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## Political Transparency and Internet Freedom in Nigeria

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### **Abstract:**

*This study examined the nexus between political transparency and internet freedom in Nigeria. The theory of the post-colonial state was used to explain how authoritarian manifestation of political power since return to civilian rule is used to violate internet users' rights. It demonstrated how effective collaboration between the three arms of government on internet constraint laws serves the interest of the authoritarian Nigerian state. This has led to constant decline in Nigeria's internet freedom index. We recommend political reforms that guarantee emergence of popular government that promotes transparency and upholds liberal values like individual and internet freedom.*

**Keywords:** Political transparency, internet freedom, cybercrime, post-colonial state, authoritarianism and Nigeria

### **1. Introduction**

Freedom of expression is one of the hallmarks of any democratic society and it is for this reason that it is constitutionally guaranteed in every known democracy. The implication of the above statement is that the existence of true democracy in modern times without freedom of expression is unimaginable. This freedom involves the right to express one's ideas and opinions freely through speech, writing, and other forms of communicating, but without deliberately causing harm to others character and/or reputation by false and misleading statements. This means that the right is not absolute and has certain limitations. Article 19 (Amended) of the International Covenant on Civil and Political Rights (ICCPR) recognized the limitations to freedom of expression by stating that the exercise of these rights carries 'special duties and responsibilities' and may 'therefore be subject to certain restrictions when necessary'. Freedom of expression is a *sine qua non* in a democracy. Its regulation however, is deeply divisive and contentious, and it varies from country to country. While people must be able to talk freely via any communication channel of their choice and receive information without fear or hindrance for the purpose of being active citizens in the democratic process, they must not deliberately cause harm to others' character and/or reputation by false and misleading statements (Malo, 2016).

In Nigeria, freedom of expression is protected by Section 39 (1) and (2) of the 1999 Constitution of the Federal Republic of Nigeria (FRN) (Amended). Subsection (1) provides that 'every person shall be entitled to freedom of expression, including freedom to hold and to receive and impart ideas and information without interference'. Subsection (2) provides 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'. Subsection (2) however provides that private ownership of television or wireless broadcast station for any purpose whatsoever must be authorized by the president. Freedom of expression in Nigeria, like in all known modern democracies, is not absolute. Section 45 of the 1999 constitution places limits to this freedom by legalizing any law that censors this fundamental right, if such law(s) is/are justified to be in the interest of national security and protection of the rights and freedom of other persons.

Since the dawn of the twentieth century, there has been a constant transformation of how information is acquired and shared. This transformation is as a result of the increasing popularity and accessibility of the internet to more people across the world, including the least developed countries (LDCs). The advent of digital technology gave birth to modern communication hardware, internet access and power computer systems to process data. Hence, cyberspace has provided a safe haven for internet platform and has created geometric growth by accelerating windows of opportunities for business through the removal of economic barriers hitherto faced by nations of the world (Ehimen and Bola, 2010). People from diverse areas of human endeavour can now freely access and utilize the advantages offered by internet platform. Information sharing through internet platform has also revolutionized journalism globally. Online journalism has become a very popular means of distributing and accessing information. It is a contemporary form of journalism where editorial content is distributed via the internet as opposed to publishing via print or broadcast. Online journalism allows for connection and discussion at levels that print does not offer. It represents a revolution of how news is consumed by society. People can comment on articles and start discussion boards to discuss articles (Cohen, 2015). Traditional media outlets have also transformed with the internet revolution, with most of their content now having online accessibility. The rise of online journalism means that it is now possible for anyone who is literate in internet usage to write articles and post them online. The average person can now have an impact in the news world through tools like blogs, and it is

increasingly difficult to sift through the massive amount of information coming in from the digital area of journalism (Ornebring, 2010).

