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## FREEDOM OF EXPRESSION AND ITS LEGAL CONSEQUENCES IN THE ERA OF SOCIAL MEDIA

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### Abstract

Freedom of expression has become a household phrase, but its meaning is deeper than first appears, as found in some international instruments and national laws. The Universal Declaration of Human Rights, the first human rights instrument adopted by the United Nations (UN) General Assembly Resolution in Paris on 10 December 1948 to abate human rights violations and atrocities after the Second World War, addressed freedom of expression as one of the touchstones of democracy. Presently, all 192 member states of the United Nations have signed up to it, by virtue of the other UN treaties they have signed, even though it was intended to be a soft law. The Declaration was signed as a soft law to be respected but was without binding force. However, through the passage of time, it has become a customary international law with binding force. Freedom of expression, which is an inalienable right, permits human beings, among other things, to seek information, and if received, the recipient may impart the same through any media, regardless of frontiers, to inform and educate people about their rights.

The importance of freedom of expression is that it is one of the pillars of human rights and is found in all the relevant international and regional human rights instruments. The international human rights instruments that have provisions on freedom of expression are: the International Covenant on Civil and Political Rights (ICCPR), which came into force on 23 March 1976, after it had been adopted for signature, ratification and accession by the UN General Assembly on 16 December 1966; the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the UN General Assembly on 21 December 1965; and the Convention on the Rights of the Child, which was adopted by the UN General Assembly on 20 November 1989 and came into force in September 1990.

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All three regional human rights instruments have recognized freedom of expression as an indispensable part of human rights and have provisions for it. The three regional human rights instruments are: the European Convention on Human Rights (ECHR), which was signed in Rome in 1950 and came into force on 3 September 1953; the African Charter on Human and Peoples' Rights 1981 (ACHPR), which came into force on 21 October 1986; and the American Covenant on Human Rights (ACHR), which was adopted in 1969 and came into force on 18 July 1978. Freedom of expression is also recognized by the Declaration of Human Rights Defenders, which came into force in 1998 to protect human rights defenders within the context of their work. The rights specifically mentioned in the declaration include freedom of expression. There are also national laws on freedom of expression. The position of Ghana is contained in Article 21 of the Constitution of Ghana 1992, which guarantees freedom of speech and expression, which include freedom of the press and other forms of media such as social, print and electronic media.

The essay addresses the limitations placed on freedom of expression, even though it appears to be absolute when one reads Article 19 of the Universal Declaration of Human Rights. Article 19 of the ICCPR seems to suggest that freedom of expression is not absolute, and a person who seeks information may impart it through any media, including social media, upon receipt of the same, provided the information put out on media, including social media, is within the limitations placed on freedom of expression. Article 9 of the ACHPR also suggests that the right to receive information is absolute, but the right to express and disseminate opinion shall be within the law prescribed by the member states.

Freedom of expression is a term of art and such freedom may be expressed in the form of writing, orally, print, or any other form of art or pictorial representation, and the limitations are placed on any of the modes and forms of expression stated above. Article 13 of the ACHPR prescribes criminal punishment for a person who goes beyond the limitations placed on freedom of expression with the aim of protecting public order, social order, national security, public health, public morality, and respecting the rights or reputations of others.

The article aims to discuss all the limitations imposed on freedom of expression, including those punishable either civilly or criminally, or both, for the purposes of respecting the rights of others and not defaming or slandering another person, protecting national security, public order, public health, or morality. The recent trend of events is that people go on social media to defame others, violate their rights, cause fear and

panic, and publish information about security threats, public order, and morality with impunity under the guise of freedom of expression. Social media, as a set of interactive internet applications, facilitates the creation, curation and sharing of the contents of information created either by individuals or in collaboration with others, and at the moment it seems to be the fastest form of media. The article shall discuss freedom of expression and its limitations from different human rights instruments and domestic statutes in respect of sanctions that can be imposed on a person who goes beyond their rights to violate the rights of others or defame others, or on a person who has published material that would affect the security of the state, public order, public health, or morals. It shall further discuss the forum where an action may be brought against the person who violates the rights of others in the name of freedom of expression and the appropriate forum where a person charged with an offence under it may be prosecuted.

**Keywords:** admissibility of evidence; communication; African Charter on Human and Peoples' Rights; criminalization of freedom of expression; documentary information; freedom of expression; International Covenant on Civil and Political Rights; limitations on freedom of expression; social media; Universal Declaration of Human Rights.

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## [A] INTRODUCTION TO FREEDOM OF EXPRESSION

Freedom of expression is one of the major drivers for fundamental human rights, and it is meant to inform people of their rights to hold opinions on matters, seek information and, when the information is received, share it with other people around the globe to help them make an informed decision. Information should be shared for the benefit of all instead of shrouding it in secrecy to breed suspicion and rumour-mongering which could lead to an unsuitable outcome. The main cause of the Second World War was Germany's attack on the Polish as inferior people who did not deserve to live in Poland and who were forced to give way for Germans to live there. Germany had secretly built up its army and weapons supplies, but, if the information about them had been made known to its allies, they might not have renounced the Treaty of Versailles.<sup>2</sup>

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<sup>2</sup> [Treaty of Versailles: Primary Documents in American History](#), Library of Congress Research Guides.

The Universal Declaration of Human Rights 1948 introduced the right to freedom of expression to enable people to seek information, and receive and impart the same information through any media in regard to its frontiers to expose any activity that people ought to know. The work of journalists derives its roots from freedom of expression, which enjoins them to seek, receive and inform the people at large. The right to information is not available to journalists alone but to all and sundry, as each person is supposed to be each other's keeper. The Treaty of Versailles was signed after the First World War between Germany and Allied Nations on 28 June 1919, and the treaty required Germany, which lost the war, to pay reparations for the harm and damage it had caused, to disarm its military, lose territory and give up its overseas colonies. Even though Germany agreed, it secretly built up its army and weapons to renounce the treaty by attacking Poland, and that accounts for why the right to seek, receive and impart information now appears to be one of the major drivers of fundamental human rights. If the Germans had known of the intention of Adolf Hitler to engage in war with Poland and the fact that he was secretly building weapons of war to cause mayhem had been known to his allies, the Allied Nations would have foiled his attempt. Where people have the right to hold opinions, seek, receive and share information, nothing can be hidden from the people on the globe, and national borders cannot be an impediment to the free flow of information. Freedom of expression has bolstered human beings to expose all forms of wrongs for redress to be provided and has further encouraged persons promoting good causes to be cherished and hailed; otherwise, the negative activities of persons made in secrecy might bring the world to a standstill, as Adolf Hitler sought to do, as a result of which more than 50 million people, both military and civilians, died.<sup>3</sup>

