



Communication Media Law: Digitalisation Influence on the Public Perception of Photojournalism in Nigeria

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Abstract:

The 1999 Nigerian Constitution guarantees communication media rights, including the right to freedom of expression and the press to all citizens of Nigeria, including photojournalists. This article examines the digitalisation influence on public perception of photojournalism in Nigeria. The research methodology adopted is mainly doctrinal analysis of relevant secondary and primary sources. The article finds that digitalisation has influenced the public perception of photojournalism in a numerous way, including the fact that the public now understand photojournalists to be persons suffering from job insecurity in Nigeria. The article recommends that the 1999 Constitution of Nigeria should be amended to bestow on Nigerian workers, including photojournalists a right to suitable employment as a fundamental and enforceable right in line with what obtains in other countries such as Portugal, Congo, Ukraine, South Africa and Zimbabwe.

Key-words: Communication media, Communication media rights, Journalism, Photojournalism, Digitalisation, Privacy, Copyright, Communication.

I Introduction

Communication media refers to the means of giving out and receiving data or information.¹ In telecommunication, these means are storage and transmission tools or channels for data storage and transmission.² It's noteworthy that there are two forms of communication media, that is: (1) analog³ and (2) digital.⁴ The former, includes conventional radio, telephonic and television transmissions.⁵ While the latter, includes communication which is mediated by computer-computer telegraphy and networking.⁶ The notable examples of communication media, include: video, social media-Facebook, Instagram and WhatsApp, email, newspaper, mobile phone, and communication satellite.⁷ A key staff that works in the communication media is a journalist. Of

¹ <<https://thefactone.com>>2019/07/04> accessed 18 November 2022.

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

course, a journalist, includes a photojournalist. The duties of a journalist, including a photojournalist, include educating, entertaining, stimulating and informing the public.⁸

Communication media law is the field of law that regulates the communication media. A classic example is the Constitution of the Federal Republic of Nigeria 1999 (1999 Constitution),⁹ based on the presidential system of government. It came into effect on 29 May 1999, signaling the commencement of the Fourth Republic of Nigeria—a country practising the common law. The 1999 Constitution guarantees to Nigerians, including a photojournalist communication media rights. These rights, include the right to freedom of expression and the press, enunciated in section 39 of the 1999 Constitution. It states thus:

- (1) every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference
- (2) without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the president on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose or whatsoever.

In a bid to complement the provisions above, the 1999 Constitution states in its section 22 thus: 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 uphold the responsibility and accountability of the Government to the people

The provisions above accord to members of the Nigerian press, including the photojournalist the role of a watchdog in Nigeria's democracy. The duty to uphold the accountability and responsibility of the Nigerian Government to the citizens of the nation is no doubt a onerous responsibility, given to the journalist, including a photojournalist by the Constitution.

Sub-section (1) of section 45 of the 1999 Constitution is note-worthy. It states that nothing in sections 37, 38, 39, 40 and 41 of the 1999 Constitution, shall be considered to render any law not to be valid which is reasonably justifiable in a democratic society in the interest of morality of the public, public order, defence, safety of the public, health of the public or for the goal of protecting the rights as well as freedom of other people. This implicates that the communication media right to freedom of expression and the press, embedded under 39 above and other communication media rights contained in the other sections specified above can be restricted or taken away by any law of the Nigerian State. Regrettably, the 1999 Constitution does not in its provision define the elastic terms of 'public safety', 'defence', 'public health', 'public order' as well as 'public morality employed in sub-section (1) of section 45 above, in order to guarantee unreasonable restrictions of the communication media rights guaranteed in the sections mentioned in section 45(1) above. This is a *lacuna* in the Constitution above.

Also, sub-section (6)(c) of section 6 of the 1999 Constitution is note-worthy. It renders non-justiciable the communication media right guaranteed in section 22 above and other communication media rights guaranteed in Chapter Two of the 1999 Constitution. This implicates that a photojournalist cannot seek sanctuary under any of the Chapter Two provisions. This is, also, a *lacuna* in the Constitution above.

