

# Challenges of Privacy Protection in the New Media Era

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**Abstract:** - This paper considers the challenge of privacy, in relation to the practice of journalism in the era of new media technologies. It draws attention to complications in the issue of privacy and the need for ethical obedience when new media journalists go about gathering and disseminating news stories. The paper also touches on what constitutes the invasion of privacy and how Nigerians have/can deliberately put their right to privacy in danger. Factors that makes privacy protection a challenge in the new media era were also critically examined. The paper equally analyses the ethical provisions of journalism that protects privacy of Nigerians as well as the provisions of the Nigerian constitution on the matter, both provisions were weighed against each other.

**Keywords:** Constitution, Ethics, Journalism, New Media, Privacy

## I. INTRODUCTION

Mass media began in Nigeria, officially, as far back as 1859 when a newspaper titled 'Iwefrohin' made its entry into public domain through the efforts of Reverend Henry Townsend (Nwanne, 2016). Since then until the present, Nigeria media landscape has never remained the same as the radio revolution (Federal Radio Corporation of Nigeria in 1933) and the television magic (Western Nigeria Television in 1959) followed suit. The current trend is the new media and it has ensured that people need not wait for the newspaper, radio or television before they get information they need, anytime and anywhere (Agboola, 2014). Asides from the almost-instant capacities to manage, disseminate and receive information, new media platforms such as internet blogs, social media, e-mails and even SMS (Short Messaging Services) has enabled people to practice journalism at little or no cost and with global reach. Behind this obvious delight that these novel media of mass communication have given humanity, privacy concerns have become a hot issue more than ever and people are more vulnerable to predator journalists and blackmailers.

Privacy is the condition of being free from being observed or disturbed by people, and it is a matter of concern to researchers, especially in this era of new media technologies. New Media technologies such as smartphones allow for the location identification of its users and its ability to record and store up delicate media contents makes it a dangerous tool when in the hand of a third party. Asides from the tangible

technologies such as smartphones, applications of the new media such as blogs and social media are also not left out, they allow for public sharing of information and social interactions. This primary use has birthed privacy abuse as cases of unlawful collection and use of private information of people by new media platforms and journalists just to get readership and ultimately sustain online presence is rife in Nigeria, just as it is across global climes.

Despite this obvious problem of direct and indirect invasion of privacy in the era of new media that cannot be overlooked, there are also other ethical issues that will not cease to come to the fore when talking about the new media. From the foregoing, it is imperative to examine privacy concerns in the new media and the need to recognize and protect the privacy of people living in the Nigeria society, even as journalists strive to serve the public interest.

## II. LITERATURE REVIEW

### *The Concept of New Media*

New media generally refers to emerging information communication technologies and applications such as mobile phones, internet, streaming technologies, wireless networks and high-quality publishing and information sharing capacities of the world wide web (Bernett, 2003; Wardrip-Fruin and Montfort, 2013). Silverstone (2009) added more description to the concept of new media when he said that 'new' defines the boundaries by which new media should be understood in relation to other forms of mass mediated communications. The critical look at the above scholarly definitions shows that new media technologies are;

- New or novel media of mass communication (not the oral, print or broadcast media)
- Tangible ICTs that facilitates simultaneous dissemination of media contents and Information (e.g. smartphones, digital and internet-enabled cameras, digital storage devices, video conference gadgets, digital midgets, laptops, biometric scanners, CCTVs)
- Internet enabled information dissemination applications (e.g. e-mail, internet, social media and blogs)

The characteristics of the new media is well spelt out by the definition of Van Dijk (2006) who opined that new media are media of mass communication that are simultaneously integrated, interactive and that use digital codes. From the definition, this paper is of the opinion that new media technologies are characterized by integration-capacities (i.e. they can be linked to other new media technologies seamlessly), interactive in nature (i.e. they facilitate instant communication between people) and digitality (storage of information in binary codes).

#### *Privacy and Privacy Invasion*

Privacy is taken from the word 'private' which means 'being alone'. As a term in the context of this discussion, privacy can be described as a state or condition of being free from being observed or disturbed by people. In the same vein, Wikipedia (2019) says that privacy is the ability of an individual or group to seclude themselves or information about them, thereby expressing themselves selectively. Nwache (2007) see privacy as the right of an individual to be left protected against intrusion in his/her private life of affairs or those of his/her family, either by direct physical means or by publication of information. Privacy has to do with the protection of sensitive data and information, such as medical and financial records, as well as personal relations from unauthorized access or view.