## [B] TYPES OF INFORMATION

There are different types of information. These include documentary, real, scientific, demonstrative, digital, or electronic information. Freedom of expression requires that any of these types of information be sought, received and disseminated unless there is a legitimate cause preventing their disclosure. Documentary information includes any form of document that carries information, such as journals, newspapers, magazines, judgments, letters, agreements, plans, laws, maps and others. Real information includes physical objects, equipment and substances such as acid, water, knives, cutlasses, metals, weapons, stones, cannabis, gold, diamonds, food, bananas, plantains, weapons

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<sup>3</sup> See DMDC (Defence Manpower Data Center).

of mass destruction and atomic bombs. Scientific information deals with results obtained from science, and it includes ballistic reports, DNA, paternity test reports, pathological reports, handwriting reports, medical reports, fingerprint reports, autopsy records, nail records, hair samples and records, blood tests and medical records, voice reports, expert reports and others. Demonstrative information includes photos, graphics and sounds that are used to illustrate information. Digital or electronic information deals with information that is stored or transmitted on electronic devices, including Google, WhatsApp, Facebook, YouTube, emails, faxes, telefaxes, telexes, ATM card systems, credit cards, debit cards, scanners, images and footage.

## [C] THE TRADITIONAL MODES OF EXPRESSING INFORMATION

Information is sent by a sender to a receiver for several purposes, including education, training and dissemination. Where the message received is clear, plain and does not require further interpretation, the sender's objective is achieved. On the other hand, where the text is unclear, ambiguous, vague, or coded, the receiver is required to interpret or decode it to make it relevant. Until recently, when technological developments have made it possible to retrieve information sent to a receiver, such as WhatsApp, the position was that information sent was irretrievable from the receiver. However, where the information sent to the receiver is read and subsequently retrieved by the sender, it becomes irretrievable in the mind of the receiver, and it shall be deemed to have served the purpose for which it was sent.

The main modes of expressing information for whatever purposes are written, verbal, nonverbal and visual. Written communication includes handwritten, typewritten, painting, WhatsApp, email, fax, text message, braille and drawings. Verbal communication is mainly spoken language and may be coded or uncoded. Non-verbal communication includes sign language, kinesics (gestures), oculosics (eye movement and behaviour) and facial expressions. Visual communication includes: drawings, artistic work, technical drawings, cartooning, doodling, both symbolic, and expressive; sculptures; social media platforms; Instagram; Zoom; Facebook; and symbols and signs produced by audiovisual aids. A person expresses oneself through any of the above modes of communication for others to understand and, at the same time, these may be used by the sender to a receiver to impart or educate on the information sought and obtained through whatever means.

## [D] MODES OF OBTAINING INFORMATION: LEGALLY OR ILLEGALLY OBTAINED INFORMATION

Information may be obtained freely, in accordance with procedures provided by law, or through illegal means. There are some pieces of information that come naturally in the course of one's work. A person who has information to share may invite the press to attend a news briefing, issue a press statement, or attend a lecture or conference to seek, obtain and disseminate the same for educational, entertainment, political, or any other purposes. In Ghana, in the case of public institutions, including universities, hospitals, ministries, agencies and private organizations that receive public resources or provide public functions, any person may seek information from them in accordance with the Right to Information Act 2019 (Act 989) unless that information has been exempted under the Act. The exempted types of information that cannot be lawfully obtained under the Act are: information for the President or Vice President of Ghana but excludes document containing factual or statistical data; information relating to Cabinet except where Cabinet waives its right and grants access to it; or any information containing factual or statistical data, information relating to law enforcement and public safety but with few exceptions, information affecting international relations with few exceptions, information that affects the security of a nation, information with economic and any other interests, economic information of third parties, information relating to tax with an exception which permits the person whom the information relates to waive, internal working information of public institutions, parliamentary privilege, information on fair trial, information on contempt of Court, and privileged information unless it is knowingly waived by the person who is entitled to that privilege (Right to Information Act 2019 (Act 989), sections 5-15). The other exempt information under the Act is information about the disclosure of personal matters, whether the person is living or dead, and a disclosure of information for the protection of public interest that may be waived, and when it is waived, the person who disclosed it or authorized its disclosure shall not be liable to civil or criminal proceedings for the disclosure or authorization of the disclosure of that information (sections 16 and 17).

The rationale behind the Right to Information Act 2019 (Act 989) is that public officers hold their respective offices as trustees for the people of Ghana, and they cannot refuse to disclose any information that is available in their office unless it is exempted by law. The applicant is

first required to apply to the information officer of the institution, and where the information officer refuses to disclose, the applicant may submit an application for internal review of that decision to the head of that public institution. Where the head of the public institution fails to give a favourable decision on review, the aggrieved applicant may either apply to the High Court for judicial review or to the Right to Information Commission (sections 19, 31, 33, 36 and 40). The Right to Information Act 2019 (Act 989) helps to promote transparency and accountability in public institutions where information about the institution is sought, received and made known to the public for public consumption and scrutiny.

The security agencies are clothed with some powers to obtain information from people who ordinarily would not have cooperated. The state agencies, including the police, Economic and Organized Crime Office (EOCO) and the Special Prosecutor, have the power to arrest, detain and search a person, institutions, or organizations to obtain information in cases where there is a suspicion of crimes. The Criminal and Other Offences (Procedure) Act 1960 (Act 30) empowers the police, the Special Prosecutor and the EOCO, upon an application made *ex parte* to enter any private house or place, to search and seize tangibles and intangibles such as mobile phones, computers and equipment with or without the presence of the owner to obtain information to be used against them. The Special Prosecutor and the police have the power to make an application *ex parte* to obtain a warrant to intercept, detain, or open an article being sent by courier, post, or intercept communication and record or install a device used to intercept messages and retain the same. The service providers in Ghana, including Scancom (MTN Ghana), Vodafone and Airtel Tigo, have installed interception capabilities that mandate them to retain subscribers' information for a minimum of six years, traffic data (discussions on the phone) for a minimum period of 12 months, and any relevant content data for 12 months, but this can be used by a security agency on an application, for example made to the High Court for that purpose. It provides, thus:

- (1) A service provider shall retain
  - (a) subscriber information for at least six years;
  - (b) traffic data for a period of twelve months; and
  - (c) relevant content data for a period of twelve months.
- (2) Where it is necessary for traffic data and content data to be retained for more than twelve months, the investigative officer, the senior investigative officer authorized by a designated officer or the

designated officer, as the case may be, may apply ex parte to the High Court, for an extension of the period (Cybersecurity Act 2020 (Act 1038), section 77).

