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Media Laws, Media Practice and the Challenge of Citizen Journalism in Nigeria

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Abstract:

The advent of new media and its concomitant developments of which citizen journalism is one, has posed a serious challenge to the observance of media laws. The laws and principles guiding the media profession are constantly being questioned as Journalism practice these days are no longer the exclusive preserve of trained professional journalists. Citizens (whether trained or not) these days are no longer media consumers alone but have also become creators of their own contents. The traditional tripod media of mass communication: newspapers, television and radio alongside their media colleagues such as magazine, books and journals are no longer the media superpowers as the walls of partition between the traditional media and new media are becoming thinner, collapsing and fast fading away; thus, ushering in a new dawn in the media world. Even the traditional media practitioners themselves have also undergone tremendous changes. Television, radio, newspapers and magazines are no longer the exclusive platforms for relaying news. New media platforms such as social networks have entered the scene and as it were, getting and gaining their fair share of the media patronage thus liberalizing the communication landscape and also creating more challenges especially for the journalism professionals.

Keywords: Citizen Journalism, new media, media laws, citizen journalists, media practice

1. Introduction

The advent of new media brought a lot of challenges for the journalism profession. It is common these days for an individual to wake and see his/her pictures posted or tagged alongside someone or group of individuals on any of the social media platforms. In recent times, pictures of certain individuals especially celebrities, politicians and popular gospel ministers have become viral on social media platforms. Pictures of political opponents sometimes are made to appear variously as wrestlers, lovers, boxers or even assume a different gender from what they are among others through the use of new media technologies such as Photoshop! Unverified and unverifiable stories about this class of people have often been posted without recourse to the observance of media laws. Most of these pictures and news stories usually emanate from individuals who are not professionally trained for news production, broadcasting or publishing. One therefore wonders whether the observance of media laws precludes citizen journalists and the new media platforms through which they ply their trade.

2. Setting the Scene

Aligwe (2013) defines mass media law as a body of laws regulating the establishment, operations, responsibilities and obligations of any mass media outfit in the country. They include Constitutional and Statutory provisions which specify what the mass media are, how they can be established and operated, the rights and obligations of operators and practitioners in the overall public interest of the Nigerian State, Nigerians, proprietors and practitioners alike. It also includes the Nigerian court system, jurisdictions and hierarchy of courts (p. 400).

According to Malemi (2009), mass communication, media or press law is the law governing the receiving and dissemination of ideas and information, the media of mass communication, the role of the press and the communicating public, their rights and duties to the private individual and the State in general. In very simple words, media law is the law relating to and concerned with:

1. The receiving and disseminating of ideas and information
2. The right to freedom of expression and the press
3. The media of mass communication
4. The role of the press and the self-expressing and communicating public

5. The responsibility of the press and the self-expressing and communicating public to the private individual and the State in general; and
6. The provision of remedy for an aggrieved party whose right has been breached (Malemi 2009, p. 2).

Citing Yalaju (2006), Tsebee (2013) asserts that chapter four of the constitution of the Federal Republic of Nigeria (promulgated) Decree 1999 gives Nigerian citizens specific legal rights including the right to Freedom of Expression under section 39 (1) "Right to Freedom of Expression and the press". The section states:

Everybody shall be entitled to freedom of expression including freedom to hold opinions and information without interference.

2.1. Types of Media Law

2.1.1. Seditious

The mass media law the national government resorts to during periods of extreme national adversities and general discontent is seditious (Aligwe 2013, p. 406).

Generally, seditious is any communication or agreement which has as its object the stirring up of:

1. Treason
2. Lesser commotion; or
3. The defamation of the government.

Therefore, any speech, publication or act tending to bring or which brings the government into ridicule, seeks its overthrow or poses a threat to the security of the government or poses a threat to the tranquility or integrity of the State may be seditious (Malemi 2009, p. 91).

Three variations of seditious are specified to include:

2.1.1.a Seditious Conspiracy

A seditious conspiracy is an agreement by two or more persons in any state or territory with a view to overthrow, put down or destroy the government or state by force.

2.1.1.b Seditious Libel

A seditious libel is any communication written or made in some other permanent form with the intent to incite the people to change the government, otherwise than by lawful or democratic means or which advocates the overthrow of the government by force or violence or advocates the destruction of the State.

2.1.1.c Seditious Speech

A seditious speech is any oral advocacy of the overthrow of the government or destruction of the State by force or violence (Malemi 2009, p. 92).

2.1.2. Defamation

According to Aligwe (2013, p. 408), defamation is a generic name for libel and slander. It is a libel when the matter complained of is written or in any other permanent form. It is a slander when spoken or oral. Malemi (2009, p. 117) posits that defamation is any expression that damages the reputation of another person. Defamation is the publication of a statement, which exposes a person to hatred, ridicule, contempt or causes him to be shunned or avoided by right thinking members of society generally. It is the publication of a false statement about a man to his discredit. Ozoh (1998, p. 191) highlights the purpose of defamation law: the law of defamation seeks to protect the reputation of others resulting from words spoken or written about them. Consequently, it is of two types-spoken defamation which is called slander and written defamation which is referred to as libel.

