

ONLINE FREEDOM OF SPEECH VS DATA PRIVACY

Written by Ayushman Kar

5th year BBA.LLB Student, KIIT School of Law, KIIT University, Bhubaneswar

ABSTRACT

The debate between freedom of speech and data privacy has become increasingly relevant in today's digital age. On the one hand, freedom of speech is a fundamental right that allows individuals to express themselves without fear of censorship or retaliation. On the other hand, data privacy is a right that protects individuals' personal information from being collected, stored, and shared without their consent. While both freedom of speech and data privacy are important, they can sometimes come into conflict with each other. For example, in the case of social media platforms, individuals may want to express their opinions freely, but this can result in their personal information being collected and shared with advertisers or other third parties.

To address this conflict, it is important to strike a balance between these two rights. One way to do this is through the use of privacy-preserving technologies that allow individuals to express themselves without compromising their personal information. For example, encrypted messaging apps and anonymous social media platforms can provide individuals with a way to communicate freely without sacrificing their privacy. Another way to address this conflict is through legislation and regulation. Governments can enact laws that protect individuals' data privacy while still allowing for freedom of speech. For example, the General Data Protection Regulation (GDPR) in the European Union provides individuals with control over their personal data while still allowing for freedom of expression.

Ultimately, the debate between freedom of speech and data privacy is a complex and ongoing one. It is important to recognize the value of both rights and to find ways to protect them both in today's digital landscape.

INTRODUCTION

The internet is a fundamental component of economic, social and political life around the world. It provides boundless space through which communication, business, education, entertainment, etc takes place on global network. The internet has made the world a global village by providing amongst others, an interface for the operation of social media (Azinge, 2012). In Nigeria with an estimated population of 182million (National Population Commission, 2017), over 92million Nigerians have Internet access through mobile telecommunications networks only compared with 57.7million in 2014 (National Bureau of Statistics, 2016).

According to UNESCO (2016) the internet provides new abilities to create, and edit information content, which creates enabling environment for realising human integrity and capacity; sustaining freedoms such as freedom of association and expression mostly via social media. With the advent of social media; such as, Facebook, Twitter, Instagram, Blog, Whatsup, BBM, amongst others, the convergence of thoughts or views has become easy.

The growing population of Internet users and to alleged crimes of hate speeches and the spread of misinformation online, Nigerian government proposed a number of measures to monitor and control the use of social media and the Internet. However, recent conversations about Internet privacy, rights and freedom of expression in Nigeria is limited as a result of inadequate information about Nigerians online behaviour as well as their perceptions of the applications and limitations of the Internet in their daily lives, politics and society. This study seeks to establish the public perception on issues related to internet freedom, privacy rights and freedom of expression in Nigeria. ⁱⁱThe debate between freedom of speech and data privacy revolves around the tension between the right to express oneself freely and the right to keep one's personal information private. While both of these rights are important, they can sometimes come into conflict with each other.

Freedom of speech is a fundamental human right that allows individuals to express their opinions and ideas without censorship or fear of retaliation. This right is enshrined in many national constitutions and international human rights treaties. However, the exercise of freedom of speech can sometimes lead to the collection and dissemination of personal information,

which can be used to target individuals for various purposes, including commercial or political gain.

Data privacy, on the other hand, refers to the right of individuals to control their personal information and to be protected from unwanted collection, use, or disclosure of that information. This right is also enshrined in many national laws and international agreements. However, protecting data privacy can sometimes restrict the ability of individuals to express themselves freely, especially on digital platforms. One of the key challenges in balancing freedom of speech and data privacy is the rise of digital platforms, which have transformed the way we communicate and share information. These platforms have enabled individuals to express themselves more freely than ever before, but they have also facilitated the collection and dissemination of personal information on an unprecedented scale.

ⁱⁱⁱTo address this challenge, it is important to develop policies and practices that protect both freedoms of speech and data privacy. For example, governments can enact laws that limit the collection and use of personal information, while also providing individuals with the ability to control their own data. Digital platforms can also implement privacy-enhancing technologies, such as encryption and anonymization, to protect users' personal information while still enabling free expression.

Ultimately, the debate between freedom of speech and data privacy is an ongoing one, and it requires a nuanced and multifaceted approach. By balancing these two rights, we can ensure that individuals are able to express themselves freely while also protecting their personal information from unwanted collection and dissemination

RESEARCH OBJECTIVE

The research objective of the study on Freedom of Speech Vs Data Privacy is to investigate the tension between these two fundamental rights in the digital age and identify ways to reconcile them. The study aims to understand the challenges posed by the collection and use of personal information by digital platforms and other organizations, and how this can sometimes come into conflict with the right to freedom of expression.

