
FREEDOM OF EXPRESSION, HATE SPEECH AND THE 2015 NIGERIAN GENERAL ELECTIONS

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ABSTRACT

This study seeks to ascertain the implications of freedom of expression and hate speech in the 2015 general elections in Nigeria. This study is situated within the context of historical and descriptive research design. Moreover, the data for this study was drawn largely from secondary sources including books, journals, newspapers, magazines and other internet sources. The data will be analyzed using content analysis. This study argues that every citizen has undoubted right to express what sentiments he/she pleases. Also this study further argues that the action of the political class as it remotely or otherwise imparted the sporadic spread of hate speech during the 2015 general elections.

Keywords: Freedom of expression, Hate speech, Electoral violence, elections, Political class

Introduction

Freedom of expression is an attribute of democracy world over. This is particularly important so that a citizen can express concern about the activities of government and its treatment on the generality of the system. It is the right of every citizen to express his/herself without restrained. The demand for freedom to express dates back to the European enlightenment in England within the framework of common law precedents (Dicey 1959:247). At the end of the 18th century, freedom of expression evolved through the first basic rights proclamations. In the context of English legal system, section 12 of the Virginia Bill of Rights, (1776), declared that the freedom of the press is one of the great bulwarks of liberty and can never be restrained by despotic Governments. Contrary to the English tradition of Parliamentary supremacy, the first Amendment of the Constitution of United States was binding of the parliament. The Congress is not allowed to make laws that abridge the freedom of speech.

Similarly, in Article II of the French Declaration of the Rights of Man and of the Citizen, (1789), the freedom of expression was proclaimed as a human right which involve. In the 19th century, the German States guaranteed freedom of expression in their constitutions within the framework of general criminal laws mostly by express prohibition of subjecting the press to censor (Starck, 2011:409).

The United Nations convened a Conference at Geneva in 1948 on the subject matter of Freedom of Information which passed a series of resolutions for further consideration by the United Nations which ultimately led the General Assembly of the United Nations to declare Freedom of Information a fundamental human right (Gupta, 2007). The Universal Declaration of Human Rights particularly in its Article 19 states that “everyone has right to freedom of opinion and

expression; this right includes freedom to hold opinion without interference and to seek, receive and import information and ideas through media and regardless of frontiers.” (UNGAR 1948).

In 1960, the Economic and Social Council of the United Nations adopted a derivative from Article 19 of the Universal Declaration of Human Rights in 1948. Sweden became the first country in the world to enact a provision for access to official information for the citizens (Gupta 2007). The Rome Convention for the Protection of Human Rights and Fundamental Freedoms (1950) came into force on 3rd September, 1953. Also, Article 10, of the Universal Declaration of Human Rights spells the freedom of expression that (i) everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises, and (ii) the exercise of these freedoms since it carries with its duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interest of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or right of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of judiciary (Das 2010:15).

In Nigeria, the 1999 Constitution (as amended) guarantees the freedom of expression. Section 39 (1) of the Nigerian Constitution states that “every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas. However, in recent times human rights violations described in various reports that there is a serious breach of the freedom of expression of Nigerians as the country has breached various national and international obligations.

Media organisations in Nigeria, as always, became vehicles and channels of expressions and hate speech. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the African Charter on Human and Peoples’ Rights.

Nigeria has witnessed several elections and campaigns with the intention of securing the peoples’ vote, however, the political environment of Nigeria is not one that can be described as conducive with candidates attacking personalities and political parties (Fasakin, Oyero, Oyesomi, Okorie 2017).

Many experts agree that the causative factor of the Rwanda genocide of 1994, the Kenyan post-election crisis of 2007 and the 2011 general elections in Nigeria are traceable to media bias and vulnerability (Bandipo, 2016). *Several of such speeches were read in a build up to 2015 election which also had the resemblance of such in 2019 elections.*

On the whole, this study seeks to assess the implications of freedom of expression, hate speech and the 2015 general elections in Nigeria.