The phone calls made, text messages sent and subscriber information are stored for a minimum of 12 months and up to six years, and the voice recordings, messages sent (except WhatsApp, which is encrypted) and subscriber information may be released to security agencies on an order made by the High Court. Additionally, information stored on computers may be obtained by security agencies with an order from the High Court to search, detain and store the relevant information. A police officer of the rank of Assistant Superintendent may enter a shop, warehouse, ship, boat, or vessel, conduct a search and take, without a warrant, any property the officer has reasonable cause to believe has been stolen or dishonestly received.

Information may also be obtained through illegal means, including entrapment, undercover investigations, secret recordings and the payment of money to someone who has the capacity to obtain the information without the consent of the person holding the information, and such information can be used for the purposes for which it was sought and obtained unless a law specifically forbids its use. There is always a misunderstanding between illegally obtained information and illegally obtained evidence. Illegally obtained information may be used to educate and inform the people, even where the law is settled that a person who seeks and obtains such information commits an offence. It is an offence for a person who seeks and obtains sexual photographic images of another person to disseminate or share them with another person, or to distribute by any form of communication a person's private image or moving images of another person engaged in sexual conduct to extort money (sexual extortion), or use a computer online service, internet service, or local internet board service to give detailed information about a child to be identified for the purposes of engaging in sexual intercourse, sexually explicit conduct, or unlawful sexual activity (cyberstalking of a child, Cybersecurity Act 2020 (Act 1038), sections 62, 66, and 65).

Furthermore, it is an offence for a person to obtain classified information under the State Secrets Act 1962 (Act 101) and disseminate it (section 3). There are specific enactments made to regulate freedom of expression on information meant to be disseminated for the benefit of other persons by the receiver of that information in the interests of national security, public safety, the prevention of crime or disorder, the protection of



health or morals, or the protection of the rights and freedoms of others.<sup>4</sup> However, where a person disseminates such forbidden information, the information is already in the public domain, and the offender may be charged and tried, but the information shall continue to be in circulation. A person may record their discussions with another person without that person's consent, and the information obtained may be made available to the public to show the conduct of the person.

Illegally obtained evidence refers to the use of information obtained contrary to the law to be used in court proceedings as evidence. An illegally obtained piece of information may be used for whatever purpose it was obtained, but where the information is to be used in court as evidence, that is where the laws on illegally obtained evidence would be invoked. The general common law position is that illegally obtained evidence is admissible, irrespective of the mode used to obtain it. The House of Lords in the case of *Attorney-General's Reference (No 3 of 1999)* (2001) did not follow the cases of *R v Sang* (1980) and *Delaney* (1989), where relevant evidence was rejected by the mode in which it was obtained, and reaffirmed the common law position that illegally obtained evidence is admissible. *Attorney-General's Reference* is a case where a rapist was made to take a DNA test to be used in a particular case but it was instead used in a subsequent case where the semen was proved to be that of the rapist. The House of Lords held that, even though the police should not have kept the DNA without the consent of the rapist, it was relevant because it proved that he raped another woman after the DNA test had been conducted. The exposition by the Supreme Court on illegally obtained evidence and the proper interpretation of Article 18(2) of the Constitution of Ghana are that illegally obtained evidence is admissible, subject to a few exceptions. Where it is obtained for the prevention of crime, protection of health and morality, or for public order or national security, it is admissible, but where it was obtained to be used in a civil suit without the consent of the person who was recorded, it is inadmissible.

In *Cubage v Asare and Others* (2017)-(2020), in which the plaintiff recorded a Presbyterian minister on a land matter where the minister admitted the ownership of the plaintiff to the land and denied the same in his witness statements, on a reference to the Supreme Court by the magistrate, the Supreme Court held that the illegally obtained evidence that was to be used in civil proceedings was inadmissible. A spouse who videos the sexual intercourse between that person's spouse and another person with a sexually transmitted disease may use it as evidence under

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<sup>4</sup> Article 2 of the ECHR, which can be used by virtue of Article 33(5) of the Constitution of Ghana 1992, and Article 19 of the International Covenant on Civil and Political Rights 1954.

Article 18(2) of the Constitution for the prevention of both health and morals and should be admissible as evidence. A person who obtains information through whatever means can disseminate it unless the dissemination of that information has been criminalized, but criminalizing such information cannot erase it from the minds of the recipients of that information. Therefore, where information is illegally obtained from an individual and it is the truth of the matter, the issue of defamation shall not arise unless it is circulated, such as in cases of sexual extortion or nude pictures that have been criminalized. Unless there is a legitimate limitation placed on freedom of expression, the source of information, as to whether it was illegally obtained or not, becomes immaterial when it comes to the dissemination of that information.

## [E] INTERNATIONAL HUMAN RIGHTS INSTRUCTIONS ON FREEDOM OF EXPRESSION

The Universal Declaration of Human Rights, the first human rights instrument, made in 1948 after the Second World War, was made, *inter alia*, to provide standard guidelines for the people of the world to observe that there are rights that are inherent in people and should be protected and respected by governments and individuals, and that violations of each of which should attract sanctions, and, furthermore, it aimed to inform the populace about the barbarous acts that were perpetrated on human beings during the Second World War and which should never happen again. The Universal Declaration of Human Rights basically sought to safeguard and promote the human, civil, political, social and economic rights of people around the world to achieve peace, freedom and justice in the world. All 30 Articles of the Universal Declaration of Human Rights are important as they deal with human, civil, political, social and economic rights, but six of them are essentially considered the basic human rights. The basic human rights are: Article 3, which is on the right to life, liberty, and security of the human person; Article 4, which prohibits any form of slavery and servitude; Article 5, which avoids torture, cruel, inhuman, and degrading treatment; freedom of opinion and expression under Article 19; the right to work and protection against unemployment under Article 23; and the right to education under Article 26. Article 19 of the Universal Declaration of Human Rights appears to suggest that freedom of expression is absolute and without limitations. It provides thus:

Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media, regardless of frontiers.