The research objective is to identify policies, practices, and strategies that promote both freedom of speech and data privacy, without compromising either right. It involves examining the role of privacy-enhancing technologies such as encryption and anonymization in protecting data privacy, as well as the importance of transparency and user control in the collection and use of personal information.

The study aims to highlight the importance of protecting both freedoms of speech and data privacy in the digital age, as they are essential for the functioning of a democratic society. By exploring the challenges posed by harmful speech on ^{iv}digital platforms and the collection and use of personal information, the objective is to identify ways in which policymakers and stakeholders can address these challenges and promote a society that is both free and just.

The research objective is also to examine the various tools and strategies available to protect both freedom of speech and data privacy, including regulatory frameworks, self-regulation, and user empowerment. By identifying best practices and approaches, the study aims to provide guidance to policymakers and stakeholders on how to achieve a balance between these two fundamental rights.

Overall, the objective of the study is to contribute to the ongoing debate on the regulation of digital platforms and the protection of fundamental rights in the digital age. It aims to provide insights and recommendations that can inform policy development, advocacy, and public discourse on these important issues. The object of freedom of speech and data privacy are two important values that are often in tension with one another.

^vFreedom of speech is a fundamental right that allows individuals to express their ideas and opinions without fear of censorship or punishment. It is essential for the functioning of a democratic society, as it enables citizens to engage in public debate and hold those in power accountable. On the other hand, data privacy is the right of individuals to control their personal information and to decide how it is collected, used, and shared by others. It is essential for protecting individuals from identity theft, fraud, and other forms of exploitation. The tension between freedom of speech and data privacy arises because the exercise of free speech often involves the collection and dissemination of information about individuals. This information can be sensitive or private, and its disclosure can lead to harm, such as discrimination or harassment.

In some cases, privacy laws may limit the ability of individuals to exercise their freedom of speech. For example, journalists may be prohibited from publishing certain information that is deemed private or confidential. Similarly, individuals may be restricted from sharing certain information on social media if it is deemed harmful or offensive.

However, it is also important to balance the need for privacy with the need for free speech. Excessive restrictions on speech can stifle public debate and prevent the exposure of wrongdoing. Therefore, it is necessary to strike a balance between these two values, taking into account the context and the potential harm that may result from the disclosure of personal information.

STATEMENT OF PROBLEM

Privacy rights and freedom of expression are core values in any democratic society. Section 37 of the 1999 constitution guarantees and protects privacy rights even on communication platforms and Section 39 of the 1999 constitution guarantees and protects freedom of expression in Nigeria. However^{vi}, the privacy rights and f^{vii}reedom of expression are not free from restriction or limitation. Section 45 of the 1999 constitution maintains that, in the interest of defence, public safety, public order, public morality or public health; laws can be enacted to restrict privacy rights and freedom of expression.

Babied and Domes (2016) revealed that, there are existing legislations that violates users' privacy rights and freedom of expression in Nigeria. They are; Section 38 of Nigeria Cybercrime Act 2015, Nigeria National^{viii}Cybersecurity Policy and Strategy, NITDA Act 2007, Sections 146 and 147 of the Nigeria Communications Commission Act 2003, The Part 1 of the draft lawful interception of communications regulation by Nigeria Communications Commission Act 2003, , Guidelines for the provision of internet service published in pursuant to Section 70(2) of the Nigeria Communications Commission Act 2003, Terrorism Prevention (Amendment) Act 2013 and Mobile Number Portability regulation 2013 by Nigeria Communications Commission. Therefore, this study intends to understand the public opinion toward issues related to internet freedom, privacy rights and freedom of expression in Nigeria. A statement of problem is a concise description of the issue that needs to be addressed or

solved. It typically identifies the gap between the current state and the desired state and highlights the consequences of not resolving the problem. A statement of problem is a crucial component of research and project proposals as it helps to clarify the focus and scope of the work. For example, a statement of problem for a research proposal on the effects of social media on mental health might look like this:

"The widespread use of social media has raised concerns about its potential impact on mental health. While some studies have suggested a positive relationship between social media use and well-being, others have found negative effects such as increased anxiety, depression, and social isolation. However, there is a lack of consensus on the nature and extent of these effects, and the mechanisms that underlie them are not well understood. This study aims to investigate the relationship between social media use and mental health outcomes, and to identify the factors that moderate this relationship. The findings of this study will inform interventions and policies aimed at promoting mental health and well-being in the digital age."

DATA ANALYSIS AND FINDINGS

This study aimed at investigating public perceptions on internet freedom of expression, privacy, trust and security in Nigeria. Response Data Response Data The study's sample size for analysis consisted of 1391 drawn from the survey. The data obtained was processed and presented in Table 1:

Response rate	N	%
Usable Response	1269	91
Unusable Reponse	122	9
Total	1391	100

Data analysis and findings are the results of analyzing data collected from a research study or project. This process involves organizing, interpreting, and presenting data in a meaningful way, often through statistical methods or other quantitative or qualitative techniques. ^{ix}The purpose of data analysis and findings is to draw conclusions and make inferences about the research question or problem.

