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**The Tension between Freedom of the Press and the Right to Privacy under the 1999 Constitution of the Federal Republic of Nigeria**

By Okunowo Oladele .O

**Abstract**

The 1999 Constitution of the Federal Republic of Nigeria has two of its chapters and a total of 26 (twenty-six) sections setting out human rights provisions. Some of these provisions particularly in chapter II are regarded as Fundamental Objectives And Directive Principles of State Policy and are seen as the second generation rights. However, Chapter IV is titled “Fundamental Human Rights”. This paper will essay the tension between the constitutional guarantee of the right of the freedom of expression and the entrenched in Section 39 of the 1999 Constitution of the Federal Republic of Nigeria drawing from such international and regional instruments such as The Universal Declaration of Human Rights and the African Charter on Human And People’s Right that ensures the right of the public to know and informed this has a chequered history and the right of the privacy of individuals which touches on human dignity found in Section 37 of the same Constitution. The paper contents that though the public has a right to know and be informed particularly by the press who are expected to put information in the public domain, the individual have a contending right to his autonomy, dignity, his right to be protected from intrusions into his personal life or affairs and that of his family by publication of information. The paper further argues that while it is trite for the press to have the freedom to import ideas individuals should also have their right to live their lives. These rights are contending rights and there must be a balancing of the two and should both be accommodated under the law, there has become more imperative in the digital age where sophisticated equipment are at the disposal of virtually everyone.

**Keywords:** Freedom, press, privacy, Nigeria

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### **Introduction**

A society consists of individuals who as of necessity have to interact in an attempt to achieve their aspirations within the society as well as the values and aspirations commonly shared by that society (1). Social interaction has been described as a process by which two or more persons act towards and respond to one another (2) Oputa J.S.C once pontificated that the consequence of such interaction among men and implies the emergence and existence of rights and benefits as well as duties and obligations. This very early in life, man becomes aware that he is living in a world of laws. He becomes aware that to live in any society, he has to abide by the laws of that society, laws that regulate and govern the various relationships demanded by society. He discovers that to these laws is essential for the harmonious existence of the society as a whole and for the preservation of the individual. He can act as though the laws do not exist since he has free will but he soon discovers that obedience to the laws of his society offers him the greatest chances not only of happiness but also even of survival. The fish for example, lives in water in obedience to aquatic laws, if it leaps out of water unto the bank in search of greater freedom, it will die and so will man (3).

Law as envisaged by the learned jurist quoted above as regulating the various relationships in a society has been defined by different scholars in different ways, the various definitions by the different schools of thoughts is beyond the scope of this paper.

However one can adopt a working definition of the concept of law as a body of rules guiding human conduct in a society. It is the focus of this paper therefore to take a look at the interaction between the press and the rest of the society. It is not in doubt that the press plays an important role in the society particularly in the area of disseminating information to enable the citizens make the political decisions which a democracy demands as such the press has been described as the fourth estate of the realm (4)

Going by the provision of Section 22 of the 1999 Constitution of the Federal Republic of Nigeria, the press is assigned the right to uphold and help government realize the fundamental objectives and directive principles of state policy provided in Chapter 2 of the Constitution and a duty of serving as a watch dog of the government to be responsible and accountable to the Nigerian people. Specifically Section 22 provides that: “The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and the responsibility and accountability of the government to the people.”

Lord Denning (5) said that each man should be able to inquire and seek after the truth, whether in public or in private, especially issues touching on the affairs of the state. The pertinent question to ask here is who informs the people, the simple answer is the press; to do this the press must be free. However, the concept of the freedom of the press though guaranteed by various international instruments and virtually all modern Constitutions including the 1999 Constitution of the Federal Republic of Nigeria as a forum of battle of ideas is not absolute. The

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major thrust of this paper is to consider whether a person can in this contemporary world of keen competition among various mass media live an undisturbed life? Has not the collection and dissemination of political and social intelligence which in the words of Blackstone has become a secondary pursuit where it is clear that scandal and sensation are the real money spinners. Blackstone opined that there is also a danger of ignitions pandemonium and likely breach of peace if in the right of expression, particularly as it affects the press, is allowed to be enforced without qualification (7). There is thus a tension between the freedom of the press and the right to privacy.