In Nigeria, the internet market has expanded considerably over the past decade, with number of Internet Service Providers (ISPs) licensed by the Nigerian Communications Commission (NCC) rising 18 to 92 between 2000 and 2016 (Akwaja, 2016). There has been an exponential growth of internet access in Nigeria in recent years. A 2016 report by NCC noted that internet penetration rose to 45.1 percent from 38 percent between 2013 and 2015. The number of active mobile phone subscribers was over 148 million subscribers with 106 percent tele density in 2016. The report further noted that there were over 95 million mobile internet subscriptions by the end of the end of January 2016. This according to Okunoye and Ilori (2017) represents a mobile internet penetration rate of 51 percent.

The rise in internet accessibility in Nigeria has also transformed how information is distributed by media outlets operating in the country. Most notable print and electronic media outlets in the country have an online platform where information is shared with the general public in almost real time. Also, untrained journalists such as bloggers and social critics use the internet platform to express their opinion or public opinions on varying issues and are known to have enormous followers who visit their blogs and websites for information on government's day to day activities. However, despite the benefits offered to readers by online journalism, it has also posed some serious challenges to cyber security in Nigeria. In the digital media world, it has become common practice for users to ridicule, harass or insult those who disagree with their point of view. This, according to Maho (2016) has led to frequent damage of people's reputation through the internet platform. The absence of any form of mandatory registration or demand for strict compliance to any ethical and professional standards make regulation of articles published through the internet more difficult (Maho, 2016). This is a worrisome situation owing to the role of the internet in influencing modern day government policies, social mobilization and even electoral outcomes. Omowole (2015) for instance noted that the internet, particularly social media platforms was instrumental in the 2008 United States' Presidential campaign of Barack Obama as he won the support of over 75 percent of voters under 25 years of age through social media followings. Stephanova (2015) detailed the role social media played in mobilizing and influencing regime change during the Arab uprising that led to the fall of some autocratic regimes in Egypt, Tunisia and Libya. Also, the role of the internet in influencing voters' participation and outcome of the 2015 presidential election in Nigeria as observed by scholars like Omojuwa (2015) and Reid (2015) is an indication that the internet has not only become an influential source of information, but a source of and social and political mobilization in the country too. This suggests that there is need to regulate the spread of false stories through the internet platform aimed at discrediting or defaming another person's character. Maho (2016) noted that the fact that anyone with the basic knowledge of internet usage can become an untrained online journalist with thousands and sometimes over a million followers makes it imperative for the government to control the kind of stories published online.

The absence of any comprehensive law to regulate internet usage in Nigeria led to a new wave of cyber-crimes that were carried out either for financial gains or malicious purposes or both. Cybercrimes by their very nature are often very difficult to trace and prosecute (Zoellers et al, 2002) and the absence of a comprehensive regulatory law to prosecute offenders made the crime flourished in Nigeria (Ehimen and Bola, 2010). However, following the defeat of Nigeria's ruling political party to an opposition candidate who enormously utilized the internet, particularly the social media for campaign related activities, the outgoing government signed into law, the Cybercrime Act on 15 May 2015. The Act is the first legislation in Nigeria that deals specifically with cyber security. It provides an effective, unified and comprehensive legal, regulatory and institutional framework for the prohibition, prevention, detection, prosecution and punishment of cybercrimes in Nigeria. Since the handover to a new government on 29 May 2015, the Nigerian state has made considerable efforts to enforce information regulation on its cyber space. This study examined the connection between political transparency and internet freedom in Nigeria. Specifically, it investigated how the authoritarian manifestation of political power accounts for the rise in the violation of rights of internet users.

## **2. Post-Colonial Character of the Nigerian State and Protection of Individual Liberty**

The existence of modern democracy without a process of periodically electing representatives to manage the affairs of the state is almost unimaginable in the twenty-first century. Election in modern times is synonymous with democratic societies. In fact, electoral democracies are considered the best form of government that can guarantee individual liberty and freedom of citizens. Nigeria's experience with consolidation of electoral system of government has not been 'smooth sailing'. In fact, between the country's independence in 1960 and the year before its last return to civilian rule in 1999, it had two elected Heads of State, one appointed, one military successor and seven coups d'etat powers (Human Rights Watch, 2015).