It is disappointing that since the advent or coming of digitalisation or the computer or digital age some photojournalists have utilised their digital cameras to manipulate images or photographs for their selfish or vested interest, contrary to the Nigerian Cybercrimes (Prohibition, Prevention etc) Act 2015 and the Nigerian Data Protection Regulation (NDPR) 2019. Section 16 of the Nigerian Cybercrimes (Prohibition, Prevention etc) Act 2015 actually makes it a crime punishable

⁸ D Alao, *News Reporting* (Ikeja: Unique Publications of Nigeria Ltd., 1992) 19.

⁹ Cap C23 Laws of the Federation of Nigeria (LFN) 2004.

with imprisonment for not more than three years or to a fine of not more than 7,000,000.00 naira (₦) or to both such fine and imprisonment for any person, including a photo-journalist to modify a data, including a photograph. This implicates that the court upon conviction of an accused person could sentence the same to imprisonment for a few days or payment of a fine of ₦100.00. The position is certainly unsatisfactory, as the punishment prescribed above may not deter non-compliance with section 16 above. This is a *lacuna* in the Act above. While the Nigerian Data Protection Regulation 2019 in its article 2.10 makes it a crime punishable with a fine ranging from ₦2,000.00 to ₦10,000.00 for any one, including a photo-journalist to breach the privacy rights of any Data subject, including the manipulation of the personal data such as photos or photographs of any Data subject. Also, the position is unsatisfactory, as the punishment prescribed above may not deter non-compliance with article 2.10 above. This is a *lacuna* in the Regulation above.

Digitalisation has adverse effect on photography itself, and the profession of photojournalism in general. For instance, it has led to the manipulation or altering of images or photos, as disclosed already. It is done so cleverly that the changes are not detectable by even experts,¹⁰ relying only on visual inspection.¹¹ Of course, content could be removed, added, deleted or moved up and down inside the image or photograph with powerful photograph editing software programmes like the Adobe Photoshop.¹² Many well-known cases of such manipulation transpired, especially in the newspaper industry.¹³ The ease at which photographs can be altered or manipulated, coupled with the rising demands for photographic images by media agencies and clients engenders a world wherein boundaries of ethics could be crossed with an action as simple as the click of a mouse.¹⁴ In actuality, leaders in the profession of photojournalism have voiced strong complaints over this new capability for easy alteration or manipulation of photographs, as a threat to the credibility of photographs and, in this way a threat to the photojournalism profession at large.¹⁵

Also, the advent of digital photography has engendered infringement of the copyright of photo-journalists in the images or photographs posted by the same on their Twitter accounts, for example, by some users of the internet who steal or distribute such images or photographs under their names without authorisation of the photo-journalists, contrary to the Copyright Act¹⁶ 2004 of Nigeria and the Criminal Code Act¹⁷ 2004 of Nigeria. In short, section 20 (2)(b) of the Copyright Act 2004 of Nigeria makes it a crime for any person, including an internet user to distribute for the purposes of business or trade a copy of any work wherein copyright subsists, such as a photograph, except he establishes to the satisfaction of the court of law that he did not know as well as had no reason to believe that any such copy was indeed an infringing copy of any such work. The punishment is a fine of ₦ 100.00 for every copy dealt with in breach of the section above or to imprisonment for not more than two years or, in the case of an individual, to both such imprisonment and fine. This implicates that the court upon conviction of an accused could sentence the same to imprisonment for a few days or payment of a fine of ₦100.00 and where an individual is the accused, the court upon conviction of the accused could sentence the same to both such fine of ₦100.00 and imprisonment for a few days. The position is certainly unsatisfactory, as the prescribed punishment above may not deter non-compliance with section 20(2)(b) above. This is a *lacuna* in the Act above. Also, section 491(c) of the Nigerian Criminal Code Act 2004 makes it a crime for any person, including an internet user to knowingly distribute infringing copies of copyright work such as a photograph posted online either to such extent as to affect harmfully the owner of the copyright such as a photo-journalist or for trade purposes. The punishment for the crime above is a fine not exceeding ₦4.00 for every copy dealt with in

¹⁰ See MA. E.S Eldin, 'Photojournalism's ethics in the digital age of' 'Manipulation' <https://jkom.journals.ekb.eg/article-108147_7d1794b53001a173//aaba/4a5ed3e9/pdf> accessed 18 November 2022.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.* This is so, because news consumers or the public would now be seeing photographs shown in mass media to be unreal or lies.