## **2.0. The Concept of the Freedom of Expression and the Press**

The Concept of the freedom of expression and the press connotes the liberty of open discussion without fear of restriction or restraint (8). One cannot but rely again on the opinion of Blackstone who said freedom of expression consists in laying no previous restraints upon publication and not in freedom from censure for criminal matter when published (9). In the case of *U.S.V. Ballard* (10) Justice Jackson said that the price of freedom of religion or of speech or of the press is that we must put up with or even pay for a good deal of rubbish. The idea of the freedom of expression and the press connotes the right to say what one wishes to say subject to consequences under the law (11) press freedom is considered as an extension of the man's freedom of expression which is a human right is not only universal that it applies equally and without discrimination to all person but also inalienable that is no one can have his or her human rights taken away other than in specific circumstance (12).

Lien opined that human rights are universal rights or enabling qualities of human beings as human beings or as individuals of the human race attaching to the human being wherever he appears without regard to time place, colour, sex, percentage or environment (13). Human rights define certain minimum standards and rules of procedure, it set limits to the power of governments and they oblige these within their purview to lay the foundation for enabling people to actually exercise and enjoy their rights through affirmative measures (14). Every person is inherently entitled to human rights as a consequence of being human and such rights are protected by international instruments and other sources of law (15). As regards freedom of expression and that of the press as human right which falls under civil rights and liberties, it has been pontificated that it is important to have a free market for ideas and information to allow the truth to emerge so that ideas of the minorities as well as the majorities, the weak as well as the strong can get a fair hearing through the press, man is considered as an independent and rational being capable of deciding between good and bad (16)

Article 19 of the Universal Declaration of Human Rights which was adopted by the General Assembly of the United Nations on the 10<sup>th</sup> December 1948 states as follows. Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. This right is also reflected in the African Charter on Human and People's Right particularly in Article 9 (2) thus: "Every individual shall have the right to express and disseminate his opinions within the law." It is of importance that the African Charter on Human and People's Right was promulgated by the National Assembly in 1983 in Nigeria and the status of that charter was put to test in the case of *Abacha V Fawehinmi* (17), the Court of

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Appeal held that the African Charter is a law which the court, executive and the legislature even under military dispensation must give due recognition and enforce. The law is in full force and unlike most municipal laws, it is superior and inviolable. Under the 1999 Constitution which came into force on the 29<sup>th</sup> of May 1999, freedom of expression and of the press is guaranteed in Section 39(1) which is the equivalence of Section 36 of the 1979 and it provides thus, Every person shall be entitled to freedom of expression to hold and to receive and impart ideas and information without interference.

A learned another commented on this provision on the ground that it raises a doubt on its extension to the concept of the freedom of the press. She equated this provision to that of the American Constitution which provides in an unambiguous terms that the congress shall make no law abridging the freedom of the press (18). The learned author however stretched the argument further by relying on the case of *Frohwerk V U.S* (19) where the court held that the First Amendment while prohibiting legislation against free speech as such cannot have been and obviously was not, intended to give immunity to every possible use of language. This decision obviously shows that the concept of press freedom to the U.S is not absolute. In the U.K. a Royal Commission duties press freedom thus: “We define freedom of the press as that degree of freedom from restraint which is essential to enable proprietors, auditors and journalists to advance the public interest by publishing facts and opinions without which a democratic electorate cannot make a responsible judgement” (20). By implication the liberty of the press thus means putting no prior restraint on publication but there is liability for publication. Blackstone (21) was of the opinion that:

Liberty of the press consists in laying no previous restraints upon publication and not in freedom from censure for criminal matters where published. Every man has the undoubted right to lay what sentiment he pleases before the public.....to forbid that is to destroy the freedom of the press –but if he publishes what is illegal or mischievous he must face the consequences of his own temerity.

