gagging the fundamental rights of the citizens of Nigeria. In the final analysis, this paper shall compare the provisions and objectives of the bill with that of other jurisdictions to see if the bill in its essence, is in line with the true principles of the fundamental rights of citizens and whether or not in entirety, it is essential for social media to be regulated.

**2.0 KEY PROVISIONS OF THE SOCIAL MEDIA BILL VIS-À-VIS THE RIGHT TO FREEDOM OF EXPRESSION OF NIGERIAN CITIZENS.**

The title to the bill reads: Protection from Internet Falsehoods, Manipulations and Other Related Matters Bill 2019. The explanatory memorandum to the bill provides that *'the Act is to prevent falsehood and manipulations*

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<sup>1</sup>Human Rights Watch 'Nigerians Should Say No To Social Media Bill'(Human Rights Watch, November 26<sup>th</sup>, 2019)<https://www.hrw.org/news/2019/11/26/nigerians-should-say-no-social-media-bill> accessed 29th August, 2021.

<sup>2</sup>Ibid.

*in internet transmission and correspondences in Nigeria. To suppress falsehoods and manipulations and counter the effects of such communications and transmissions and to sanction offenders with a view to encouraging and enhancing transparency by social media platforms using the internet correspondences’.*

Some of the objectives of the bill include: to prevent the transmission of false statements or declaration of facts in Nigeria; to end the financing of online mediums that transmit false statements; to detect and control inauthentic behaviors and misuse of online accounts(parody accounts); to ensure that when paid contents are posted towards a political end, there will be measures to ensure the poster discloses such information; and to sanction offenders.

According to the bill, a person must not:

- i. Transmit a statement that is false or,
- ii. Transmit a statement that might:
  - a. Affect the security or any part of Nigeria.
  - b. Affect public health, public safety or public finance.
  - c. Affect Nigeria’s relationship with other countries.
  - d. Influence the outcome of an election to any office in a general election.
  - e. Cause enmity or hatred towards a person or group of persons.

The bill goes further to stipulate stringent punishments for any person found guilty of the above to a fine of 300,000 naira or three years imprisonment or both for an individual; and a fine not exceeding ten million naira for corporate organizations.

Furthermore, the bill provides that a person shall not open an account to transmit false statement (parody accounts). It provides punishments for any person found guilty to the sum of 200,000 naira or three years imprisonment or both for an individual; or five million naira for corporate organizations; and other related punishments thereto.

Having laid out the salient provisions of the bill together with its objectives, it is pertinent to construe it vis-à-vis the fundamental rights of citizens of Nigeria to freedom of the expression. Section 39 of the Constitution<sup>3</sup> provides for the right to freedom of expression and the press. Its wordings are vis:

*‘every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference’*

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<sup>3</sup>CFRN1999, as amended to 2018

However, despite this express provision, this right is not absolute. This provision is watered down by the provision of Section 45 of the CFRN 1999. It provides that '*nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society* –

- a. *In the interest of defense, public safety, public order, public morality or public health; or*
- b. *For the purpose of protecting the rights and freedom of other persons.*

From the objectives and the explanatory memorandum of the bill, it is clear that the bill is in the interest of public safety to protect the general populace from false information peddled on the social media by persons. It is then said, does the bill violate the freedom of speech of Nigerians in consideration of the objectives of the bill and the very provision of Section 45 of the Constitution? Arguments on this shall be made in the following paragraph.

### **3.0 ARGUMENTS FOR/AGAINST THE SOCIAL MEDIA BILL.**

Despite the sentiments held by many Nigerians in regards to this bill, we feel constrained as to tow in the line of the sentiments. This paper supports the social media bill and sees it as avenue to protect the online safety of Nigerians. Arguments in support shall be succinctly made hereunder in relation to this position.

There has, over the years, been spurious information peddled on the social media capable of harming the online safety of Nigerians, causing disunity and disintegration, and health damages likewise. In August 2014, when the first case of Ebola virus was reported in Nigeria, a lot of people embraced myths and false information peddled on the social media in a bid to tackle the deadly disease. Among the false experimental therapies that spread like wildfire was the belief that drinking and bathing in water saturated with salt would cure the Ebola virus<sup>4</sup>. Consequently, many people were hospitalized with itchy skin, rashes and high blood pressure, and some even lost their lives. During the #EndSARS protest towards the end of 2020 where Nigerian youths exercised their rights to protest against the injustice perpetrated by the Special Anti-Robbery Squad (SARS)[now replaced by the Special Weapons and Tactics Team(SWAT)] of the Nigerian Police, the deliberate peddling of misinformation on the social media however, sabotaged their credibility. The social media has been used to peddle hate speeches capable of causing disintegration and possibly chaos. In a multi-ethnic country like Nigeria, wrong information spread on the social media is capable of dividing the country and causing agitation. Permit me to quote Nobel Laureate, Wole Soyinka, when he said, '*fake news is a permanent weaponry of*