¹⁶ Cap C 28 LFN 2004.

¹⁷ Cap C38 LFN 2004.

breach of the section above, but not more than ₦100.00 with regards to the same transaction or in the case of a second or subsequent offence, either to such fine or imprisonment for two months. The punishment above is also laughably inadequate, as the same may not deter non-compliance with section 491(c) above. This is a *lacuna* in the Act above. Infringement of copyright of the photojournalist in any form is also a civil wrong for which the photojournalist can cause civil proceedings to be instituted against the wrong-doer, going by section 16 of the Copyright Act 2004 of Nigeria.

Furthermore, the advent of digitalisation has led to a situation where many news consumers are not subscribing for their weekly or daily newspapers, because they could go online and get information, including photographs free of charge. The resultant effect is that there is decline in revenue accruing to newspapers and other traditional media. There is, also, decline in revenue, arising from little or no advertisement in the traditional media, including the newspapers following the use of the internet. All these hurt employers of journalists, including photo-journalists a great deal. Many photojournalists are laid-off from employment every year, since the traditional media publications do not have sufficient money nowadays to continuing paying wages of photo-journalists, for the reasons advanced above.¹⁸ This is contrary to the constitutional right of a Nigerian, including a photojournalist to suitable employment, as encapsulated under section 17(3)(a) of the 1999 Constitution. It should be noted with grief that this right is not guaranteed in the country, as a fundamental and enforceable right in Chapter Four of the 1999 Constitution but, rather, as a constitutional right under Chapter Two of the 1999 Constitution whose provisions have been made non-justiciable, going by section 6(6)(c) of the 1999 Constitution, as disclosed before. This is a *lacuna* in the Constitution above. Of course, the position of the 1999 Constitution contrasts with the position in other nations like Congo, Portugal, Ukraine, South Africa and Zimbabwe. For instance, article 36 of the 2005 Constitution of Congo gives to all Congolese, including a photo-journalist the right to work, as a fundamental and enforceable constitutional right. The *lacunae* above constitute the gaps this article or study aims to tackle. Put differently, the gaps above make up the rationale behind undertaking this study. A point to note is that these *lacunae* in laws of Nigeria would not augur well for the arrangement to promote and protect the communication media rights of Nigerians, including photojournalists, as they are susceptible to misuse as has been the situation, for instance, since the 1999 Constitution came into effect. The enactment of the copyright Act 2004 of Nigeria is a typical example of the abuse of section 45(1) above. Its section 6(1)(b) which confers on the photo-journalist or photographer the right to publish the photograph of the photographee without the consent of the same, is manifestly inconsistent with the right to privacy accorded to all Nigerians, including a photographee by section 37 of the 1999 Constitution.

Many people actually feel unhappy about these significant developments in the media landscape. To make matters bad, the Nigerian Government does not punish those persons who manipulate or alter photographic images to give them a false meaning or deceive news consumers or the public as well as steal or distribute without authorisation of the photojournalist the images or photographs of the photo-journalists through the internet.

A question which is pertinent to ask at this stage is: is the conduct of some photojournalists in manipulating or altering images to give them a false meaning or deceive news consumers or the public lawful? Another relevant question to postulate is: is the conduct of some internet users in stealing or distributing the works of the photojournalist such as images or photographs posted on the Facebook account, Twitter account and other social medial platforms without authorisation of the photojournalist lawful? A further relevant question to put across is: is the taking of photographs for pecuniary interest and publishing of the same without the consent of the photographee unconstitutional? Lastly, another relevant question to put forth is: in adopting the digital or computer technology are there challenges being faced by photo-journalists in the

¹⁸ See Copyright Alliance, 'Why a camera might be the least important thing a photographer brings to the Job' <<https://medium.com/acopyright4u/why-a-camera-might-be-the-least-important-thing-a-photographer-brings-to-the-job-f9eae9c62f59>> accessed 25 August 2016, quoted in FA Maillot, 'An Analysis of How the Internet has changed photography and the Profession of photojournalism' (2019) *Honors theses* 9.

practice of the profession of photo-journalism in Nigeria? The questions above constitute the foundation of this article.