2.1.3. Passing-Off

The essential rule here as identified by Ozoh (1998) is that no one should conduct his business in such a manner or form as to mislead the public to think that his product is that of another. It is a device aimed at protecting businesses that over the years have toiled to build a good name and reputation against seeming "smartness" of the fraudulent who will pass off his own product as that of the complainant, so as to surreptitiously enjoy all the benefits attendant with the good name and reputation (Ozoh 1998, p. 192).

2.1.4. Obscene and Harmful Publications

One of the earliest explanations of the words was made by Cockburn C.J in the case of R. V. Hicklin. As pointed out by the learned judge, for a matter to be considered obscene, it must have the tendency of...to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall (Adeyemi, 1969) in Ozoh (1998, p. 193).

According to Malemi (2009, p. 167), there is no one completely acceptable definition of obscenity. However, he highlighted the classes of obscenity:

1. The display of sex
2. Indecent exposures and sensuous conducts
3. The celebration and pleasure in horror

4. The display of violence; and
5. Other vices which may also be described as obscene

What is objectionable may come in various descriptions or degrees. It may be:

Immodest: showing too much of the body; Indecent: morally offensive, especially in a sexual way; Obscene: offensive, rude or shocking, because it is for instance, too obviously related to or showing sex; Immoral: not within society's standard of acceptable, honest and moral behavior. Morally wrong (Malemi 2009, p. 168).

2.1.5. Copyright

Copyright is the right of the owner of an intellectual property to exclusively produce copies, sell and control it. Copyright is the ownership and right to control all possible ways of producing and disseminating copies of an intellectual property, such as literary works, artistic works, cinematograph films, sound recordings and broadcasts (Malemi 2009, p. 181). Adesanya (1969, p. 58) succinctly captured the essence of copyright in his writing: copyright is the right of an author to prevent others from publishing or reproducing his work without his consent. Copyright essentially is the right of the author of a work to prevent its reproduction without his or her permission. The work could be of any form such as music, literary work, art, etc. Once copyright subsists in the work, the author enjoys the sole right of production and reproduction of the work and no other can so do within the specified number of years during which the copyright is to subsist unless he is given permission to so do by the author (Ozoh 1998, p. 194).

Adding his voice, Aliede (2013, p. 414) posits that copyright attempts to protect original owners of works: music, drama, photograph, literary and arts from pirates or plagiarists who would want to gain from them without the originator's permission or authority.

2.1.6. Privacy

Ozoh (1998) submits that privacy has been recognized as a significant fundamental human right and there is usually in place in most countries a provision in the constitution guaranteeing the right of the individual to his privacy. The right to privacy has four main aspects:

- a) Intrusion: the prevention of intrusion into an individual's solitude. This usually the branch expressly contemplated by most constitutional provisions. For instance, section 34 of the 1979 constitution of the Federal Republic of Nigeria lays down that the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected (Ozoh 1998).
- b) Appropriation of a name or likeness for commercial gain
- c) Public disclosure of embarrassing private facts
- d) False light: painting a false though not necessarily; defamatory picture of a person or event (Ozoh 1998, p. 195 citing Anderson et al., 1984).

In advertising, appropriation of a name or likeness for commercial gain is rife. Ozoh (1998, p. 195) pointed out that many advertising agencies are particularly caught in this when they use people's pictures or voices without their permission. Similarly, permission should be granted by a model before she could be used for any advertisement.

2.2. Citizen Journalism: Meaning and Features

Several authors have tried to describe citizen journalism and differentiate it from the traditional or old journalistic practice where media professionals pitched their tent with either the electronic media such as radio, television and sometimes cinematographic films or the print media represented by newspapers, magazines and books. However, in the recent times, there has a paradigm shift. These days citizen journalism has joined the fray and is making steady progress in the "comity of Journalism." It is perhaps imperative to highlight some of the different definitions and features of citizen journalism. Dare (2011, p. 15) describes citizen journalism as that kind of journalism in which the users or audience create content online rather than wait to be fed by the traditional media outlets. According to Nip (2010), citizen journalism, sometimes called online citizen journalism, can also be defined as a process in which people were entirely responsible for gathering content, along with envisioning, producing and publishing the news product. Citizen journalism can be said to mean participatory journalism. Going by the definition of offered by Bowman & Willis (2003): participatory journalism is the act of a citizen, or group of citizens, playing an active role in the process of collecting, reporting, analyzing and disseminating news and information. Participatory journalism is a bottom-up, emergent phenomenon in which there is little or no editorial oversight or formal journalistic workflow dictating the decisions of a staff. Instead, it is the result of many simultaneous, distributed conversations that either blossom or quickly atrophy in the Web's social network (p. 9). The era of citizen journalism succinctly captured by Dare (2011):

- This is a world that confers on any citizen (with new media tool kit) the ability to transmit, share or create content almost in real time. A citizen at the location of an important event instantly gets the opportunity to capture the event and feed the content into the various social media outlets in cyber space. This is an act of citizen journalism in its simplest form. We see almost every day on the internet diverse acts of journalism done by ordinary citizens who share information and videos amongst themselves. These citizens have become an inevitable part of the media or journalistic ecosystem. The audiences have become creators and producers of content, a direct challenge to the erstwhile hegemony of the mass media. The new tools are affordable, simple and ubiquitous (Dare 2011, p. 15).