The freedom of expression and the press as entrenched in Section 39(1) of the 1999 Constitution is further cemented by the provision of Section 39(2) which provides that every person shall be entitled to own, establish and operate any medium of information ideas and opinion. This connotes the right to own, establish and operate any school or institution for imparting information, ideas and opinion. This was succinctly put in perspective in the case of *Okogie V Attorney General of Lagos State* (22), the court considered the meaning of the word medium and concluded that it could reasonably include schools and not restricted only to the orthodox communication media.

The advent of the internet has also aided the world over individual’s right to seek and share information and has enhanced communication and debate (23) The internet has been described as a vast storehouse of information and opinions which is not limited by location compared to off-line publication that have a defined and territorially limited audience reach (24). In the case of *Barrick Gold Corporation Vs Jorge Lopehandia &Anor* (25) Justice, R. A Blair described communication through the internet thus.

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“Communication via the internet is instantaneous, seamless, interceptive, blunt, borderless and far reaching.” The internet has also been described as “possessing no territorial boundaries” its special feature being that publication of matter anywhere is simultaneously published everywhere a feature that sets publication on the internet apart and different from any other kind of offline publication where the publisher has at least some control over the dissemination of the work (26). The major feature of the internet that promotes freedom of expression is affordability virtually everyone has access to the internet, no license is needed to create a website which is inexpensive (27) opinions expressed on the internet can find instantaneous global audience, there is low barriers to entry (28), it has allowed interactive communication opinions and ideas are communicated to a global audience instantly (29)

In essence, in Nigeria, the protection granted under Section 39(1) of the 1999 Constitution is to enable the press and the communicating public exercise the right to freedom of expression and publication to receive and impart ideas and information without interference. Section 39(2) of the Constitution further compliments the provision of Section 39(1) making provision for interested individuals or groups to own a medium of communication to impart and receive ideas and information (30).

## **2.2. The Concept of Right to Privacy**

Under common law the right of privacy is not recognized as a head of tort as compared with law of defamation that affords a person the protection of his reputation (31). However in recent times attention has been drawn to the right to privacy; it has featured in various international and regional instruments and particularly in Section 37 of the 1999 Constitution of the Federal Republic of Nigeria (32). Article 12 of the Universal Declaration of Human Rights provides “No one shall be subjected to arbitrary interference with his privacy family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attack.”

Section 37 of the 1999 Constitution of the Federal Republic of Nigeria provides that: “The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.” A learned writer has alluded to the fact that the right to privacy is linked to the dignity and autonomy of human beings as such Section 34(1) of the same Constitution provides that “every person is entitled to respect for the dignity of his person.”

The term “privacy” has been defined in different ways by different scholars, it has been described as the right to be left alone by the U.S. Supreme Court Justice Louis Brandies (33), the ability to engage in autonomous decision making and to safeguard one’s dignity (34).

Allan Westin is of the view that privacy is the claim of individuals, group or institutions to determine for themselves when, how and to what extent information about them is communicated to others (35). Another writer is of the opinion that privacy is an interest of the human personality. It protects the inviolability of personality, the individual’s independence, dignity and integrity (36).

One cannot but mention here the contribution of Samuel Warren and Louis Brandies to the development of right to privacy, they argued that in early times remedies were only available for injuries done through physical interference with lives and properties, later came a recognition

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of man's spiritual nature of his feelings and his intellect. Gradually, the scope of those legal rights broadened and now the right to life has become the right to enjoy life-, the right to be left alone. The term property has now been deemed to comprise every form of possession-intangible as well as tangible (37).

William Prosser distilled the four distinct types of intrusion that will affect the interest of the claimant in respect of his right to privacy.

“Intrusion upon the plaintiff's seclusion or solitude or into his private affairs”, “public discussion of embarrassing private facts about the plaintiff”, “public discussion which places the plaintiff in a false light in the public eye”, “appropriation for the defendant's advantage of the plaintiff's name or likeness (38)”. Justice Parker asked rhetorically, “Doesn't a man have the right to pass through this world, if he will without having his picture published, his business enterprises discussed or his eccentricities commented upon whether in hand bills, periodicals, newspaper or other media?”