This article examines digitalisation influence on the public perception of photojournalism in Nigeria. It gives the meaning of words like journalism, photojournalism, journalist, photojournalist and communication. It gives a short history of photo-journalism in Nigeria. It examines critically laws relevant to the study, including the Nigerian Constitution and case-law on communication media rights. It adopts the stance that the violation of the communication media rights of photojournalists in Nigeria is unlawful, unconstitutional and contrary to international human rights' norms or treaties. It shows what obtains in other countries and put-forth solutions, which, if executed, could engender an end to the photo-journalists' challenges brought about by the adoption of digitalisation or digital technology in the practice of the profession of photojournalism in Nigeria.

II Conceptual framework

The term 'journalism' is a key-word in this article. Journalism is a profession in Nigeria. *The Oxford Advanced Learner's Dictionary* explains 'journalism' an English word as: 'the work of collecting and writing new stories for newspapers, magazines, radio or television'.¹⁹

Another key-word in this article is 'journalist'. It is an English word which is derived from the English word 'journalism'. A 'journalist' has been defined as: 'any one practicing the profession of writing, editing, or publishing for one or more of the various forms of the publicity media, either as an employee or as a freelance contributor'.²⁰ The publicity media, include: newspapers, magazines, radio, television, digital or electronic media and social media. Of course, the definition of a journalist above, is broad enough to include a freelance journalist. This is a person who writes for any publication organisation or group of the same and earns his living by the number of his works published or utilised by his beneficiaries.²¹ These beneficiaries, undoubtedly, include newspapers, magazines, radio, television and the digital or electronic media.

The expression 'photo-journalism' is, also, another key-word in this article. It is a branch of the journalism profession which nowadays is considered a profession on its own. Photojournalism a combination of the English words: 'photo' and 'journalism' is a term coined by Frank Lutter Mott.²² 'Photo' means photograph. A photo or photograph is 'a picture that is made by using a camera that has a film sensitive to light inside it'.²³ It is a popular statement that a picture speaks more than a thousand words. *The Oxford Advanced Learner's Dictionary* explains 'photography' as the: 'art, process or job of taking photographs or filming something'.²⁴ Those persons who take photographs as a job are called photographers.²⁵

Needless to point out that the term 'photography' in fact originated from two Greek words, namely 'graphein', meaning to draw and 'photo', meaning light. Thus, photography can be described as the drawing of light.²⁶ In actuality, the words were coined by Sir John F.W. Herschel in 1839, to mean where images are recorded on a sensitive material by the action of light or related radiation.²⁷ It is note-worthy that photography comes in different forms and types, including photo-biography, astrophotography, gastrography and cinematography.²⁸

The word 'journalism' has been defined before. It needs to be stated that with the coming of photography, news could be disseminated with higher authority and emphasis using pictures or

¹⁹ P Philips et al (eds), *AS Hornsby's Oxford Advanced Learners Dictionary-International Students Edition* (8th edn, Oxford University Press 2010) 290.

²⁰ See Alao (n 8) 19.

²¹ *Ibid.*, 20.

²² See P Mogaji, '(PDF) Brief History of Photojournalism' <<https://www.academia.edu/brief...4...>> accessed 22 November 2022.

²³ See Philips (n 19) 1100.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ See 'Evolution of Photography in Nigeria' <<https://business of photography.net>> accessed 22 November 2022.

²⁷ Mogaji (n 22).