It is worth noting that the new media especially social media offers unique platform for citizen journalism. Salawu (2011, p.185) posits that citizen journalism is journalism of the people, by the people, and for the people. It is the kind of journalism that demystifies the practice of journalism, and makes it an all-comers affair. It is that kind of journalism that tends to make everybody the Source and

the Receiver; the Encoder and the Decoder at the same time. It is that kind of journalism practice that purports to include everybody. Dare (2011) also posits that citizen journalism embraces all the social media platforms such as Face Book, YouTube, Twitter, MySpace and the Blogosphere. All the content generated from these social media platforms alongside comments from the audience and message board postings, pictures and video uploads constitute what is now known as the User Generated Content (UGC), which is a feature closely associated with the citizen journalism concept (Dare 2011, p. 16).

Drawing a relationship between professional journalism and citizen journalism, Onyebuchi (2010) writes: Over the years, journalism practice has been squarely the preserve of professionals in the field of journalism. The professionals in this case are those who have acquired the nitty-gritty of the profession. However, as society began to grow, and modern technology improved, individuals began to exercise the functions of journalists. These gave them the label – citizen journalists vis-à-vis citizen journalism. Flanagan & Metzger (2008) posit that in spite of pockets of limited availability by geography or status, people now have ready access to almost inconceivably vast information repositories that are increasingly portable, accessible, and interactive in both delivery and formation. Basic human activities have changed as a result, and new possibilities have emerged. For instance, the process by which people locate, organize, and coordinate groups of individuals with shared interests, the number and nature of information and news sources available, and the ability to solicit and share opinions and ideas across myriad topics have all undergone dramatic change as a result of interconnected digital media (Flanagan & Metzger 2008, p.5).

It is journalism that makes fluid the transformation between being the creator and the consumer of messages. The new communication technologies make this possible. The new technologies facilitate the process of creating, disseminating and receiving messages. The new technologies empower the people to have expression and information. The people are definitely involved in creating and disseminating messages about their own realities. The communication model is interactional and at the same time transactional. The model of Citizen Journalism is interactional because it emphasizes the two-way communication process between communicators. In other words, communication goes in two directions: from sender to receiver and from receiver to sender Salawu (2011, p.185).

Akhagba (2014) citing Bachelorarbeit (2009) describes the nature of this era of citizen journalism when the author pointed out that consumption, distribution, information and use are not any longer a monopoly of traditional media broadcasters. New Media afford a many-to-many publishing. Beforehand, it was rather the usual broadcasting from a single source to its audience. Along with this, the people had less room for feedback, criticism and censorship. In the New Media network, the audience gain access to platforms from which to express their own ideas and opinions is not supervised by the long-standing gatekeepers of information, like there were media corporation's and government's regulations before. Circumventing those, everybody became a direct competitor of established media institutions (Akhagba 2014, p.278).

2.3. Implications of Media Laws in the Context of Citizen Journalism

Salawu (2011, pp.193-194) is of the view that as lofty as the idea of citizen journalism is, it further attacks the 'professional' basis of journalism as it makes the 'profession' porous quite contrary to what happens in other professions where practice and training are exclusive. Bowman & Willis (2003, p. 61) opine that once stories are released by the old media, the stories transform and can take a life of their own beyond the control of the news organization. The Internet community (and other media) appropriates the stories, retells them, comments on them, adds additional information or overlooked angles, and reworks them as part of a broad-based web of ideas and information. This seemingly positive development has its own downside. The stories could be negatively modified by citizen journalists. Citizens' rights could be jettisoned and truth compromised. The Internet has brought forth an unprecedented flowering of news and information. But it has also destabilized the old business models that have supported quality journalism for decades. Good journalists across the country are losing their jobs or adjusting to a radically new news environment online. The situation becomes very pathetic when one considers the increasing impact of bloggers who make their livings by blasting opinions (as opposed to facts) across cyberspace. These bloggers are now the new technology age's equivalent of reporters and columnists, but without the degree of separation that used to protect readers and consumers from being targeted for commercial or political purposes; hence, the problem is, veracity is deleted and placed in the trash bin (Erbe 2009; Salawu 2011).

The rights of individuals become threatened, compromised and sometimes outrightly flouted and trampled in the mud. Odi (2013, p. 173) laments that as a result of the unedited nature of the social media; some of the contents are capable of inciting people to violence.

3. Recommendations

1. Media organizations should organize trainings as well as carry out enlightenment campaigns about Media laws through the conventional and new media for individuals engaged in citizen journalism and the implications of violating media laws.
2. There is also need to evaluate the activities of online journalists who own blogs to ensure compliance with media laws. This could be carried out by the Nigerian Union of Journalists (NUJ) periodically.
3. Media organizations should establish legal department to serve as a platform for some media workers who are trained legal practitioners so that they can render legal services to curb these perceived excesses.

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