Despite the fact that Article 19 seems on the face of the Declaration to be an absolute right without any restrictions or limitations, a careful reading of the Declaration as a whole clearly imposes restrictions on the right to freedom of expression. Article 1 of the Declaration, for instance, provides that human beings are born free and equal in dignity and rights and therefore places an injunction on other human beings to respect the rights of others. Therefore, where the exercise of a right by a person will attack the hard-earned reputation of another person, the attack would constitute an infringement of the right of the other person. Similarly, where freedom is exercised in a manner that will affect national security, public order, or morality, it should not be exercised to affect the peace and tranquillity the people have been enjoying. Generally, with the exception of Articles 4 and 5 of the Declaration, which are on prohibition of slavery and servitude of whatever form, torture, cruel and inhuman or degrading treatment or punishment, which are absolute rights, all the other rights are subject to the rights and dignity of others.

The Universal Declaration of Human Rights came into force on 10 December 1948, as a soft law. The United Nations (UN) member states, by their own acts and actions, accepted it as a binding document by pledging their support to cooperate with the UN to respect and observe human rights and fundamental freedoms. The member states accepted the Declaration as a common standard of achievement for all people and nations in the field of human rights and committed themselves to teaching and educating people and nations to respect the rights proclaimed in the Declaration. Indeed, the Declaration is a normative statement to observe and preserve human rights, but the international, regional, sub-regional and national courts have held that it has binding effects and violations could be found on it (Preamble) (see *Anudo Ochieng Anudo v United Republic of Tanzania (Merits)* (2018); *Thobias Mang'ara Mango and Shukurani Masegenya Mango v United Republic of Tanzania (Merits)* (2018); and *Mulindahabi v Rwanda* (Ruling) (2020)).

The three human rights courts on the globe, namely, the European Court of Human Rights, the Inter-American Court of Human Rights, and the African Court on Human and Peoples' Rights, have held in their respective jurisprudence that the Universal Declaration of Human Rights is a binding declaration, and a state that violates any of the provisions in it may be found liable for a violation of the same. All the international courts,

including the International Court of Justice, have held that the Universal Declaration is a binding document and violations have been found against states (see *Anudo Ochieng Anudo* and *Mulindahabi v Rwanda*).

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the UN General Assembly on 19 December 1966 and came into force on 23 March 1976, as a legally binding treaty to cater for human, civil and political rights. Ghana signed and ratified it on 7 September 2000. Article 19 of the ICCPR also deals with freedom of expression, and it provides:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other medium of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputation of others; (b) For the protection of national security, of public order (ordre public), or of public health or morals.

The ICCPR set out the parameters within which limitations could be imposed on freedom of expression. The limitation should relate to the protection of the rights and reputations of others, the protection of national security, public health, public order, or morals, and, therefore, any limitation made outside the restrictions imposed by Article 19 cannot be justified. Freedom of expression was further reiterated in the African Charter on Human and Peoples' Rights (ACHPR), which was unanimously adopted on 27 June 1981, in Kenya, by the African heads of state and governments at the Organization of African Union (OAU) meeting. Ghana ratified the Charter on 1 June 1989 to make it a binding treaty there. Article 9 of the Charter provides, thus:

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinion within the law.

The ACHPR did not make the right to receive information an absolute right as it carries with it duties and responsibilities, unlike the provisions on all forms of exploitation and degradation of human persons, particularly slavery, servitude, torture and inhuman and degrading treatment, which have been absolutely prohibited (by Articles 5 and 9). The rights and freedoms exercisable by people under the Charter go with duties including

the rights of others, collective security, morality and common interests of the people. Article 27(2) of the Charter, which is on duties that go with the accompanying rights, provides thus:

2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality, and common interest.

The right to information can be legitimately restricted by taking into account the respect of the rights of others; the collective security of the persons and the country; morality, that is, the principles of good and bad behaviour and right and wrong; and the common interest of every person living in Ghana. The three binding international human rights discussed above have placed emphasis on the importance of freedom of expression as one of the main drivers of human rights, but it is also subject to the rights of others, the collective security of the people, morality and common interest. A person who exercises freedom of expression in violation of the limitations placed on it by the instruments would be deemed to have violated the duties imposed on them, and this may have civil or criminal consequences.

## [F] CONSTITUTIONAL PROVISION ON FREEDOM OF EXPRESSION IN GHANA

The Constitution of Ghana 1992, which is the supreme law in Ghana, came into force on 7 January 1993. It has the whole of its Chapter 5 on fundamental human rights and freedoms. Article 21(1)(a) is on freedom of speech and expression, which includes freedom of the press and other media. It provides, thus:

All persons shall have the right to (a) freedom of speech and expression, which shall include freedom of the press and other media.

The right to freedom of speech and expression seems to be an absolute right under the Constitution, but if Chapter 5 of the Constitution is read as a whole, it is also limited to respect for the rights and freedoms of others and for the public interest, which includes public order, national security and morality. Article 12(2), which does not make freedom of expression an absolute right in Ghana but is subject to the rights and other freedoms of people, provides thus:

Every person in Ghana, whatever his race, place of origin, or political opinion, colour, religion, creed, or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this chapter, but subject to respect for the rights and freedoms of others and for the public interest.

The Constitution of Ghana gives rights to persons to exercise and at the same time imposes a duty on a person exercising those rights to ensure that the rights of other persons are respected, and, furthermore, the exercise of those rights will not cause insecurity or pose threats to the people of the country. The Directive Principles of State Policy, which are presumptively justiciable, also provide that the rights enjoyed by the people are inseparable from the duties and obligations imposed on them to perform or respect the Constitution (Article 41).