As have been established, privacy is an individual's right to be left alone, hence, an invasion occurs when there is an intrusion upon one's reasonable expectation to be left alone. The Australian Law Reform (2014) explains that invasion of privacy truly occurs and is actionable when the following has taken place: the unlawful collection of information about an individual (or group), the processing of such information and its eventual dissemination. Nwache (2007) goes further on the invasion of privacy by coming up with the four torts of privacy invasion. These are: intrusion of solitude, appropriation of name and likeness, public disclosure of facts and outright information falsehood.

Intrusion of Solitude refers to the forceful entry into a person's physical space (ARLC, 2014). This means that watching, listening and recording another man's private activities is an intrusion of solitude. An example is when a reporter plants a smartphone or recording camera without the knowledge of a subject to collect information. Appropriation of likeness is when the name or likeness of someone is used for benefit without the owner's permission. An example is the common use of the pictures of Nigerian celebrities for advertisements or online post-drivers, which is quite common in Nigeria. There was a case of 10 Nigerian celebrities who had gone almost-naked published on naij.com in 2016. This online article featured Nigerian celebrities such as Kaffy, Charly Boy, Ini Edo and Oge Okoye (to mention a few). As truthful as the pictures were as a new story, they are against the original purpose of their owners. Ironically, this article has gathered almost 70,000 online views/reads.

Public disclosure of private facts is another type of privacy invasion of privacy. FindLaw (2016) sees this as the publication of an individual private information (e.g. health) even when it is truthful, provided the consent of the information owner is not available. A woman who allows her delivery to be filmed for educational purpose but unfortunately has this recording shown for a commercial can be said to have her privacy breached. The last tort of privacy invasion is giving false private information about an individual. Falsehood is key element under this type of privacy invasion. In Nigeria, we have had information of the death of the president in the United Kingdom when he went on medical leave make the round twice, first in May 2016, again the news surfaced again towards the ending of 2018.

### III. PRIVACY PROTECTION: NIGERIAN PRESS ETHICS AND CONSTITUTIONAL PROVISION

In as much as news is about human beings – their activities, actions, inactions, mistakes, foibles, achievements and others (Nwanne, 2014), the journalist must show high level of professionalism so that an individual's reputation is not needlessly destroyed through privacy invasion. This need to protect the privacy of individuals is nationally recognized in Nigeria, both by the Nigerian Press Council ethical code and the national constitution. The respect of the privacy of individuals and their family (unless it affects public interest) constitute an ethic of the Nigerian journalist. The code of ethics for Nigerian Journalist (1998) draws attention to the need to protect the privacy of an individual in the following words. As spelt out therein;

1. Information about the private life of an individual or his family should only be published if it impinges on public interest
2. Publishing of such information about an individual as mentioned should be deemed justifiable only if it is directed at;
  - Exposing crime or serious misdemeanor;
  - Exposing anti-social conduct;
  - Protecting public health, morality and safety;
  - Preventing the public from being misled by some statement or action of the individual concerned

The above code of ethics shows that every citizen deserves privacy but there are circumstances under which such protection could be vitiated or annulled. A good example is a convicted armed robber, having caused loss of life/property and destroyed social harmony, loses his right to privacy. In like manner, those who engage in established corrupt practices such as fund embezzlement in the society must be investigated by the journalist.

Asides from the ethical provision of the Nigerian Press council, the Nigerian constitution is also quite explicit, or at least vocal as it concerns the protection of the privacy of

Nigerians. As entrenched in section 37 (2) of the Nigerian constitution of 1999, the statement is that ‘The privacy of citizens, their homes, telephone conversation and telegraphic correspondence are hereby protected and guaranteed’. The dictate of this section shows three obvious elements which are:

- Privacy of individuals is protected against unlawful invasion
- Privacy of homes of citizen is protected against unlawful entry or undue harassment
- The correspondence, conversation (either electronic or manual) is considered private and as such should be breached.