Another learned author opined that unwarranted publicity takes two forms. On the one hand it may disclose an accurate but embracing fact about a person or his family. Or the publicity may be merely exploitative in that one's name or likeness or other attribute is used for another's commercial professional purposes (40). The term privacy is not defined in the 1999 Constitution of the Federal Republic of Nigeria, however in the South African case of Hill and others V Smith and others (Freedom of Expression institute as Amicus Curiae) (41), the South African Constitutional Court, defines “Privacy” as the right of a person to live his or her life as he or she pleases and “privates facts” as those matters the disclosure of which will cause mental distress and injury to anyone possessed of ordinary feelings and intelligence in the same circumstances and in respect of which there is a will to keep them private.” Professor Adedeji Adegunle opined that whilst it may be difficult to develop a single comprehensive definition of privacy, overall the term can be viewed, not only as a personal value intrinsically beneficial to preserving our sense of self, but also as personal and essential value for society (42). It is my considered opinion that right to privacy seeks to afford a person a right to have no intrusion into his life, affairs, family and personal matters that could lead to embarrassment, and mental anguish.

### **3.0. The Tension between the Two Rights**

The two rights are entrenched in international, regional and municipal instruments as fundamental human rights which are inherent in our nature and without respect of which we cannot exist as human beings. It is of importance here to note that these rights are not absolute and there must be a balancing act.

The Constitutional guarantee of the freedom of the expression and that of the press in Section 39 is qualified by the provision of Section 45(1) of the same Constitution to wit

“Nothing in Section 39 (among others) of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society”, “in the interest of defenses, public safety, public order, public morality or public health or” , “for the purpose of protecting the rights and freedom of other persons”.

From the provisions of Section 45(1) it peters out that the Constitutional guarantee of the freedom of the press is qualified by regard to the protection of the rights and freedom of other persons, therefore if the right to privacy is a Constitutional right, the tension becomes clear.

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The provision of Section 45(1) to my mind stems from the provision of Article 29(2) of the Universal Declaration on Human Rights which provides that: ‘In the exercise of the rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.’”

It presupposes that if the provisions of Section 39 is read along with Section 45(1) the Constitutional guarantee of the press is not absolute and does not intend to lend credence to the fact that immunity is granted to every possible use of language, it should be weighed against the rights and freedoms of other persons particularly the right to privacy of other persons (43).

The pertinent questions to ask here is given the competition among the media that has led to the various media houses to source for news at whatever length without caring about the privacy of citizens does not create a tension between the freedom of the press and the right to privacy? How deep can the press dig to source for news? Blackstone opined that media operators are more likely concerned with increasing circulating figures a view to commercial benefits. The collection and dissemination of political and social intelligence become a secondary pursuit, where it is clear that scandal and sensation are the real money spinners (44)

Warren and Brandies (45) opined that:

Gossip is no longer the resource of the idle and of the vicious, but has become a trade, as well as effrontery. To satisfy a prurient taste, the details of sexual relations are broadcast in the columns of the daily papers. To occupy the indolent, column upon column is filled with idle gossip, which can only be procured by intrusion upon the domestic circle

Can a person live an undisturbed life in this contemporary world of competition among the various outlets of mass media? The matter has been compounded in this digital age, where digital communications are done via the internet, smart phones and Wi-Fi enabled devices. (46) The digital age has brought to the fore the use of sophisticated instruments in gathering news under the guise of freedom of the press that could bring about unwarranted intrusion into the right of privacy of persons. Of great importance is the advent of the internet that has been described as a giant thus a network of networks (47). It has been argued further that the internet has the unique potential to promote free expression and access to information compared to all previous media, (48).