Freedom of Expression and Hate Speech in Nigeria

The freedom of expression is seen in Legal literature as the first condition of liberty. The freedom of expression occupies a central position in the hierarchy of liberty, as it is often described as the mother of all other liberties. Thus, in recent time the freedom of expression is widely accepted among scholars and researchers as the essence of a democratic society and must

be safeguarded always. The first principle of a democratic society is seen in the freedom of expression of its citizens. It can be said that freedom of expression without hindrance or any fear of punishment will contribute in a no small measure in the development of any democratic society.

Significant improvements in freedom of expression and civil liberties were among the immediate gains of Nigeria's transition to civilian rule in 1999 (Human Rights Watch, 2003). Nigerians have experienced decades of systematic human rights violations under successive military governments before the advent of democracy in 1999. These periods were characterized by the ruthless suppression of dissent as Human Rights and pro-democracy activists, journalists and others, were routinely targeted (Human Rights Watch, 2003).

The fundamental right to freedom of expression or the freedom of speech is recognized in International and regional human rights laws. In a democracy, the freedom of expression is the vehicle through which the citizens can articulate their pleasure or displeasure with the government. The social media has given every citizen with internet access and a smart phone a voice and means for the expression and dissemination of such grievances against government/government officials.

The right to freedom of expression and the press is one of the basic tenets of the rule of law in Nigeria. Section 39(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) provides that "every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and to impart ideas and information without interference (for instance, no person can own, establish or operate a television or wireless broadcasting station without the authorisation of the government).

International and regional human rights instruments imply varying standards for defining and limiting 'hate speech': these variations are reflected in differences in domestic legislation (https://www.article19.org/.../Hate_speech_report-ID-files--final.pdf).

Today, the term and meanings attached to the concept of hate speech vary from scholar to scholar. The term 'hate speech' is any expression of discriminatory hate towards people: it does not necessarily entail a particular consequence. This lowest common denominator definition captures a very broad range of expression, including lawful expression. This definition, therefore, is too vague for use in identifying expression that may legitimately be restricted under international human rights law.

Freedom of Expression, Hate Speeches and 2015 Nigeria General Elections

Worried by the rising cases of violence believed to be politically-related pre-2015 elections, the Nigeria Civil Society Situation Room released a report in 2015 that captured the mood in the land. According to the report, some instances of hate speech recorded during campaigns for the 2015 general elections include the following: Katsina State Governor, Ibrahim Shema reportedly urged his supporters to attack opponents and referred to his political opponents as cockroaches, urging his supporters to kill them as they kill cockroaches (Nigeria Civil Society Situation Room 2015).

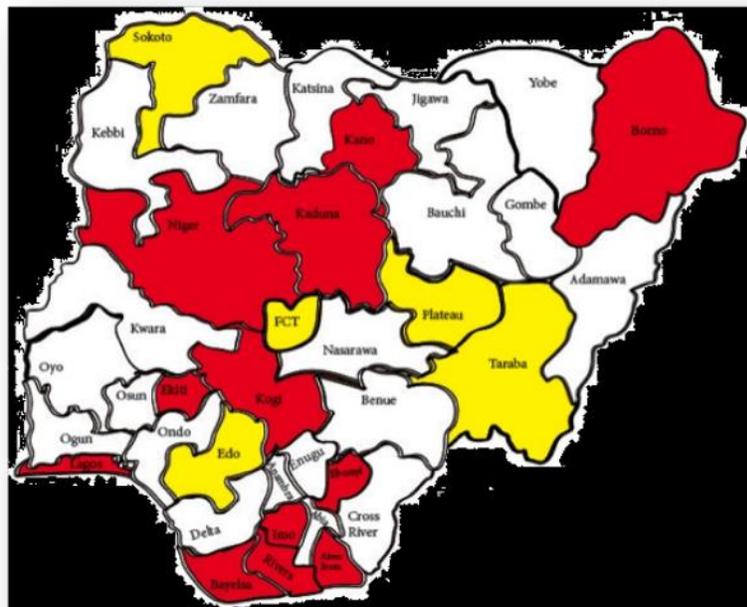
Also, the Ekiti State Governor, Ayodele Fayose in January 2015 repeatedly took out front page newspaper advertorials warning voters not to vote for the APC presidential candidate,