## [G] FREEDOM OF EXPRESSION WITHIN THE NATIONAL CULTURE

Until the 21st century, the chiefs and opinion leaders in Ghana communicated with their subjects through “gong gong”, which was limited to the areas where the gong gong was beaten. The gong gong beater, who communicated with his natural voice without the support of a speaker, moved from one spot to the next to convey the message he had been tasked to deliver to the populace until his listeners were fully informed. Any listener who was opposed to the message conveyed or wanted to make a contribution could not have done so as the media was available from the Chief to his subjects and not *vice versa*. The gong gong was the property of the chief, and the gong gong beater could not convey any message to the people without the permission of the chief. In some areas, a person who had important information to share with others, such as the loss of their property or the arrival of a priest or pastor on a particular day, had to pay a token for the release of the gong gong and another token to the gong gong beater, whose work was primarily gratuitous, to convey the message. The use of gong gong to disseminate information is still used in some of the rural parts of Ghana, but in most cases, it is jointly owned and managed by the chiefs and the assembly members. This alludes to the fact that the right to freedom of information was practically absent in the country even though the three international instruments discussed above were in force.

Under the traditional setup, young people are not supposed to stand up against a decision taken by the elderly, whether it is in the best interests of the younger person or not. The Akans have a proverb that says that, when the elderly speak, the young person will not be granted audience. In the era of chieftaincy, the common statement is that at the palace the chiefs exercise power and not law. Freedom of expression is one-sided at the palace, as the chief and his elders can say whatever they would like to say, but the same right is not available to the other

side. The chiefs and their elders can insult and embarrass the person before them, and woe betides anyone if they retort or insist on defending themselves. Traditionally, the chiefs had the power to impose sanctions such as “panyarring” (the person is seized until their indebtedness is paid), inhuman treatment including human sacrifice, banishment and fines of different forms. When panyarring was abolished in 1844 among the seven coastal chiefs of the Gold Coast by the Bond of 1844, it continued in other parts of present-day Ghana until the British took over the prosecution of criminal offences and relieved the chiefs of the powers to try criminal cases. Freedom of expression is seen in customary arbitration cases before the courts, as the chiefs are supposed to be independent and hear both sides; otherwise, it may not be enforced by the courts on grounds of breach of the rules of natural justice: *audi alteram partem* (hear both sides); and *nemo iudex in causa sua* (do not be a judge in your own cause).

## [H] NEWSPAPERS PRODUCED TO DISSEMINATE INFORMATION

The first newspaper was produced on the Gold Coast in 1922 under the name *Sir Charles McCarthy’s Royal Gold Coast Gazette*. It was a state-owned newspaper established on the Gold Coast during the commemoration of the silver jubilee of King George V, who was the head of the British Empire. The newspaper was established to transmit information from British Broadcasting Corporation (BBC) programmes to the then-Gold Coast to update the British and the few indigenous elites on events on the globe. The newspaper was used to counter information and give education to the few elites during the struggle for independence by the nationalist press. The *Ashanti Pioneer* was established in 1939 as the mouthpiece for the Asante people and carried out their political campaigns (Owusu Ansah 2014). At the time of Ghana’s independence, there were about 10 independent private newspapers, which were mainly established to educate and fight colonialism, but all of them died out during the First Republic as their agenda was anathema to the Socialist Government introduced by the then President.

The Newspaper Licensing Act 1963 (Act 189) was also passed to restrict the operation of private newspapers to curtail private ownership, as the agenda for the state was to promote state ownership. The Newspaper Licensing Act was repealed during the Second Republic to allow private newspapers to flourish, with the aim of promoting freedom of expression. Dr Kwame Nkrumah established the Ghana News Agency as a state-

owned entity to promote the agenda of the state. During the period of the First Republic, the Preventive Detention Act 1958 (Act 17) (PDA), which provided the President with the power to arrest and detain a person for up to five years, if the President was satisfied that the presence of the person was a threat to the security of the state. The PDA, which was associated with Dr Kwame Nkrumah, was not made by him, but it was one of the existing laws that were passed on to his Government. The PDA was enacted by the colonial Government and signed by the then Chief Justice, Sir Arku Korsah, in the absence of the Governor (see also *Asare v Attorney-General* (2003)–(2004): 855). Presently, there are two state-owned newspapers, the *Daily Graphic* and the *Ghanaian Times*. There are about 135 newspapers published in Ghana, and out of the 135, only nine are daily newspapers.<sup>5</sup>

## [I] BROADCASTING SERVICE IN GHANA TO SHARE AND DISSEMINATE INFORMATION AND PROMOTE LOCAL MUSIC

On 31 July 1935, the first radio broadcasting station was established in the Gold Coast by the then Governor, Sir Arnold Hudson, to disseminate information from the colonial Government to the people who were predominantly illiterate. The state broadcasting station, which was known as Station ZOY, broadcast from a wired relay station in Accra and had a limited audience. On 31 July 1935, the Governor arrived at 5.45 pm with his message explaining the rationale for setting up the radio station as follows: “One of the main reasons for introducing the Relay Service is to bring news, entertainment and music into the homes of all and sundry” (Ghartey-Tagoe 2010: 70).

Even though one of the main purposes of establishing the radio was to broadcast news, it was carried out by the BBC. The English language was the official language used to broadcast; the other four Ghanaian languages that were used were Fanti, Twi, Ewe and Akan. The Hausa language was subsequently introduced as one of the local languages. It also promoted cultural music, which was also used to inform and impart the information gathered to the people. Some of the music was produced to inform the people about current and important issues, but being a national broadcast, any music that was likely to incite the people against the colonial master was not played. The indigenous people did not have the opportunity to disseminate or impart information they had sought and received on state-owned media, which determined what to publish

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<sup>5</sup> “List of Newspapers in Ghana”.



and what to reject, despite the fact that the British were signatory to all the international instruments recognizing freedom of expression as the driver of human rights.

## [J] HISTORY OF TELEVISION IN GHANA

In 1965, Ghana established its first television station as a division of the Ghana Broadcasting Corporation, which was previously known as Station ZOY. The television division was for black-and-white screens and was primarily meant to disseminate information. Ghana Broadcasting Corporation was tasked with performing three mandates: as a state broadcaster charged with disseminating and imparting information; as a public service broadcaster; and, finally, as a commercial broadcaster in Ghana. People were not given the opportunity to buy airtime to impart information gathered by them and express their opinions, as stories were censored to suit the needs of the state. Freedom of expression through national television was one way, as presentations made by those in government were published while those by those in opposition and the downtrodden were not. In some matters, the individuals who could speak to them to inform them that the people had been taken for a ride by the politicians were criminalized, arrested and prosecuted. At the end of June 2023, the National Communications Authority had authorized 170 television stations to operate in Ghana.<sup>6</sup> Out of the total number of authorizations given, only 43 cover the entire country.