It is obvious from the above that the freedom of the press is not absolute, in the expression of opinions regard should be had to the rights of other persons, one of those rights is also entrenched in the Constitution of the Federal Republic of Nigeria which is the right to privacy. It can be safely said that of the duty of the law is to create an harmony among the conflicting interests of individuals within the society. Human rights are not ranked, one is not placed above the other, as such the right of the individual to be protected against intrusion into his personal life or those of his family, by direct physical means or by publication of information should be ranked as important as freedom of expression, that is they should be ranked *pari-passu*.

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An important area of the tension between these rights is where evidence is illegally obtained by the press and such evidence is to be tendered in court against an individual, what is the position of the judiciary in Nigeria? In Nigeria following from the Common Law position in *Kuruma VR* which has a base in *RV Leatham* (49) where *Cranton J.* opined that: “It matters not how you get it, if you steal it even, it would be admissible in evidence.” In a line of cases following from *Sadau V the State* (50), *Oguoneze V the State* (51), *Igbinovia V the State* (52), *Elias V Disu* all cited in *Musa Abubakar V E.I Chuks* (54) *Niki Tobi J.S.C* said that: “Admissibility is a rule of evidence and it is based on relevance.” He went further to hold that in determining the admissibility of evidence, the court will not consider how it was obtained, rather the court will take into consideration whether what is admitted is relevant to the issues being tried, this is called the inclusionary rule as opposed to the exclusionary rule.

One will suggest that if the duty of law is to create an harmony between conflicting interest of individuals in a society to ply their trade as journalists and the right of persons to be let alone there exists a tension between the two rights which must be resolved by the law. However, a line of distinction should be drawn between situations where a publication touches on the privacy of an individual in the public interest and when a publication is for commercial gain the former is an intrusion while the latter is not.

It is also germane to allude to the abandonment of the right to privacy as a defense by the defendant where the claimant is a public figure, if he is a public figure, it is my opinion relying on *HymanGross* (55) that one reason for refusing to protect privacy is its abandonment by the one claiming protection. Do public officers have a right to their privacy in the conduct of their activities in public offices?. To my mind a public officer has thrown his privacy into the public domain as such it is said to have been abandoned

It is trite that all rights are equal and none inherently superior to the other, the clash in the duties of the press in the dissemination of news through investigative journalism and the admittance of evidence however obtained creates a tension, should the desire to make sales rank over the right to privacy of other citizens, does the law allow one to benefit from an illegality to which he is party, the maxim here is *ex-turpi-kausam non oritur actio*.

However a learned author has argued that a line should be drawn between when the press publish news that constitute an intrusion of an individual for commercial gain and when news is published about an individual purely in the public interest for the purpose of security (56), this opinion is further commented by provisions of Section 45(1) of the 1999 Constitution which has been discussed.

It is trite that freedom of expression and of the press should not be stifled especially in a democracy, this is not only the fourth estate of the realm, it is the eyes and the ears of the society, however should a man not be allowed to live his life in the way he desires? The right to privacy in Nigeria is not well developed unlike other rights entrenched in Chapter IV of the 1999 Constitution which has been asserted through the enforcement of Fundamental Rights Rules in Section 46. This can be attributed to the lacuna in the said Chapter which did not state specifically that a breach of a human right can be enforced against both the Government and individuals.



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In *Inspector Ale V General Olusegun Obasanjo* (58) it was held that these rights can only be enforced against the state. However in *Theresa Omvo V Nwafor Oko & 12 orb* (58), the Court of Appeal held that the rights in Chapter IV can be enforced against private individuals (59). I am of the opinion that is now settled by virtue of the decision of the Supreme Court (the highest court in Nigeria) in the case of *Alhaji Ibrahim Abdulhamid V Talal Akar & Major G. Ofochie* (60) in a lead judgement delivered by Idris Legbo Kutigi J.S.C where it was held that “the position of the law is that where fundamental rights are invaded not by government agencies but by ordinary individuals as in the instant case, such victims have rights against the individual perpetrators of the acts as they would have done against state actions”.

The court went further to hold that it follows therefore that in the absence of clear positive prohibition which precludes an individual to assert a violation or invasion of his fundamental rights against another individual, a victim of such invasion can also maintain a similar action in a court of law against another individual for his act that had occasioned wrong on damage to him or his property in the same way as an action he could maintain against the state for a similar infraction.