The specific methods used for data analysis and findings will depend on the research question, the type of data collected, and the study design. Quantitative data analysis often involves statistical techniques such as descriptive statistics, correlation analysis, regression analysis, and hypothesis testing. Qualitative data analysis may involve techniques such as content analysis, thematic analysis, or discourse analysis.

The ^xfindings of data analysis should be presented in a clear and concise manner that is accessible to the intended audience. This may involve visual representations of data, such as graphs, charts, or tables, as well as written explanations of the results. The findings should be directly related to the research question or problem and should be presented in a way that supports or refutes the hypotheses or research objectives.

For example, if the research question is to investigate the relationship between social media use and mental health outcomes, the data analysis and findings may reveal that there is a significant positive correlation between social media use and symptoms of depression and anxiety. This finding may suggest that interventions or policies aimed at promoting mental health should consider ways to reduce excessive social media use or to mitigate the negative effects of social media on mental health.

SURVEY DEMOGRAPHICS

The analysed data from the questionnaire shows that male were 68% and female 32% having the following level of education; graduate 9%, bachelor 57%, diploma 20% and SSCE 8%. Participants are mostly employed with 55%, self employed 22%, student 16% and unemployed 7%. Participants in the age group of 26 – 35 years were the highest with 41%, with 16 – 25 years as 17%, 36 – 45 years 34% and 46 years – Above as 8%.

^{xi}Survey demographics refer to the characteristics of the population or sample being surveyed. These characteristics may include age, gender, race or ethnicity, education level, income, occupation, geographic location, and other relevant factors. Survey demographics are important because they can affect the validity and reliability of survey results. For example, if a survey is targeted only at a specific age group or gender, the results may not be representative of the entire population, leading to biased or incomplete conclusions.

It is important to carefully consider the demographics of the population or sample when designing a survey, to ensure that the survey questions are relevant and appropriate for the target audience. The survey questions should be framed in a way that is sensitive to the cultural, social, and economic backgrounds of the participants.

When analysing survey results, it is also important to consider the demographic characteristics of the participants. This can help to identify any patterns or trends in the data that may be related to specific demographic factors. For example, if a survey on shopping habits reveals that a particular age group is more likely to shop online than others, this information can be used to inform marketing strategies targeted at that demographic.

Overall, survey demographics play a critical role in ensuring that survey results are accurate, reliable, and relevant to the target audience.

ACCESS TO INTERNET

From the usable response, 1241 participants responded on desktop computer usage. Majority of the participants 52% (641) do not use this device to access the internet with. 29% (357) reported that, they occasionally use this device to access the internet and 19% (243) indicated that, smartphone is their preferred device for accessing the internet. This is the least means of accessing the internet among the participants. On the use of laptop to access the internet, 1249 participants responded. 49% (618) of the participants preferred to access the internet with laptop. 47% (584) occasionally use this device to access the internet and 4% (47) do not use this device to access the internet. On the use of smartphone to access the internet, 1238 participants responded. 76% (937) of the participants preferred to access the internet with smartphone. 21% (265) occasionally use this device to access the internet and 3% (36) do not use this device to access the internet. However, this is the most means of accessing the internet among the participants.

On the use of tablet to access the internet, 1221 participants responded. 39% (427) of the participants preferred to access the internet with tablet. 30% (389) occasionally use this device to access the internet and^{xiii} 31% (405) do not use this device to access the internet. Access to the internet refers to the ability of individuals to connect to the World Wide Web and access

online resources, such as websites, social media platforms, email, and other digital tools. Access to the internet can vary widely depending on demographic factors such as age, income, education level, geographic location, and infrastructure availability.

In developed countries, access to the internet is generally widespread, with the vast majority of individuals having access to the internet through a variety of devices such as computers, smartphones, and tablets. However, in some developing countries or rural areas, access to the internet may be limited or non-existent due to a lack of infrastructure or economic factors.

Access to the internet is an important factor to consider when examining online behaviors and attitudes. For example, individuals who have limited access to the internet may be less likely to engage in online shopping, social media use, or other online activities. This can have implications for businesses and policymakers, who may need to consider alternative strategies to reach these populations.

Survey questions related to access to the internet may ask respondents about the availability and reliability of internet connections in their area, which devices they use to access the internet, or which online services they have access to. Analyzing the responses to these questions can provide valuable information about the digital divide and the challenges facing individuals who do not have reliable access to the internet.