## [K] PRIVATE RADIO AND TELEVISION STATIONS

It took some time for private radio and television stations to operate in Ghana, as the Ghana Frequency Registration and Control Board established under the Supreme Military Council refused to issue frequencies to individuals to operate them for obvious reasons, mainly to deny the people the opportunity of establishing private radio and television to educate and inform them of the importance of democracy. The conditions required for a licence under the law were difficult to meet, and, in cases where the conditions were met, the panel would deny it on flimsy grounds. Due to the difficulty of obtaining a licence to operate private radio and television, the first private radio station in Ghana was not established until 1994 under the name Radio Eye. The radio station had the potential to educate the people on matters that were sensitive, but the Criminal Investigation Department of the Ghana Police Service seized

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<sup>6</sup> National Communications Authority, “[Authorised TV Broadcasting Stations](#)”.

its equipment and arrested the management of the station barely a week after it had started operations. It was a clear case of curtailing freedom of expression, and the police acted with impunity without resorting to the courts.

Furthermore, it was in 1995 that the Frequency Registration and Control Board issued a licence to Crystal Television to operate the first private television station in Ghana. In 1997, Metro Television and TV3 were also granted frequency licences to operate private television, and both operated the same within the year. It gave the people the opportunity to freely express their opinions through discussions on those media. The people could phone in and contribute to discussions on matters of national concern.

## [L] CRIMINALIZATION OF FREEDOM OF EXPRESSION UNDER THE CRIMINAL OFFENCES ACT 1960 (ACT 29)

The Criminal Offences Act 1960 (Act 29), then the Criminal Code, criminalized some acts to restrain freedom of expression for various reasons. These offences included intentional libel, negligent libel and the publication of seditious materials. In 2001, the Criminal Code (Repeal and Criminal Libel and Seditious Laws Amendment Act) 2001 (Act 602) was enacted to repeal the laws on criminal libel and seditious law based on which some journalists were charged, tried, convicted and sentenced to various terms of imprisonment (Criminal Offences Act 1960 (Act 29), sections 112-119). The criminalization of negligent libel, intentional libel, publication of seditious materials and defamation empowered governments, including military and civilian, to threaten journalists and, in effect, curtailed freedom of expression. At the moment, there are two legislations that journalists deem to be an affront to freedom of speech. They are section 208 of the Criminal Offences Act 1960 (Act 29), which deals with the publication or reproduction of a statement or rumour that is likely to cause fear and alarm to the public or to disturb public peace when the publisher knowingly or did not have reason to believe that the said publication is true, and section 76 of the Electronic Communications Act 2008 (Act 775), which deals with a person who uses electronic communication services to send false or misleading information that is likely to endanger the life of a person, ship, aircraft, vessel, or vehicle. As a matter of fact, some journalists have been arrested and detained for having acted contrary to section 208 of Act 29, and the Ghana Journalist Association is asking for the repeal of both laws.

## [M] RESTRICTIONS ON MASS MEDIA UNDER THE 1992 CONSTITUTION

The issue of censorship by the Media Commission and its power to control and direct media houses as to what to do within the Constitution were brought before the Supreme Court for its interpretation and enforcement of regulations 3 to 12 and 22 of the National Media Commission (Content Standards) Regulations 2015, LI 2224, as they amount to censorship and subject the operators of mass media communications to Media Commission control and direction. The Supreme Court held that censorship was permitted under the Constitution of Ghana but must be justified in the national security interest, for public order, public morality, or the protection of the rights of others. On the question as to whether the Ghana Media Commission is to control and direct the contents of media houses' publications, the Court held that it is the media houses that should determine this and not the Ghana Media Commission (*Ghana Independent Broadcasters Association v Attorney-General and Another* (2017)).<sup>7</sup>

## [N] CONTEMPT OF COURT

Contempt of court is another area of law that people, and for that matter, journalists, see as an affront to freedom of expression and should cease to form part of the laws in Ghana. Contempt is a common law with inherent powers vested in the Superior Courts to punish for themselves and the High Court with additional powers to punish for the lower courts. Civil contempt is committed by a person who wilfully disobeys a speaking order of a court of competent jurisdiction, which is either compelling a person to do an act or restraining a person from doing an act. A criminal contempt may be committed on the face of the court (*in facie curiae*) or outside the face of the court (*ex facie curiae*) by a person whose acts constitute any of the following: making a statement to undermine the administration of justice; or tending to scandalize or scandalize the court; or prejudicing or impeding pending proceedings; or tending to lower the authority of the court; or prejudicing or tending to prejudice; or interfering or tending to interfere with pending proceedings; or tending to interfere with or obstruct the administration of justice (Articles 11 (1)(e), 19(12) and 126(2) of the Constitution of Ghana 1992).

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<sup>7</sup> See also the case of *Independent Media Association of Ghana and Others v Attorney-General and Another* (1996-1997) where it was held that there shall be legitimate restrictions on the mass media, particularly the broadcast media, within the limits provided by the Constitution.

## [O] HISTORY OF SOCIAL MEDIA

The core function of the media is to promote freedom of expression, and they have been tasked with searching for information, and when it is received, it shall be imparted. Freedom of expression, even though it is the driver of all the human rights provisions by the fact that when people seek information and it is obtained, it is imparted to them to know their rights, but the right is curtailed to avoid a situation where its strict application will affect the other human rights that people are to enjoy freely without any hindrance. The regulation of freedom of expression is very difficult among the people in the media, and the emergence of social media has made it impossible to define the parameters of freedom of expression, which is also an affront to the exercise of fundamental human rights.