In South Africa, a legal scholar, Jonathan Burchell, in his seminal paper, “The Legal Protection of Privacy in South Africa”. A *Transplantable Hybrid* (61) relying on the decision of *Khumalo V Holomisa* (62) argued that under the 1996 South African Constitution in Section 8 (2) makes Chapter 2 of the Constitution which the Bills of Rights binding on both natural and juristic persons, that is the Constitutional court recognizes the application of the provisions of Chapter 2 of the 1996 Constitution of South Africa to relationship between private individuals as well as between the state and the individuals.

### **Conclusion**

This paper has tried to do an analysis of the provisions of Section 37 and 39 of the 1999 Constitution which relates to the right to privacy and the freedom of the press, it went further to draw out the tension between the two rights. The press no doubt owes a duty to inform the public however it is suggested that this duty should be carried out with some sense of responsibility and not and not with reckless abandon for commercial gain, this will cement the foundation upon which the rights of privacy rests. More than ever before, it has become necessary to protect the invasion of the privacy of individuals, their homes and family in the light of sophisticated instruments employed in gathering news and information in this digital age.

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## References

1. M. I. Jegede, What is wrong with the law? Nigerian Institute of Advanced Legal Studies Annual Lecture Series 12, 1993 pg 1
2. Daramola I, Mass Media and Society , Rothan Press Limited, Lagos 2005 pg.40
3. See Justice Oputa, the Independence of the Judiciary in a Democratic Society, The needs, its positive and negative aspects cited in back note no 1
4. Nnamdi Dingba, Right To Privacy and The Intrusion of The Press In Nigeria, Modern Practice Journal of Finance & Investment Law, MPJFIL Vol 4, no 3c July 2000 p. 178
5. Justice.W O Douglas, The Right of the People, Pyramid Books N.V.P 352
6. Blackstone, Commentaries Vol, 4151- 152
7. Ibid
8. Ibid
9. Ibid
10. (1994) 332 U.S. 78
11. Ese Malemi, Mass Media Law 3<sup>rd</sup> ed 2009 P 10.
12. See Human Rights, A Basic Handbook for UN Staff, Office of the High Commissioner for Human Rights available at [www.ohchr.org](http://www.ohchr.org) last assessed on the 21<sup>st</sup> of December 2015
13. Lien, A, A Fragment of Thought Concerning The Nature and Fulfillment of Human Rights (1973) 24.
14. Human Rights Manual, Guidelines for Implementing Human Rights Based Approach in ADC available at [www.entulickling.com](http://www.entulickling.com) last assessed on the 2<sup>nd</sup> of January 2016
15. See backnote no 12
16. See Siebert F. Peterson and Seliramm W. (1996) Four Theories of The Press, Urbana University of Illinois Press
17. (2000) 16 NWLR pt 600, p 228 sc.
18. See Akande J.O. (1982), the Constitution of the Federal Republic of Nigeria 1979, Sweet & Maxwell, London p36
19. 249, 249 U.S 2014 (1919)
20. (MND 6870, 1977 para 2.2 and 2.3
21. See back note no 6
22. (1981) I.N.C.C.R 106
23. Defamation in the Internet Age Protecting Reputation Without Infringing Free Expression, Centre for Democracy and Technology available at [https:// www.cdt.org/ files/pdts/defamation-internet.Age.pdf](https://www.cdt.org/files/pdts/defamation-internet.Age.pdf) last assessed on the 15<sup>th</sup> of march 2016
24. Oluwemimo Ogunde, Punishing Defamation Yardsticks for Awarding Damages in an ICT- Driven World being a paper delivered on the 13<sup>th</sup> of November, 2012 at the seminar on the Law of Defamation Organized by G. M. Ibru &co pg 2
25. (2004) CANCLII 12938 available at [http:// www.canlii.org](http://www.canlii.org)
26. Eunice Uzodike, The law of Defamation in Nigeria As It Is Today, being a paper delivered on the 13<sup>th</sup> of November 2012 at a seminar on the Law of Defamation organized by G.M. Ibru &Co.