The end of the Cold War ushered in a period of massive and profound optimism concerning the prospect for democracy in Africa. The increased pressure from the West for African states to democratize its polity led to what Huntington (1991) referred to as the wave of democratization in African states in the 1990s. As noted by Anyabolu (2014), this wave of democratization brought about some changes in the governmental system of countries, not only in Eastern Europe and the former Soviet Union, but also in Africa. Most African states before then were characterized with either one party rule or military dictatorship.

Nigeria returned to civilian rule in 1999 and has successfully conducted four electoral transitions without interruption, with the 2015 presidential election leading to the country's first successful transition from a ruling party to an opposition party. It was also the first election that removed a serving central government from power in the nation's history. While seventeen years of uninterrupted civilian rule with numerous periodic elections in-between suggest that electoral democracy has become institutionalized in the country, the character of political leadership remains

fundamentally the same. This character is rooted in the colonial legacy of the Nigerian state. The epistemological and philosophical assumption of the theory of post-colonial state is that Nigeria is the object of intense and inordinate political competition and that defines the character of its policies. According to its proponent, Alavi (1972), the theory is premised on the historical specificity of post-colonial societies. This arises first from the structural changes brought about by the colonial experience and alignment of classes, as well as the superstructures of political and administrative institutions which were established in that context. Secondly, from the radical alignment of class forces which have been brought about in the post-colonial situation. Deriving from this, Ake (1985) argued that the post-colonial state is unusually statist despite adoption of liberal policies that should promote individual rights and freedom and this condition can be attributed to the political legacy colonialism bequeathed on Africa states. Ake (1985) noted that the colonial state performed many administrative responsibilities directed at breaking up the traditional social relations of production. This made it all powerful. In fact, its power was not only absolute, it was also arbitrary.

Ibeanu (1998) noted that African leaders that took over leadership structure of states at independence retained the features of arbitrariness and absolutism of state power that framed colonial politics. Thus, the struggle for power is absolute and primary while issues that borders on development and individual liberty are marginalized. Politics in post-colonial states like Nigeria is everything and everything is politics, including life and death (Ibeanu, 1998). The implication of the above is that political power in post-colonial state is used primarily to secure personal interest and not popular interest. Election in post-colonial state is a means of legitimizing the absolute and arbitrary power of state managers, thus, issues of credibility of the electoral process and outcome are secondary. Also, when individual liberty or demand for political openness by the masses threaten the 'tight-fist hold' on political power, the state managers act in favour of retaining the absolute and arbitrary power of the state. It is in this context that we can understand the nexus between the authoritarian manifestation of political power and violation of internet users' right in Nigeria.

### **3. Lack of Political Transparency and Repression of Internet Freedom in Nigeria**

The return to civilian rule in 1999 ushered in a renewed hope to improve Nigeria's human right record that was badly damage by frequent and extensive period of military rule between 1960 and 1998. Sadly, the character of the post-colonial state of Nigeria has fundamentally remained the same with successive civilian governments that came to power through periodic elections exhibiting the same authoritarian tendencies that characterized the Nigerian state under military rule. Although Nigeria has been active in signing and ratifying international human rights treaties that protect individual freedom, tolerance for contrary political views to that of the government at all levels remain low, often leading to intimidation and unlawful detention of citizens. The rising influence of the internet in shaping political discourse and influencing electoral outcomes as was the case with the 2015 presidential election in Nigeria poses a potent threat to the Nigerian government as it has become a popular tool for popular resentment against lack of openness in state management, a common feature of liberal authoritarian states like Nigeria. Despite the democratic experimentation, political leadership in Nigeria continues to cut off the citizens from knowledge about the activities of those who exercise real power. The situation is worrisome since the country has signed the Freedom of Information (FOI) Act. The increasing use of the internet to report stories about how the country is being governed undermines the popularity of the government and it has resulted in the increasing use of the legitimate power of the state to clamp down on internet freedom.

While the Nigerian state's commitment to upholding liberal democratic and economic principles makes it difficult for an outright ban of the internet as it is the case with North Korea or temporal blockage of some internet sites as often done by governments of Turkey and China in situations of public protests or dissents against the government, it has relied on its democratic powers and institutions to undermine internet freedom, particularly its law making and enforcement powers.