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<sup>4</sup>Vanguard, 'Two Dead, 20 Hospitalized Over Excessive Salt Consumption' (Vanguard, August 8<sup>th</sup>, 2014)<https://www.vanguardngr.com/2014/08/ebola-two-die-drinking-salt-water-jos/amp/> accessed 29<sup>th</sup> August, 2021.

*power. When you read things on social media, take it with a pinch of salt, decide whether it makes sense because the person who posted it might have a private agenda*<sup>5</sup>.

One of the reasons in support of the bill is the lack of professionalism in spreading this information. Some of the information spread on the social media are often done by unlearned and misinformed persons who conjure this information to cause agitation in the country. Another reason is the lack of accountability to the information. Since this information are peddled on the social media, nobody in particular can be held to be accountable. The quality of the contents is another reason. Since these information are made by amateurs, their quality is usually poor.

It is thus pertinent that social media be regulated albeit, within the confines of the law and upon due process considering, the menace it could cause when false information are peddled with it. The Social Media Bill is a step to achieving this. It is also worthy of note that despite the arguments that the bill has the effect of violating their right to freedom of speech, the constitution itself has whittled that right in Section 45 when a law intends to protect the public safety of the citizens among other things.

#### **4.0 COMPARISON OF THE BILL WITH SIMILAR LEGISLATIONS IN OTHER JURISDICTIONS**

At this juncture, it would be instructive to compare the bill with other legislations of other countries of the world to see if it accords with international best practice. Countries like China and Singapore have blocked access to certain social media networks in their entirety, while others have engaged in targeted blocking. More commonly, countries use repressive laws to criminalize the posting and sharing of dissenting or controversial content. For practical purposes, perhaps because the internet is seen as a modern electronic medium, many countries – starting with the USA, France and Australia have placed the internet under the regulation of the broadcast industry.

Earlier in March 2018, the National Media Council of the UAE announced new regulations affecting anyone using social media for commercial purposes. It was aimed at social media influencers, electronic sites, publishers, and on-demand printing sites. The goal of the regulation is to enhance the reliability of what people read online<sup>6</sup>.

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<sup>5</sup>Punch 'Don't Believe Everything On Social Media, Soyinka Cautions'(Punch, 24<sup>th</sup> August, 2019)<<https://www.google.com/amp/s/punchng.com/dont-believe-everything-on-social-media-soyinka-cautions/%3famp>>accessed 29<sup>th</sup> August, 2021.

<sup>6</sup>Brian Cummings , 'The Pros and Cons Of Regulating Social Media Influencing' (April, 2<sup>nd</sup> 2018)<<https://www.google.com/amp/s/www.entrepreneur.com/amphtml/311352>> accessed 29<sup>th</sup> August, 2021.

South Korea is the first country to have any internet-specific censorship law. In 1995, South Korea passed the Electronic Communication Business Law, which established the Information & Communication Ethics Office. The Office powers include the power to censor scope of coverage materials on bulletin-board services, chat rooms, and other public domain service that encroaches on public morals, may cause a loss of national sovereignty, and information that may harm youths' character, emotion and sense of value.

Other countries like the USA, Canada, Singapore, Vietnam, China, Germany, France, etc. have similar regulations that look to regulate the contents of information on the internet/social media. It is clear then that the said Nigerian Social Media Bill which has been trailed by stiff opposition by Nigerians, in reality accords with international best practice. Nigeria as a country and its citizens look up to these countries for a lot of things including legislations. Since these countries have similar regulations, Nigeria having its own would not be out of place.

## **5.0 CONCLUSION**

This paper has been able to critically examine the Anti-Social Media Bill (Social Media Bill) and its salient provisions. The bill has also been construed vis-à-vis the fundamental rights of the citizens of Nigeria, and similar legislations of other countries in other jurisdictions. This paper in its entirety supports the bill and vehemently submits that if no regulation is put in place to curtail the information that spread on the internet, the social media is capable of causing division and chaos in the country and harming the online safety of Nigerians thereof. However, it is also the submission of this paper that this bill if passed into law should be executed within the confines of its provisions and not arbitrarily.