SixDegrees.com, the first social media site, was funded by Andrew Weinrich in 1997 to get people connected to their family members, friends and acquaintances by sharing information on current matters in politics, education and culture and to promote freedom of expression. Persons who ordinarily could not express their opinions, ideas and education on social media were given the opportunity to stay tuned on social media to exercise their freedom of expression with others, but it lasted for only two years after having operated as a social network service during that time. The media failed to convert its popularity into revenue and could not replace its “bubble”, which burst as a result of oversubscription after it had been sold out.<sup>8</sup> Facebook was founded in 2003 by Mark Zuckerberg as Facemash and became known as Facebook in February 2004. Twitter was subsequently founded on 21 March 2006.<sup>9</sup> Facebook was founded to help students at Harvard post their photographs and personal life information with respect to their respective clubs and class schedules. The objective of founding Facebook changed when it allowed users who signed up for free profiles to get connected with their friends, family members, work colleagues and people they did not know but wanted to establish acquaintances with for brainstorming and networking.<sup>10</sup>

The underlying idea behind the founding of the 10 principal social media platforms is to promote freedom of expression and enable their subscribers to share ideas, opinions, music, articles, videos and intellectual properties. Social media has been explained as a digital

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<sup>8</sup> “SixDegrees.com”.

<sup>9</sup> “Twitter”.

<sup>10</sup> “Facebook”.

technology that allows the sharing of information and opinions through text and visuals. Social media includes WhatsApp, Facebook, Instagram, Twitter, YouTube, LinkedIn, Snapchat, Pinterest, Reddit and Threads. They are made principally for the expression of information and ideas, and 59 per cent of the global population uses social media.<sup>11</sup> The rationale behind the introduction of social media is to enhance the use of text and visual communication to promote information and opinion-sharing. Social media is faster and cheaper than existing media such as radio, television, newspapers, fax, telegraph, telephone and journals, and it further updates the world with new things. The main advantage social media has over other media is that it helps people communicate from the comfort of their homes in a safe and secure environment. Mobile devices and computers, which are the main devices used for social media, are both affordable and accessible, connect anywhere in the rural parts of developing countries, and are indeed the dominant media in the world.

## [P] SOCIAL MEDIA AND FREEDOM OF EXPRESSION

Social media providers do not check on their subscribers about what they say, write and post, unlike traditional media, which are visible in their respective countries and are held liable either in civil or criminal prosecution. When journalists write or make pronouncements that are outside the scope of freedom of expression, they are dealt with in accordance with the law, but social media subscribers say or post defamatory and other information that has been restricted by law, and their true identities may not be disclosed to suffer for their wrongdoings. The combined effect of Articles 21(1)(a) and 12(2) of the 1992 Constitution is that people have the right to freedom of speech and expression, which includes freedom of the press and the media, but those rights are subject to respect for the rights and freedoms of others and for the public interest. The restrictions imposed on the exercise of freedom of expression by individuals, the press and other media are limited to respect for the rights and freedoms of others and national interests.

Article 9 of the ACHPR, of which Ghana is a member state, gives individuals, the press and the media the right to receive information, but when it comes to the right of freedom and opinions, it is to be exercised within the law. The Charter has provisions on duties, which provide that the rights and freedoms that each individual exercises are subject to the rights of others, collective security, morality and common interest (Articles

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<sup>11</sup> Buffer, "[Social Media Terms: A Comprehensive Glossary by Buffer](#)".

27, 28 and 29). It is not right for individuals, the press, and the media to exercise rights and freedoms on social media without corresponding duties and responsibilities.

There is no international human rights instrument that makes freedom of expression an absolute right to be exercised to defame others and cause fear and panic in society. However, a reasonable number of social media practitioners use the right to express and disseminate information to defame others, undermine the administration of justice, and cause security threats due to the fact that they cannot be arrested or dealt with within the jurisdiction or operate under pseudo names. Is this the Ghana we want?

The European Convention on Human Rights (ECHR), which has persuasive effect on Ghanaians by virtue of Article 33 of the Constitution of Ghana, permits Ghanaians to use rights, duties and guarantees with respect to fundamental human rights and freedoms that have not been specifically mentioned in the Constitution, provided that these rights, duties, and guarantees are considered to be inherent in a democracy and intended to secure the dignity and freedom of individuals (Article 33(5)). The ECHR provides detailed duties and responsibilities for the exercise of freedom of expression. It provides, thus:

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions, or penalties as 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 the reputation of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary (Article 10(2) ECHR).

The Convention clearly and succinctly prescribes the limitations to be placed on freedom of expression, including criminal sanctions. In a democratic country, people are supposed to be law-abiding to make the country worth living in. There are limitations to be placed on freedom of expression in a democratic state in a form of law that is both civil and criminal and shall be informed by factors such as national security interests, the territorial integrity of the state, public safety, prevention of crime or disorder, respect for the rights of others without unjustifiably damaging their reputation, disclosure of privileged information, and maintaining the authority and impartiality of the judiciary. Where limitations are placed on freedom of expression in the form of law, the violation may be addressed by civil rights, criminal law, or quasi-criminal law, depending on the nature of the case.

The established jurisprudence in common law countries is that where a person, press, or media does any act that will constitute criminal contempt, as discussed above, the act of that person or media would be deemed to lower the authority or impartiality of the court and should be dealt with by the court, unless it is a lower court where the contempt would be determined on its behalf by the High Court. The power of contempt is accepted in common law countries to enable the judiciary to maintain its authority and impartiality. In the case of *Republic v Mensa-Bonsu & Ors* (1994)-(1995) a journalist described Justice Abban, in a case where he delivered an opinion in the Supreme Court, as scandalous when the judge attributed a statement made in his judgment to former Prime Minister of Ghana, Dr K A Busia. Even though the statement was not made by him, he was convicted of criminal contempt for publishing scandalous, abusive and contumacious material intended to undermine the authority and impartiality of the court.

Where such a statement had been made on social media and the person involved changed their identity or the identity of the person is known but the statement was made outside the jurisdiction of the court, such a person will go unpunished while the image of the court that has been dented by that person cannot be restored. The established jurisprudence on contempt is that the truth of the matter is immaterial, provided the statement made would undermine the authority or impartiality of the court and cause the court to lose its potency.<sup>12</sup> In the case of *Zugic v Croatia* (2011), the European Court of Human Rights held that the applicant was guilty of contempt in so far as he used abusive words towards the national judge of Croatia who was sitting on the matter. The Court further held that the abusive words used against the judge in pending proceedings fell within the restricted part of the ECHR, which places restraint on freedom of expression to maintain the authority and impartiality of the judiciary.