As noted earlier, the 2015 Cybercrime Act is the first legislation in Nigeria that deals specifically with internet security. The Act prohibits cyber-stalking in order to effectively regulate the spread of false stories, and sometimes indecent or unethical images online. Section 24 (1a) of the Act states that any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that 'is grossly offensive, pornographic or of an indecent, obscene or menacing character or causes any such message or matter to be sent' commits an offence under the Act and shall be liable on conviction. Also, subsection (1b) provides that any person who knowingly or intentionally bends a message or other matter by means of computer systems of network that 'he knows to be false, for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent' commits an offence under the Act and shall be liable on conviction. This section of the Cybercrime Act prescribes punishment of fine ranging between seven million naira and twenty million naira, as well as imprisonment ranging between one and ten years depending on the severity of the offence.

However, available evidence shows that there have been wrongful applications of the section by the government to 'silence' views critical of its policies and state management style through internet platform. First, stories published online have been deemed 'offensive', 'obstructive', 'insulting' or 'annoying' with actionable consequences under Section 24 of the Cybercrime Act even when the stories are factual. Secondly, some stories published through traditional media outlets that were never sanctioned by the government have been suppressed by the same government when they are re-broadcasted through online platform. Government considers them 'offensive' and libelous because of the rising influence of the internet as major source of information dissemination and interest aggregation in the polity.

8 August, 2015	Abubakar Sidiq Usman was arrested by armed operatives of the Economic and Financial Crimes Commission (EFCC) for criticizing the commission in his blog. He was detained for over 36 hours and denied access to his lawyer.
20 August 2015	Musa BabaleAzare was arrested in Abuja by police from Bauchi state for criticizing the policies and actions of the state government on social media platforms. The arrest was illegal as it was made outside the jurisdiction of Bauchi State
25 August 2015	SeunOloketuyi, a blogger, was arraigned before a federal high court for publishing a story about secret affairs of a bank chief executive
1 September 2015	Chris Nwandu, the president of the Guild of Professional Bloggers of Nigeria was arrested and remanded in prison for 13 days after he expressed his personal opinion on the charges against SeunOloketuyi
September 2015	In the month of September, Emmanuel Ojo, a blogger, was forced into political exile following threat to his life after he published a story about money laundering involving the First Lady of Ogun State
October 2015	Desmond Ike Chima, a blogger, was arrested and spent the next 6 months in prison for publishing an article considered 'damaging' about the managing director of a bank. The charges were later dropped
*September 2016	Soldiers, Mobile Policemen and State Security Service agents stormed a hotel in Edo state and arrested 10 reporters from the independent news website, Watchdog Media News
*January 2017	OmoyeleSowore, a reporter for online news outlet- Sahara Reporters- was harassed by police in Lagos on the basis of a complaint about a report published on its website
*March 2017	Two bloggers, KemiOlunoyo and Samuel Walson, were detained in prison for one week before granted bail for publishing an article about an elite Pastor in River state

*Table 1: Arrests of Internet Bloggers and Reporters by State Security Officials in Nigeria for Alleged Cyber-Stalking Since 2015*  
Source: Nkanga, Peter (2016) 'How Nigeria's Cybercrime Law Is Being Used to Try to Muzzle the Press'. Report of the Committee to Protect Journalists

*\*Sahara Reporters (2017) 'Nigeria's Press Freedom Record Worsens in One Year'. Published Online on 26 April*