²⁸ *Ibid.*

photographs. These photographs or pictures began aiding the written news in magazines as well as newspapers and, thus photo-journalism became inaugurated.²⁹

Photojournalism, as it is known today, can be defined as: 'news photography'.³⁰ Photographs that support a news story event fall into this category. Put in another words, photojournalism involves the use of images created by the apparatus called camera which is digital camera, camcorder, video camera, or any kind of camera to report events, whether in the magazine, newspaper, television or any other media of mass communication.³¹

Photojournalism can be divided into two broad categories. The first category is where an image is utilised to illustrate a story.³² Category two is where an image is utilised to tell a story without any words.³³ Of course, one single image may be utilised or as many as ten images are normally utilised in newspapers and magazines.³⁴ Photojournalism has grown into a very specialised form of photography over the years and it has numerous specific areas or different types. These, include glamour photojournalism. This involves photographing film stars and other famous personalities who make news. The photographs of these personalities are taken, as many persons wish to peep into the rich and famous persons' lives.³⁵

Another key-word in this article is 'photojournalist'. It is an English word derived from the English word 'photojournalism'. Photographers who specialise in the area of photo-journalism are called photo-journalists.³⁶ The truth of the matter is that when a photographer is blessed with the ability to write in aid of his photograph or picture in words which are few, he becomes a photo-journalist.³⁷ Unlike the ordinary photographer, the photo-journalist is a person who knows the theoretical and practical aspects of photography. He is a skilled-personnel who has undergone formal training on the use of the camera. Photojournalists, in tune with their likes and dislikes, have ventured into specific areas of photojournalism, as disclosed above. For example, there are glamour photojournalists. *Paparazzi* an Italian word is the name called photojournalists who specialise in this type of photography or photojournalism. It can be argued that the *paparazzi* contributed significantly to the death of Princess Diana of Wales-mother of Princes Williams and Harry of the United Kingdom in the early hours of August 31, 1997. Needless to re-call that in the said early hours of August 31, 1997, she and her lover-boy and then fiancée, Dodi al-Fayed son of a billionaire Egyptian drove in a speeding car through the *Port de l'Alma* tunnel in Paris, France in a bid to escape from the *paparazzi* who were pursuing them so that they could take photographs of them. The speeding car crashed into a pillar in the tunnel, killing her and Fayed.³⁸

It is noteworthy that photojournalists are of two kinds, that is those who are employed by the newspapers and other news agencies and those who conduct their work independently and sell photographs taken by them to news organisations.³⁹ The latter may be termed 'freelance photo-journalists'. A point to bear in mind is that photo-journalists are now no longer confined to newspapers, magazines, radio and television. With the advent of the internet, as a significant source of news, the photojournalism scope has dovetailed to web-based photojournalism.⁴⁰ In the internet, for example, there are websites that are like newspapers. These websites, also, engage the services of photojournalists and indeed journalists to gather news for their bodies.⁴¹

²⁹ See 'Photojournalism', Optional Modules 7B, National Institute of Open Schooling 56 <<https://nios.ac.in/media/documents/> accessed 20 March 2023.

³⁰ *Ibid.*, 57.

³¹ See Magaji (n 22).

³² See 'Photojournalism' (n 29).

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*, 57.

³⁷ *Ibid.* Put differently, the photojournalist is the person who tells stories through photographs or pictures.

³⁸ See 'Death of Diana, Princess of Wales'-Wikipedia <<https://en.m.wikipedia.org/wiki/> and <https://www.cpi.com/> accessed 9 December 2022.

³⁹ See 'photojournalism' (n 29) 60.

⁴⁰ *Ibid.*, 61.

⁴¹ *Ibid.*

The term 'communication' is, also, another key-word in this article. The *Oxford Advanced Learner's Dictionary* explains 'communication' thus: 'the activity or process of expressing ideas and feelings or of giving people information'.⁴²

In actuality, the term 'communication' is a Latin word by origin or etymology. It was coined from the Latin word, that is 'communis', meaning common.⁴³ In this light, both the communicator and communicatee that are involved in the communication process attempt to make such that there exist a common basis for understanding the message which is communicated between or among them.⁴⁴ Simply put, communication is the inter-change of information between or among two or more people.⁴⁵ It needs to be pointed out that communication must not be confined to the art of speaking and writing. The truth of the matter is that communication dovetails to the body language, personal manners as well as the way and manner by which they are exhibited.⁴⁶ It can be concluded that photography is communication, since it encompasses giving out or dissemination of information through photographs or pictures.

III A short historical development of photojournalism in Nigeria

In this section, the discourse reveals that photojournalism goes back to the time when the British colonial master governed Nigeria which was put-together on 1 January 1914.

