

SOCIAL MEDIA BILL A DISTURBING ATTEMPT TO MUZZLE FREE SPEECH



Centre for Democracy
and Development

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Centre for Democracy and Development (CDD) has carefully followed the debate on the Protection from Internet Falsehood and Manipulation Bill 2019 (SB 132), popularly known as the Social Media Bill. This provocative legislation, which has passed a second reading in the Senate, is an attempt to use the legislative process to muzzle freedom of expression. The bill purports to tackle the increasing problem of false information in Nigeria. However, a number of draconian provisions in the bill empower the Nigerian government to unilaterally shutdown social media and possibly the internet for posts they deem to pose risks for public safety and national security. This would pose a serious threat to Nigerians democracy and freedom of speech.

CDD acknowledges the groundswell of public opposition to the bill, which stems from the intolerant political climate in which civil liberties have been repeatedly trampled upon by the government. The arrests, harassment and hounding of journalists, pro-democracy activists and voices of dissent are worrying signs that free speech, as a constitutional right of citizens, is under threat.

Part three Clause 13, Subclause (2), is one of the most concerning aspects of the Social Media Bill. It states that, “no appeal may be made to the High Court by any person unless the person has first applied to the Law Enforcement Department to vary or cancel the Part 3 Regulations and the Law Enforcement Department refused the application whether in whole or in part”.

Part three Clause 12, Subclause (3) also gives the Nigeria Police Force (NPF) absolute power “to direct the National Communication Commission (NCC) to order the internet access service provider to take reasonable steps to disable access to end-users in Nigeria based on their online location”. NCC, according to the bill, can give the internet access service provider(s) “an access blocking order”. This draconian provision gives the police power to disrupt the internet access of not only the persons they accuse of spreading false statements but the entire population living in that location. According to the Global State of Digital 2019 report, 98.39 million Nigerians use the internet; almost 50% of the population.

Part five, Clause (35) of the bill, reveals a dangerous push by the government through the NPF to establish powers to determine and declare what news is ‘fake’ and what is true. With harsh punishments for those it deems to sharing ‘fake’ news. Publishers, organisations and individuals will face jail terms of up to three years and/or fines of up to N10 million for alleged infractions, which will be decided on by the security agencies.

CDD is deeply concerned that the legislation places an inordinate amount of power in the hands of the government and security agencies. There are also technical issues, as a result of overlapping legislations in Nigeria. The Cybercrime Act of 2015, already has stipulations for the sharing of false information and the Nigerian Communications Commission Act of 2003 grants the NCC powers to oversee the function of telecommunications providers. The proposed bill raises far more questions than it provides answers.

CDD views the underlying objective of this legislation as being to silence critical voices. While it is indeed true that Nigeria is a country that is, and has been, the victim of disinformation campaigns, the evidence does not seem to indicate the existence of political will towards eradicating false information. Since the gazetting of the 2015 Cybercrime Act, no politician or high-profile figure has been indicted for propagating false information. Instead, CDD has observed an increase in oppressive and targeting behaviour by the government towards information and ideas which call into question bad governance, corruption and poor service provision. In fact, close scrutiny of the bill shows it bears an uncanny resemblance to Singapore's Protection from Online Falsehoods and Manipulation Act 2019. The fact that Nigerian lawmakers are copying a legislation from a country which placed 151 out of 180 in the World Press Freedom Index in 2019 is a serious cause for concern.

As a reputable policy think tank whose main objective is the production of independent analysis of government policies, CDD sees this proposed bill as being in line with the authoritarian proclivities of the current political elite who are more concerned with policing what their citizens say, do or think, than they are with establishing high standards of democratic and accountable governance. We acknowledge the problem fake news and disinformation portends for democracy but believe that restrictive regulation is not the solution.

CDD urges the Senate to disregard the entire bill and look for alternative approaches to the problems of hate speech and the spread of false information on social media. Focusing on improving digital and civic literacy at all levels of society, will give citizens the skills and knowledge to decide for themselves what is true and what is false. Legislators time should be focused on establishing data protection and privacy legislation and enforcing existing regulations than restricting citizens access to, and use of, online platforms.

Signed:

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The Centre for Democracy and Development (CDD) was established in the United Kingdom in 1997 as an independent, not-for-profit, research training, advocacy and capacity building organisation.

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