Despite this very strong statement, the privacy of an individual in Nigeria is considered vulnerable when there is an issue of state defense (e.g. terrorism intel), public health (e.g. Mr. Sawyer and other carriers of the Ebola virus during the crisis in Nigeria), public morality and the freedom of others. All these are expeditiously stated in section 45 (1).

Weighing the constitutional provision of the Nigeria constitution against the ethical code of the Nigeria Press Council, it is quite clear that there isn’t much difference in what both has really spelt out. This idea of both is that people’s privacy must be protected and respected except in cases of justifiable crime, public health, public safety and morality. That being said, it cannot be argued that the federal government of Nigeria has in all honesty protected the privacy of Nigeria, as spelt out by the constitution. In all honesty, there has been case of wiretapping and secret recording of private conversations of Nigerians in recent times. Notably, an honorable minister’s ‘alleged’ private conversation which invariably antagonized the sitting president made the rounds on the social media, as released on January 6<sup>th</sup>, 2019. While this conversation in question does not seem justifiable, and has not been denied or confirmed as true till date, it is obvious from the recording that the speaker was in a private discussion with close friends when the said conversation was recorded by an unknown entity. Also, over the last 10 months too, there has been information shared on WhatsApp platforms warning Nigerians that phone calls and social media conversations are concurrently monitored by the security operatives in Nigeria. This does not seem like totally upholding what the constitution says about freedom of Speech and Communication in Nigeria. Biometric captures (at banks, borders and airports), CCTV camera recordings, middle-man management of new media conversation (especially by social media platform owners), body scanning, unlawful disclosure of health and financial information, and so on, are subtle ways of privacy invasion.

On the part of journalism ethics, it is contentious to say that the ethical codes protect privacy of publics justifiably in the Nigerian environment, especially in this era of new media technologies where there is almost no proper gatekeeping of media contents. Journalists are also now more liable to obtain

information, be it ethically or not. With the availability of ‘more than needed’ private information on social media platforms and other new technologies like smartphone, pen audio recorders, internet-enabled video/picture recorders and laptops that can be stolen or hacked into, journalists and blackmailers may be tempted to gather sensitive information unjustifiably and unethically about subjects without their knowledge. This is even quite common when there is a political cloud over the environment. These are pointers that neither the constitution nor journalism ethics in Nigeria truly recognizes and protects privacy of citizens to the letter, no thanks to the evolution of ICTs and new media technologies that makes private information accessible more than ever.

#### IV. THE CHALLENGE OF PRIVACY PROTECTION IN THE NEW MEDIA ERA

The introduction of new media has challenged the traditional form of journalism as global emphasis has shifted to online, real-time reportage of news events (Kaul, 2016). Today, news is delivered in a unique manner, combining audio and visual in such a way that its impact can never be over-emphasized. New media has silently, but steadily become a force to be reckoned with in today’s world. Journalism in Nigeria is no different from the opinion of Kaul (2016) as it has evolved in the last few years. Olise (2010) to this effect opined that journalists in Nigeria have started embracing new media journalism.

New media has without doubt injected creativity and competitiveness into journalism practice in Nigeria, alongside interactivity and ability for users to become news creators (Limo, 2010). New media applications exist in the forms of blogs, social media platforms, internet radio, smartphone browser news pop-ups and e-newspapers, and the quality of content on these platforms ensures the traffic (readership, viewership and listenership), as such, new media owners/managers/journalists will not mind going extra-mile to ensure they give the most news worthy, eye-catching and attention-drawing contents to their audience. At this junction is where the argument of whether the privacy of people is breached to gather and retain audiences on the new media comes up.

There are quite a number of complications when delving into the argument of privacy invasion of privacy in the era of new media technologies which this paper believes the new media journalists consciously explore as they go about their duties of finding, processing and disseminate information to the public, all on the premise that ‘the public has a right to know’. These complications are as follows.

*Public Status* –Public figures are who are in public positions of highly popular among the general public. People with public status include politicians, footballers, musicians, thespians, on-air personalities and other celebrities. The public status conferred on these people makes certain aspects of their life an interest to the public (Cohen-Almagor, 2004).