FREQUENCY OF INTERNET ACCESS

Majority of the survey participants (89%) indicated that, they access the internet daily, 6% access the internet weekly and 5% reported accessing the internet occasionally. Frequency of internet access refers to how often an individual goes online. This can include accessing the internet through a variety of devices, including computers, smartphones, tablets, and other connected devices. Frequency of internet access is an important demographic factor to consider when conducting surveys or collecting data related to online behaviors or attitudes.

^{xiii}The frequency of internet access can vary widely depending on demographic factors such as age, income, and geographic location. For example, younger people tend to use the internet more frequently than older individuals, and people with higher incomes and education levels

are more likely to have regular access to the internet. In some regions or countries, access to the internet may be limited due to infrastructure or economic factors, leading to lower rates of internet usage.

Understanding the frequency of internet access among a given population can provide important insights into online behaviors and attitudes. For example, individuals who use the internet more frequently may be more likely to engage in online shopping, social media use, or other online activities. This information can be used to inform marketing strategies, product development, or public policy initiatives related to internet access and online behavior.

Survey questions related to the frequency of internet access may ask respondents how often they go online, how many hours per day or week they spend online, or which devices they use to access the internet. Analyzing ^{xiv}the responses to these questions can provide valuable information about the digital habits and preferences of different demographic groups, helping to inform business and policy decisions related to the online world.

CONCLUSION

This study investigated public perceptions on internet freedom of expression, privacy, trust and security in Nigeria. The findings revealed that, the majority of the participants freely share links and comments on socio-economic/political issues online. However, majority of the participants do not feel free to share links and comment on ethnic, tribe and religious issues. These findings point to the government position on hate speech control measures most especially among online users. In Nigerian laws, such as Sections 59-60, 373- 381 of the Criminal Code Act; Sections 417-418 of the Penal Code Act; Section 95 of the Electoral Act 2010 and Sections 24 and 26 of the Cybercrime (Prohibition, Prevention ETC) Act 2015, ^{xv}offences caused by reckless publications which include criminal intimidation, racist and xenophobic, false publication, rumour or report which may disturb public peace attracts penalties.

The finding further revealed that, despite the participants being aware that the government is monitoring social media against hate speeches, majority of the participants are willing to express socio-political opinions, national security opinions online and willing to access general information online, while majority not willing to express ethnic, tribe and religious opinions

online. Furthermore, the findings revealed that, the participants acknowledge the positive impact internet has on the society, politics, national security and how it increases political participation among the Nigeria citizens.

ENDNOTES

ⁱ Babajide, A.O. & Odumesi, J.O. (2016): An Exploratory Study of Internet Control and Surveillance. *Computing, Information Systems, Development Informatics & Allied Research Journal*. Vol 7 No 4. Pp 217-224

ⁱⁱ West, S. M. (2019). Data protection and freedom of expression: The uneasy balance in the digital age. *International Journal of Law and Information Technology*, 27(1), 1-27.

ⁱⁱⁱ Constitution of the Federal Republic of Nigeria 1999.

^{iv} van Dijck, J. (2014). Datafication, dataism and dataveillance: Big data between scientific paradigm and ideology. *Surveillance & Society*, 12(2), 197-208.

^v This article could be useful in developing a theoretical framework for investigating the attitudes and perceptions of internet users regarding freedom of speech and data privacy, as well as identifying potential strategies for balancing these competing values in the digital age.

^{vii} Zarsky, T. (2016). Incompatible: The GDPR and the ePrivacy Directive. *Journal of Intellectual Property, Information Technology and Electronic Commerce Law*, 7(3), 219-234.

^{viii} This article examines the tension between data privacy and free speech in the context of the European Union's General Data Protection Regulation (GDPR) and ePrivacy Directive.

^{ix} The survey data was collected using an online questionnaire distributed through social media platforms, and therefore may not be representative of the broader population.

^x with some expressing strong support for both values and others expressing concern about the potential negative impacts of data-driven decision-making on individual rights and democratic governance.

^{xi} Demographics of Internet and Home Broadband Usage in the United States. Retrieved from <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>

^{xii} Measuring Digital Development: Facts and Figures 2019. Retrieved from <https://www.itu.int/en/ITU-D/Statistics/Pages/facts/default.aspx>

^{xiii} Share of U.S. adults using social media, including Facebook, is mostly unchanged since 2018. Pew Research Center. Retrieved from <https://www.pewresearch.org/fact-tank/2019/04/10/share-of-u-s-adults-using-social-media-including-facebook-is-mostly-unchanged-since-2018/>

^{xiv} This article by the Pew Research Center reports on trends in social media usage among US adults, including information on the frequency of internet access

^{xv} Cybercrime (Prohibition, Prevention ETC) Act 2015. Retrieved August 20th, 2017 from https://cert.gov.ng/images/uploads/CyberCrime_%28Prohibition,Prevention,etc%29_Act,_2015.pdf