It is worthy to note that photography came in between the late 19th century and early 20th century when dry glass plates and later roll film were made available.⁴⁷ Needless to point out that in the 1880s a technology known as half-tone came about by which images or photographs could be printed in magazines and newspapers.⁴⁸ In the early 20th century, after several days of trying out the exposure of light, the collaboration of Nicephore Niepce and Louis Daguerren came about; and they both developed the Daguerreotype.⁴⁹ It was publicly announced as the photographic process on a metal plate and it took one minute of exposure to produce clearly.⁵⁰ In Nigeria, the pioneers of photography were Jonathan Adagogo Green, Solomon Osagie Alonge and Peter Obe.⁵¹

It should be re-called that Britain colonised Nigeria from 1861 to 1960. Nobody can state concretely how and when photojournalism commenced in the country. However, it is obvious that the practice of photojournalism started with the establishment of newspapers during Nigeria's colonial period. The pioneer newspaper in the country was the *Iwe Irohin Fun Awon Ara Egba Ati Yourba*, meaning newspaper for the people of Egba and Yoruba.⁵² It was established in Abeokuta by Reverend Henry Townsend in 1857.⁵³

The newspapers which were established after the newspaper above was given birth to, include: *The Anglo African* founded in 1863 by Robert Campbell; *The Lagos Times and Gold coast Colony Adviser* founded in 1880 by Richard Blaze; *The Lagos Observer* founded in 1882 by J Bagan Benjamin; *The Eagle and Lagos Critique* founded in 1883 by Oweh Macaulay; *The Lagos Mirror*

⁴² See Philips (n 19) 290.

⁴³ See 'Introduction to Communication', Lecture notes to students of Professional Diploma in Journalism and Media Studies given by Paul Benibeno, lecturer of the Department of Mass Communication, Delta State University, Abraka in the First Semester, 2021/2022 Academic session, 2.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ See 'Evolution of Photography in Nigeria' (n 26).

⁴⁸ See 'Photojournalism' (n 29).

⁴⁹ See 'Evolution of Photography in Nigeria' (n 26).

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² See Adrianna Simwa, 'Trace the history of newspaper in Nigeria' <<https://www.Legit.ng>> Ask Legit> accessed 10 December 2022. See, also, 'How Newspapers started in Nigeria' <<https://www.dailynigerian.com>> accessed 10 December 2022 and 'Early Newspapers in the History of Journalism' <<https://repository.elizadeuniversity.edu.ng>> accessed 10 December 2022.

⁵³ See P.N. Ijeh, 'An Appraisal of Photojournalism Practices in Government Newspapers in Nigeria: Insights from the Observer and the Pointer' (2015) 3 (12) *Global Journal of Arts, Humanities and Social Sciences* 61.

founded in 1887 by Adolphus Mark; *The Lagos Weekly Record* founded in 1890 by John Payne Jackson; and *The Nigerian Chronicle* founded in 1908 by Johnson brothers.⁵⁴

On 1 January 1914, Nigeria came into existence, due to the amalgamation of the Lagos Colony and Southern Nigeria Protectorate as well as the Northern Nigeria Protectorate by Sir Lord Fredrick Lugard, the British colonial official who was appointed by Britain as the first Governor-General of the Nigeria.⁵⁵ In the same 1914, *The Nigerian Pioneer* was established by Kitoye Ajasah. *The African Messenger* was founded by Ernest Nkoli in 1921. While in 1925, *The Nigerian Daily Times* was established as a government newspaper by the colonial authorities.⁵⁶ Other pre-independence newspapers, include: *The Lagos Daily* founded by Herbert Macaulay in 1972; *The West African Pilot* founded by Nnamdi Azikiwe in 1937 and *The Tribune* founded by Obafemi Awolowo in 1946.⁵⁷

On 1 October 1960, Nigeria was accorded independence by Britain. While on 1 October 1963, the country became a Republic.⁵⁸ Nigeria's first Republic started on the day above under the 1963 Parliamentary Republican Constitution.⁵⁹ It is worthy of note that the post-independence newspapers, include: *The Nigerian Observer*; *The Nigerian Statesman*; *The Pointer*; *This Day*; *Vanguard*; *The Guardian*; *The Telegraph*; *Punch*; and *Leadership*.