Muhamadu Buhari. These adverts, now widely known as “death wish advertorials”, insinuated that the presidential candidate was likely to die in office if elected, like the late President, Yar’adua (Ajala, 2018).

Moreover, Speaking during the PDP women presidential campaign rally in Kogi State, the then First Lady, Mrs Patience Jonathan reportedly described General Muhamadu Buhari as unfit to be the country’s president, calling him old and brain dead. Also, Mrs. Jonathan is also recorded as having urged the members of the People’s Democratic Party (PDP) to stone anyone that promises them change. In the same campaign speech given at a rally which held on Monday, March 2, in Calabar, the capital of Cross River state, Mrs Jonathan was quoted as saying: “Our people no dey born shildren wey dem no dey fit count. Our men no dey born shildren throwway for street. We no dey like the people for that side.” Thus making a derogatory statement obviously referring to the Northern parts of the country where the awful practice of child abandonment known as ‘Almajiri’ still occurs (Ajala, 2018).

Furthermore, after emerging unscathed after the plethora of criticism that followed the documentary on General Muhammadu Buhari, presidential candidate of the APC earlier in the year, a popular television network, African Independent Television (AIT), on March 1st, aired a documentary titled ‘Lion of Bourdillon’. The hour-long documentary, aired at 11 p.m. showcased various properties and companies across Lagos purportedly owned by Mr. Bola Tinubu, a top leader of the APC describing him as “Nigeria’s biggest landlord”. It also alleged that the APC chieftain was “charged for narcotics” in 1993 (Ajala 2018).

Figure1. A breakdown of the spread of Hate speeches across the Nigerian States pre-2015 elections



Source: Nigeria Civil Society Situation Room, *Election Update* Vol. 2. No 2. 2015

Figure 1 above shows that states map coloured yellow indicates states recording significant levels of politically motivated hate speech while states map coloured red shows states recording high levels of politically motivated hate speech.

In his submission, Ezeibe, (2015) argues that ethnic, religious and regional leaders in Nigeria elevated hate speech to the status of campaign strategy in May, 2010 after the death of President Musa Yar'adua and the abandonment of the PDP zoning consensus to rotate the office of the president between the south and the north every eight years. This hate speech escalated the incidents of electoral violence.

Electoral crisis highlighted by abuses of the electoral process by political parties and refusal to accept electoral verdicts have had devastating effects on democracy in Nigeria. Anytime election is drawing nearer, Nigerians become apprehensive of what will be the likely outcome, as in most cases there is exodus of citizens from one part of the country to another for fear of being cut in the trap of electoral violence which has assumed a tradition in most electoral contests.

Using the Frustration-Aggression hypothesis, when politicians fail in elections, they often result to electoral related violence in order to express their displeasure against the perceived target. This assertion has been buttressed by the EU EOM reports 2015, which shows that most electoral related violence often begin with hate speeches as warning to the oppositions whom they considered are capable of violating electoral rules by whatever means possible.

The EU Report on Nigeria's Elections (2015) states that despite the elections being highly competitive, they were marred by incidents of violence, abuse of incumbency at the state and federal levels, and attempts at manipulation. In the run-off to the presidential election, an initiative for a peace accord was launched on 14 January 2015 under the auspices of former UN Secretary-General, Kofi Annan, culminating in the signing of the Abuja Accord by the front-running presidential candidates and their parties. The Abuja Accord was later adopted in all the 36 states of the federation.