There are some laws that are enacted specifically to criminalize freedom of expression to prevent security and national threats and are within the law. Section 76 of the Electronic Communications Act 2008 (Act 775) has been used to criminalize false or misleading communications by the use of electronic communications services that are likely to prejudice the efficiency of life-saving services or endanger the safety of any person, ship, aircraft, vessel, or vehicle. The Ghana Journalist Association is demanding its abolition; however, it is a restriction on freedom of

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<sup>12</sup> *Saday v Turkey* (2006); and Bamford Addo JSC quoted the English position, which is part of the inherited common law in the case of *Republic v Mensa-Bonsu*. Anarchy would reign were people to fail to protect the integrity of the court, which is the bulwark of Ghana's democracy.

expression, which is permissible within the law. Any individual, press, or media that acts contrary to the law within the jurisdiction would be tried by a court of competent jurisdiction, but where it is made on social media and the persons involved are not within the jurisdiction, it is done with impunity while it endangers the lives of persons or the efficiency of life-saving services. The Inter-American Commission on Human Rights provision on freedom of expression, which is similar to that of the European Commission, goes further to state that any propaganda for war and any advocacy to promote national, racial, or religious hatred that amounts to violence or any similar action against individuals or groups of persons on any grounds shall be considered a criminal offence to be punished by law (Article 13(5) Inter-American Commission on Human Rights 1959). The test that is used to determine whether restrictions on freedom of expression are justified is known as the Three-Part Test. The first test is whether the restriction is provided by the laws of the country. The second test is that the restrictions must pursue legitimate purposes. The third test is that the restrictions must be necessary for a legitimate purpose (Article 19(2) ICCPR, of which Ghana is a member state).

The legitimate aims and purposes for making laws that provide for restrictions on freedom of expression have been stated in Article 10(2) of the ECHR, which include duties and responsibilities that are necessary in a democratic society in the interests of national security and public safety, for the prevention of crime and disorder, protection of health and morals, protection of the reputation of others, privileged information and maintaining the authority and impartiality of the judiciary.

Information that is to be received freely has also been restricted by enactments, including the Right to Information Act 2019 (Act 989), and a person who violates the restrictions commits a criminal offence. It provides that a person who wilfully discloses information exempt from disclosure commits an offence and, upon conviction, shall be liable to a fine of not less than 250 penalty units and not more than 500 penalty units, or to a term of imprisonment of not less than six months and not more than three years, or to both (section 81 Right to Information Act 2019 (Act 989)). However, on a daily basis, people on social media have access to some of the exempt information on the President, Vice President, Cabinet, law enforcement and public safety, international relations and security of the state, but they cannot be tried with those who disclose that information to them as they communicate on social media and are outside the jurisdiction of the courts and cannot be charged before the courts.



The purposes for introducing social media to share information and educate people have been abused, as people have been using it to defame and malign others and cannot be sued for a tort of defamation because the identities they provide are false. Furthermore, some of the people who are outside the jurisdiction of the courts undermine the authority and impartiality of the courts with impunity, as the courts do not have jurisdiction to deal with them. Information on national security, national interests, prevention of crime and disorder, protection of health, or morals that must be protected is posted on social media to undermine the security of the state, but those involved cannot be brought to Ghana to be prosecuted as they are neither universal nor extraditable offences.

Another serious legal consequence of social media is fake news. Social media was created to educate, but most of the information on social media is fake. At times, statements are attributed to some personalities, which is palpably false and could not have happened in the traditional media, where news is checked before it is broadcast or published. If it were the traditional media, the people behind the fake news could be exposed and dealt with, but social media is unregulated, and the genuineness of information on it cannot be guaranteed. All the traditional media platforms are regulated by the states concerned, but social media is unregulated, and fake information that may negatively impact the rights of other people or the security of the state may be posted for others to believe.

Cyberbullying remains a serious illegal effect of social media on the contemporary world. A person can send, post, or share false, misleading, negative, harmful, or defamatory information about another person to tarnish that individual's reputation. In some cases, false information is published on social media because it is unregulated to embarrass or humiliate another person, and the identity of the person using cyberspace to bully another one cannot be verified. Cyberbullying is an affront to freedom of expression, and a person who has been bullied can neither seek redress nor redeem their good name or correct their false personal data or information shared on the platform. Cyberbullying defies all the restrictions imposed on freedom of expression. Cyberbullying is also used to impersonate, to cause sexual extortion, and non-consensual sharing of intimate images of other people, which are criminal offences. Some people use cyberbullying to extort money by threatening to distribute by post, email, WhatsApp, or other electronic means a private image, nude pictures, or moving images of a person engaged in sexually explicit conduct or non-consensual sharing of intimate images, and it is difficult to arrest the person even where that person is within the country. Social media is unregulated, and information posted and shared on these platforms

cannot be controlled by administrators. The unregulated aspect of it makes it scary, as people who hack into the accounts of others can post any information there without taking into consideration the restrictions on freedom of expression.

## [Q] RECOMMENDATION

The state should make some of the offences committed on social media universal offences for the people who commit those offences outside the jurisdiction to be dealt with in Ghana. The state should lobby for a treatise that will make some of the offences on disclosure of information on national security, protection of health and morals, and territorial integrity or public safety extraditable to enable Ghana to get Ghanaians living abroad who openly commit those offences extradited to Ghana to face prosecution. Persons whose reputations are dented on social media in Ghana should be able to sue the social media creators where the identity of the person who published the false information on the other person cannot be identified or where the person can be identified but lives abroad. That person and the social media creators involved should be jointly sued for defamation. The social media creators should help the police track these offenders. Social media has come to stay, along with its challenges, and technologies should be further developed to expose those who use social media platforms in complete disregard of laws made to restrict freedom of expression to be dealt with in accordance with such laws and to the same extent as those who commit offences and wrongs on the subject matter on the traditional media, whether within or outside the jurisdiction, are similarly dealt with.

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**Sir Dennis Dominic Adjei** is a Justice of the Court of Appeal, Ghana. He was elected as Judge of the African Court in July 2022 for a term of six years. He is one of the Nine-Member Advisory Committee of the International Criminal Court. Justice Dennis Dominic Adjei was elected as the Inns of Court and Institute of Advanced Legal Studies, University of London, Senior Judges Fellow for Common Law jurisdictions for the 2022–2023 academic year. He is a Fellow of the Ghana Academy of Arts and Sciences.

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