A point to stress is that the pioneer newspaper above did not make much use of photographs, because of the level of technology at the period.⁶⁰ But the later newspapers of the colonial period incorporated pictorial presentations to support news stories and beautify pages of the same.⁶¹ It's significant to bear in mind that the Nigerian Daily Times which was the leading newspaper in the nation during the colonial era engendered a new dimension of photojournalism by creating awareness of a public nature for photographic communication via more utilisation of pictures in report of events in titles of the same.⁶² Photojournalism has, also, been embraced by the post-independence newspapers and the broadcast media, including radio and television.

It should be noted that the later part of 1990s witnessed a shift towards digital photography. The first set of digital cameras hit the shelves in 1995.⁶³ They permitted users of the digital cameras a way to capture and view photographs without film, negatives, or physical prints.⁶⁴ Photojournalists in Nigeria have warmly-embraced this digital technology or digitalisation in taking photographs. Besides this, photojournalists in Nigeria post their photographs in the internet, using social media platforms, including Twitter and Facebook. Of course, these are part of the digital media.

A cardinal point to put-forth at this stage is that the practice of photojournalism is not unique to the country. It's in accordance with the practice of other countries like the UK, the USA, India, Zimbabwe, Zambia, Ukraine and Kenya where there are journalists who have taken to the profession of photojournalism.

⁵⁴ See (n 52).

⁵⁵ See AE Abuza, 'Election-less or non-election democracy: a missing link in finding permanent solutions to the problem of electoral malpractices in the politics of Nigeria' (2020) 46(2) *Commonwealth Law Bulletin* 274.

⁵⁶ See (n 52).

⁵⁷ *Ibid.*

⁵⁸ See AE Abuza, 'A Reflection on issues involved in the Exercise of the Power of the Attorney-General to enter a Nolle Prosequi under the 1999 Nigerian Constitution' 2020 (1) *Africa Journal of Comparative Constitutional Law* 7.

⁵⁹ *Ibid.*

⁶⁰ See Ijeh (n 53).

⁶¹ See M Onokpa, 'Photographs as tools for Cultural Imperialism in the Sun and Vanguard Newspapers' in D. Wilson (ed), *Perspectives on Communication and Cultural* (Uyo: African Council for Communication Education 2018) 223-230.

⁶² Ijeh (n 53).

⁶³ See 'How Digital technology has changed photography' <<https://www.digifi.com/blog/how-digital-technology-has-changed-photography>> accessed 22 November 2022.

⁶⁴ *Ibid.*

IV Communication Media Law and Communication Media rights of Photojournalists in Nigeria

A discussion under communication media rights of photojournalists in Nigeria and communication media law embraces global agreements and domestic legislations in Nigeria. The primary legal norms which are geared towards protection of communication media rights of Nigerian journalists, including photojournalists are discussed below:

a. International Agreements

These global agreements, include:

United Nations (UN) International Covenant on Civil and Political Rights (ICCPR) 1966

The ICCPR 1966 accords to every person, including a photojournalist such communication media rights as: right to life; right not to be held in servitude or slavery or be made to perform forced labour; right to move freely; right not to be subjected to unlawful or arbitrary interference with a person's privacy, family, home or correspondence; right to hold opinion without interference and freedom to seek, receive and impart information and ideas of all kinds, irrespective of frontiers orally or in writing, or print in the form of art or via any other media of his choice; right to assemble peacefully and freedom of association; and right to equal protection of the law and freedom not to be discriminated against on the ground of sex and so on in its Articles 6, 8, 12, 17, 19, 21, 22 and 26, respectively.