A public figure who is known, expected and respected for preaching family values, morality and honesty but found to be betraying such (e.g. a pastor caught with another woman in the act) is liable to have his privacy breached.

*Sudden Fame Syndrome:* There are occasions when ordinary citizens stumble into the spotlight under circumstances that are beyond their control (Cohen-Almagor, 2004). There are cases where ordinary people save lives (e.g. Mamoudu Gassama who saved a baby's life in France), achieve great feats (e.g. an NYSC corper who wins a national award for an amazing invention), win competitions (e.g. Efe of the 2017 Big Brother Nigeria competition) or accidentally stroll into fame (e.g. the beautiful bread seller – Olajumoke Orisaguna – who bombed into a photo session of famous Nigerian photographer, TY Bello). These situations give no other option to the new media platforms than to probe deep into the background of these set of people to unearth private information that will excite their audiences.

*Social Media Disclosure:* Most people do not find it needful to share only limited private information about themselves on the social media such as Facebook, Twitter, Instagram and the likes. It is needful to say that the social media makes our information publicly available (as much as we allow it in our privacy settings thereon). Gangopadhyay and Phar (2014) observed that young social media users have the tendency of sharing more information to as many people as possible. It is also not new to find people making public their private matters on social media platforms. This complicates the matter of privacy invasion as the information (picture, videos and private address/contact) is obviously public already.

*Morality Collapse & Carelessness:* Another factor that complicates privacy is the collapse of morality and cheer carelessness of individuals, especially the younger generation. We have found in recent times, especially on the social media, naked pictures and sex recordings of Nigerian undergraduates. Punch Newspaper (Nov. 23, 2016) in the article 'Crazy things Nigerians do on social media' cited instances of how morally decayed and so-unmindful Nigerian youths are when it comes to displaying their privacy online. Among the cases cited in the article, two cases catch the eye: one being the mention of Teddy Skitt, a Facebook user who shared a short video of himself and an unidentified girl having a conjugal session. Also, there was mention of a young lady perhaps driven by desperation to make name by all means posted her nude picture on Instagram. These stories really trended on the respective social media platforms. These are just two out of the many cases that continue to find their way to online platforms in Nigeria, especially now that smartphone adoption continues to grow among Nigerian youths.

Asides from the afore-listed, Peoria Magazine (2019) also listed some factors that makes privacy a challenge in the new media era, these are: computerization of records by government and private agencies; increase in the use of electronic surveillance by law enforcement agencies; the

increasing sophistication of marketing and market research, cashless policy which warrants the imputation of financial data online; barcoding of purchases, location tagging by smartphones and private information overload on the social media. Also, Parsons (2011) is of the opinion that when we use send messages online, when we browse web pages and send e-mail, our communications are typically unencrypted, that is, they are in a form that can be easily read. Computer devices can also be hacked by cyber thieves. As a result of all these, privacy is really a challenge as it is very possible for our privacy to be violated without our knowledge.

## V. CONCLUSION

The right to privacy is a fundamental right which protects one's personal space (physical and cyber) and all forms of communication. While it cannot be denied that new media technologies have expanded the frontiers of information gathering and dissemination, the right to the privacy of individuals hasn't changed, as such, new media journalists and the new age information producers should endeavor to respect people's privacy to the letter as they go about their duties and hobbies. The use of unlawful means to get information about people just to sell or gather online traffic must be desisted from. Just as dictated by the social responsibility theory of mass communication, journalists should be socially responsible. While they enjoy are democratically free environment for their duties to the society, they must balance against the private rights of others and against vital society interest (Businessstopia, 2017)

The public must also guard their privacy as its preservation ensures their dignity stays intact. Since the government of the day, appropriate authorities and journalists can't totally guarantee the safety of the privacy of citizens, the onus lies on people to ensure the safety of their private information (texts, words, photos and videos) in this era of the new media technologies. Private information should be safely secured and not allowed to spill into the wrong hands. Also, on social media platforms, less of sensitive private information should be used when setting up profiles or posted consequently so as to reduce the possibility of privacy breach. To a large extent too, morality and sanity should not be thrown out of the window when using social media platforms. The government of the day can also do better in the area of privacy protection, privacy protection laws must not just exist on paper, it should be interpreted and upheld through the right agencies.

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