Table 1 shows that internet freedom in Nigeria declined due to an unprecedented pattern of arrests and prosecutions against bloggers after the passage of the Cybercrime Act in 2015. Most of these arrests never led to criminal charges in court and the few prosecuted were dropped by the government due to the weaknesses of their claims. While cyber-stalking is aimed at controlling false news online, the law been used to prosecute online reporters and media outlets even when their stories are factual. Despite the passage of the FOI Act which guarantees the right to access public records, nongovernmental organizations (NGOs) have criticized government agencies for routinely refusing to release information sought through the law (Freedom House, 2016). Internet reporters who use online platforms to report on, or try to cover sensitive issues such as official corruptions are regularly subject to criminal prosecution. Okoh and Chukwueke (2016) also noted that the Cybercrime Act is laden with ambiguities in definition of concepts and it is not clear which state security agency is responsible for enforcing it as different agencies have made reference to it in rationalizing arrests and prosecutions. The authoritarian character of the Nigerian state favours these ambiguities as it allows for indiscriminate interpretation of the Act in its effort to suppress anti-government comments online. Almost every article critical of the government online is interpreted as cyber-stalking irrespective of the accuracy of the stories. The coercive apparatus of the state is used to censor internet reporting of government day to day activities. The relative autonomy enjoyed by online bloggers in terms of what they publish on the internet unlike traditional journalists is seriously threatened by the authoritarian appearance and exercise of political power in what should be a liberal or free Nigerian state. Internet repression undermines democratic values and this is worrisome when we consider the new important role of the internet in Nigeria as a major source of political mobilization.

1	A Bill to provide for the interception and monitoring of certain communication; to prohibit the provision of certain in-telecommunication services which do not have the capacity to be monitored; and to regulate authorized telecommunication monitoring
2	A Bill for an Act to empower the police and security agencies to track, intercept and monitor conversations and text messages involving suspected terrorist and other matters through amendment of the National Communications Commission Act of 2003
3	Amendment of the Criminal Code of the Laws of the Federation of Nigeria to insert new Chapter on computer misuse and cybercrime offences
4	A Bill to provide for the promotion of internet safety in Nigeria and other related matters
5	A Bill for an Act to prohibit frivolous petitions; and other matters connected therewith

*Table 2: Nigeria's National Assembly Bills That Could Undermine Internet Freedom through Interpretation*

*Source: Compiled by the Researchers from Okunoye B and Ilori T (2017) Status of Internet Freedom in Nigeria. Abuja: Paradigm Initiative Nigeria*

Table 2 shows some of the bills proposed by Nigeria's National Assembly that could impact on internet freedom as a result of possible ambiguities in their wordings. For instance, the use of vague words like 'certain communication' in the first bill mentioned and 'other related matters' in the second and fourth examples, as well as 'other matters connected therewith' in the fifth example are not specific and subject to varying interpretations. This could lead to discriminatory arrest of internet users. The Nigerian situation since the passage of the 2015 Cybercrime Act is worrisome due to the seeming support the executive arm of the government is getting from both the legislative and judiciary arms. For instance, the Bill on 'Frivolous Petitions (Prohibition)' passed through first and second readings in its bid to become law with a rather unusual pace. The Bill contained sections that sought to constrain the use of online messaging apps such as Facebook, Twitter and WhatsApp. It took pressures from Civil Liberty Organizations (CLOs) and the general public to ensure that it was never passed into law. The internet was also instrumental in mobilizing Nigerians to the National Assembly complex to protest against the Bill. According to Okunoye and Ilori (2017), the public support this proposed law got from the Judiciary arm of the government could further embolden the Nigerian government to clamp down on internet freedom. Although there is campaign for digital rights in Nigeria led by CLOs and NGOs, there have been legislative delays in passing into law, the Digital Rights and Freedom Bill which passed through its first reading in Nigeria's lower parliament on 20 April 2016. This shows that the democratically elected government in Nigeria is using the legal institutions of the state to suppress internet freedom.

Date	Value	% Change
2016	35.9	5.31
2015	34.1	-0.44
2014	34.2	48.35
2013	23.1	-59.08
2012	56.4	0.00
2011	56.4	9.51
2010	51.5	11.96
2009	46.0	21.85
2008	37.8	

Table 3: Nigeria's Press Freedom Index, 2008-2016 (0=Perfect Score and 100=Worst Score)

Source: Freedom House (2016) 'International Press Freedom Index: Nigeria'. Available at <https://freedomhouse.org/report/freedom-net/2016/nigeria>

Table 3 shows that press freedom index in Nigeria showed significant improvement after the FOI bill was signed in 2011. The table also shows that Nigeria began to experience a steady decline in the press freedom index after the 2015 Cybercrime Act was signed. The implication of this is that Nigeria is presently ranked alongside countries hostile to free press such as Afghanistan, Chad, Philippines, Zimbabwe, and Colombia. Intimidation, harassment and unlawful detention of internet reporters contributed to the country's decline. Table 4 also shows that internet freedom in Nigeria is considered party free according to Freedom House in its 2016 report on Freedom on the Net (FOTN) index with Nigeria scoring 35 and 40 from a possible 100 on issues pertaining to limitation of content and violation of users' right respectively.