The National Human Rights Commission in its Pre-election report and advisory on Nigeria's 2015 elections reported that 58 deaths resulted from 49 pre-election related violence across 22 states of the federation. While the death tolls in the 2015 elections cannot compare to the post-election violence of 2011 that led to the death of hundreds and displacement of thousands of people, the tolls in the elections still remained high (National Human Rights Commission of Nigeria 2015).

Electoral violence continues to be a recurring decimal in the polity. This is largely fuelled with the amount of money associated with elective offices. The just concluded elections posed a different challenge considering the level of insecurity pervading the country. The EU Election report 2015 states that "On 7 February 2015 INEC postponed the elections scheduled for 14 and 28 February by six weeks. This followed the recommendation of the National Security Adviser (NSA), Col. Dasuki Sambo, and all

the Armed Services and Intelligence Chiefs stating that they could not guarantee security for the proposed election days as six weeks was needed to conclude military operations against Boko Haram and on 28 March Election Day, over 19 killings were reported (European Union, 2015).

Finally, hate speeches arguably expose the weaknesses in government performance. This is because democratic citizens all over the world often separate the person from the system: they can make keen distinctions between the performance of leaders, and the possibilities of a democratic regime. When large segments of the public believe that they cannot hold leaders to account, or vote new personalities into government, they are likely to become increasingly discouraged by a poor economy, persistent corruption, crime, insecurity, or ineffective governance. Instead of seeing the possibilities for improving national problems with various leaders over the long term, citizens may come to view these problems as insurmountable; hence the democratic regime may lose basic legitimacy. Moreover, the public may become indifferent to anti-democratic challenges, or they may come to accept non-democratic political alternatives.

Conclusion

This study began on the premise that a lot of works have been done in the literature in terms of highlighting the dimensions of electoral violence in Nigeria but this work focus identifies the historical development of electoral violence in Nigeria, in relation to the effects of hate speech on the 2015 general elections. The study discovered that hate speech fuelled electoral violence has resulted to the death of a considerable numbers of Nigerians. Secondly, the study established that elections have been a recurring source of disputes, strong arm tactics, crises and conflict thereby making Nigerians apprehensive each time elections is approaching.

Recommendations

Firstly, the International Covenant on Civil and Political Rights states that, “*every citizen shall have the right and the opportunity ... without unreasonable restriction....to be elected*” This covenant does not support the notion that people must belong to a political party before he or she can present himself as a candidate to be voted for. It is pertinent that the electoral laws of the country be liberalized to the point of independent candidacy. This will break the jinx of politicians recycling themselves in a closed ecosystem of two political parties hence leaving new entrants with little or no room for participation and further promote hate speech.

Secondly, the National assembly needs to rise to the occasion and heed to the call of the INEC, the international community as well as the civil society on the urgent need to establish an elections petition tribunal where prescribed punitive action will be taken against erring politicians based on the gravity of offences. The Nigerian electoral laws as it exist today have proven inefficient as a deterrent against electoral malpractices.

Thirdly, that the political system viz-a-viz key institutions like the Independent National Electoral Commission (INEC) should be empowered to discharge their

constitutional assigned duties without fear or favour, in terms of punishing political parties that promote hate speeches in the media.

By and large, there should be stiffer punishment for perpetrators and sponsors of electoral violence in Nigeria. This is because the inability of the government to punish perpetrators and sponsors of electoral violence has made some unpatriotic Nigerians to see electoral violence as the last resort. However, it can be argued that it is the failure of Nigerian judicial system to provide justice for aggrieved Nigerians to result to "self-help" that is electoral violence as means to express their grievances.

There should be collaboration among the family, community leaders, religious leaders and Civil Society Organisations to inculcate the value for right speech on the people at every level to ensure that people are giving right education on the implication of hate speech in all the communities in Nigeria. this will ensure that people do the right thing always, this would reduce the incessant in the various community.

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