**Citation:** Oladele, O. O. (2018). The Tension between Freedom of the Press and the Right to Privacy Under the 1999 Constitution of the Federal Republic of Nigeria. *Journal of Popular Education in Africa*. 2(2), 101 – 112.

27. Ethan Bordman, Defamation and the Internet, Representation in the Digital Age at NYSBA Journal October 2015 available at <http://www.nysba.org> last accessed on the 26<sup>th</sup> of May 2016.
28. See back note at no. 23.
29. See back note at no. 27.
30. See back note at no. 11 P28.
31. Jenny Steele, Tort Law, Text Cases and Materials (Oxford University Press) 2007, P 805, see the Universal Declaration of Human Rights 1948.
32. The International Covenants on Economic, Social, and Cultural Rights (ICESCR) and The International Covenant on Civil and Political Rights (ICCPR) 1966, The European convention on Human Rights and Fundamental Freedoms.
33. See *Olmstead V United States* 227 Vs 438, 478
34. Ibid.
35. Alan F. Westin, Privacy and Freedom Atheneum New-York P7
36. Privacy as An Aspect of Human Dignity (1964) 39 New York U.L.R 962 at 971 cited in Privacy and Human Rights, an International Survey of Privacy Laws and Practice available at <http://glic.org/privacy/survey/nitro.html> last accessed on the 1<sup>st</sup> of May 2018.
37. S.D. Warren and L.D. Brandies, The Right to Privacy (1890) 4 Hary L. Rev 193, 193 – 6 extracted from Jenny Stelle back note 31 P807
38. William Prosser, Privacy (1960) 48 Cal L Rev 383, 386 – 9 cited in Jenny Stelle back notes 31 P808.
39. Times Magazine February 16 (1998) p24.
40. Stoljar, A re-examination of Privacy Legal Studies Vol. 4, 1984 P-77 cited in Nnamdi Dingba, Right to Privacy and Intrusion of the Press in Nigeria, Modern Journal of Finance and Investment law Vol 4 No.3 2000 P181.
41. 2007 (7) BCLR 751
42. Professor Adedeji Adekunle, Right to Privacy and law Enforcement, A Text of a Lecture Prosecuted at the Ogun State Judge’s Conference (OJSL) on the 27<sup>th</sup> September 2016.
43. Okunowo Oladele, Constitutional provisions of the freedom of the Press and their limitations in Nigeria, International Journal of Management Sciences and Humanities Volume 2, Number 2, September 2014 P65 available at [www.ljms.com](http://www.ljms.com) last accessed on the 1<sup>st</sup> of May 2018.
44. Blackstone, commentaries Vol4, 151-152.
45. Opcit back note 45 P215.
46. Professor Adedeji Adekunle, opcit back note No.42 P1.
47. See The United States Federal District Court in American Civil Liberties Union Reno (No.1)
48. See “Regardless of Frontiers”, The International Right to Freedom of Expression in the Digital Age available at [www.dct.org](http://www.dct.org) last accessed on the 1<sup>st</sup> of June 2018.
49. (1861) 8 COXCC 498 at 501.
50. (1968) I ALL HLR 124.
51. (1997) 8 MINLR (Pt 518) 566.
52. (1981) 2 S L.5.

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53. (1962) I ALL HLR 2.1.4
54. Available at <http://www.nigeria-law-org>. Last assessed on the 24<sup>th</sup> of May 2018.
55. Hyman Gross, Privacy – its legal Protection (Ocean Publications Inc.) 1976 P xii
56. Nnamdi Dingba op cit
57. Ibid
58. (1996) 6 NWLR (PT 459) 384
59. (1996) 6 NWLR (PT 456) 584
60. SC 240/2001
61. See Electronic Journalism of Comparative Law EJCL Vol 13.1 (March 2009) available at [http:// www.ejcl.org](http://www.ejcl.org)
62. 2002 (5) SA 401 (CC).