Issues	Maximum Score on Issues	Nigeria's Score
Obstacle to Access	25	10/25
Limits on Contents	35	7/35
Violations on Users right	40	17/40
Overall Score	100	34/100

Table 4: Nigeria's Internet Freedom Score: 2016 Index (0=Perfect Score and 100=Worst Score)

Source: Freedom House (2016) 'Internet Freedom Scores: Nigeria' Available at <https://freedomhouse.org/report/freedom-net/2016/nigeria>

No doubt, there are legitimate reasons to regulate internet usage globally. Trans-national terrorist networks use it in plotting and executing heinous acts and this seem to embolden governments to enact laws that constrain internet freedom. Also, the threat to internet freedom is a global phenomenon and not just a Nigerian problem. According to Okunoye and Ilori (2017), this is exemplified by the high-profile stand-off between the United States government and Apple Inc, as well as the controversial Investigatory Powers Bill in the United Kingdom. However, while most of the disputes about the powers of the government to invade citizens' privacy online have originated in the wake of events that threatened national security such as terrorist attacks, internet regulation in Nigeria seems targeted at political commentators, analysts and writers whose internet commentaries are critical of government policies.

#### 4. Conclusion

This study examined the connection between political transparency and internet freedom in Nigeria. Specifically, it investigated how the authoritarian manifestation of political power accounts for the rise in violation of rights of internet users. The study observed that there has been an increased and stricter regulation of internet freedom in Nigeria since the emergence of a new government on 29 May 2015. The legitimacy of the new government as a result of its electoral victory did not change the fundamental character of political leadership that is authoritarian and absolute. Thus, it lacks

transparency and prioritizes the pursuit of personal interests to the detriment of popular interests. Constraint on internet freedom, as exemplified by Nigerian government's clamp down on bloggers, journalists and political commentators who use the internet as a platform for expressing popular views on state management, is a reflection of the pursuit of private interest by political leaders at the expense of popular interest.

The poor transparency of the Nigerian state has resulted to the use of legal institutions of the society to undermine internet freedom as a result of its authoritarian control of all the arms of government. Thus, there are rising incidents of arbitrary laws that threaten internet freedom being proposed by Nigeria's National Assembly and discriminatory arrests of online bloggers and commentators who have been critical of the government and challenged its lack of transparency. This situation is troubling because it is orchestrated with legitimate power acquired through electoral mandate. The study also showed that the country's press freedom ranking has consistently declined as a result of the suppression of online press freedom since 2015 and it is still considered partly free when it comes to internet freedom based on the 2016 Freedom House report.

In light of these findings, the study recommends the need to reform Nigeria's political system, particularly its electoral laws that undermine the fundamental right of citizens to be voted for. Nigeria's electoral laws alienate almost 99 percent of the country's population from seeking political power in terms of requirements. This makes election an exclusive elitist contest between politicians who possess these authoritarian tendencies. They continuously reshuffle themselves across party lines in pursuit of personal interest. Thus, electoral outcome does not guarantee the emergence of a transparent government since it does not fundamentally change the character of political leadership. Such reform will put an end electoral autocracy emerging in post-colonial states, including Nigeria. It will guarantee the emergence of popular democratic governments that is transparent and will uphold the true tenets a liberal society, particularly the protection and promotion of individual liberty and freedom. This includes freedom of expression in any form and platform, including the internet. Also, while accepting that genuine security threats associated with internet usage need to be combated by states, Nigerian government must work with private sector and CLOs to find the right balance citizens' internet privacy and national security.

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