It's contended that the ICCPR 1966 now has the effect of a domesticated legislation, as enjoined by sub-section(1) of section 12 of the Nigerian basic law and, as a result, has force of law in the nation, since the Covenant accords labour rights such as in its Article 22(1) and Nigeria has ratified the same.⁶⁵

A cardinal drawback of the ICCPR 1966 concerns its 'claw-back' phrases. A classic example is the provisions of Article 19(3) which subject Article 19(2) provisions of the Covenant to certain restrictions provided by law and which are necessary: (a) for respect to reputation or rights of other people; and (b) for the protection of security of the nation or public order or health of the public or morals of the public. The truth of the matter is that these constitute qualifications and phrases of limitations which permit, in circumstances of normality, violation of a duty for some certain public reasons. These phrases, including 'as are provided by law' which permeate the UN ICCPR 1966, allow African States to curtail communication media rights to the highest level permitted by municipal legislations, in this way, making the scope and content of the Covenant less effective.⁶⁶

b. Domestic Legislations

The Constitution of the Federal Republic of Nigeria 1999

The Constitution above is the nation's fundamental law or grundnorm.⁶⁷ It gives to every Nigerian, including a photojournalist communication media rights. For instance, under Chapter

⁶⁵ AE Abuza, 'Derogation from Fundamental Rights in Nigeria: A Contemporary Discourse' (2017) 7(1) *East African Journal of Science and Technology* 121-122.

⁶⁶ Other global agreements which, also, accord to the individual, including a photojournalist the communication media rights mentioned in the Covenant above, include: (a) the UN Universal Declaration of Human Rights (UDHR) 1948, arts 3, 4, 8, 10, 12, 17, 19, 20 and 23. It is true that the UN UDHR 1948 is an agreement that is regarded as soft-law and not a treaty itself and, thus not binding legally on member-nations of the UN, including Nigeria. Nonetheless, it has become customary international law that has been warmly-embraced world-wide in protecting communication media rights. See K.M Danladi, 'An Examination of Problems and Challenges of Protection and Promotion of Human Rights Under European Convention and African Charter' (2014) 6(1) *Port Harcourt Law Journal* 83; (b) the European Convention on Human Rights (ECHR) 1953, formerly called Convention for the Protection of Human Rights and Fundamental Freedoms 1953, arts 2, 4, 6, 8, 10, 11, 13 & 14; (c) the Arab Charter on Human Rights (ACHR) 2004, arts 5, 10, 12, 13, 21, 24, 26, 31, 32, & 34; and (d) the American Convention on Human Rights (AMCHR) 1969, arts 4, 6, 8, 11, 13, 15, 16, 21, 22 & 24. It is noteworthy that the ECHR, ACHR and AMCHR are not legally-binding on Nigeria, as the country is not either a member of the Council of Europe or Council of the League of Arab States or Organisation of American States or State-Party to the ECHR, ACHR and AMCHR.

⁶⁷ See AE Abuza, 'The Law and Policy on Curbing Desertification in Nigeria: A Contemporary Discourse' (2017) 42 (2) *Journal for Juridical Science* 79.

Two, it is provided that the sanctity of the human person shall be acknowledged and there shall be maintenance of human dignity.⁶⁸ Besides this provision, it is provided under Chapter Two of the Constitution thus:

- (a) every citizen of Nigeria without discrimination on any group whatsoever, has opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;
- (b) conditions of employment are just and humane, and that there are adequate facilities for social, cultural and religious life as well as for leisure;
- (c) the health, welfare and safety of all people working are safeguarded and not abused or endangered;
- (d) there is equal pay for equal job without discrimination on account of sex or on any other ground whatsoever;⁶⁹
- (e) the Nigerian State shall abolish all corrupt practices and misuse of power;⁷⁰
- (f) easy accessibility to the courts of law shall be guaranteed and maintained;⁷¹
- (g) 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 uphold the responsibility and accountability of the Nigerian Government to the people.⁷²
- (h) every Nigerian shall abide by this Constitution, respect its institutions and ideals;⁷³
- (i) every Nigerian shall respect the dignity of other Nigerians and the rights as well as the legitimate interests of other Nigerians and live in unity and harmony and in the spirit of common brotherhood;⁷⁴
- (j) every Nigerian shall render assistance to the police and other relevant and legal agencies, regarding the maintenance of order and law.⁷⁵

Communication media rights guaranteed to every person, including a photojournalist can also be found in other provisions of the Nigerian basic law. For instance, under Chapter Four of the 1999 Nigerian basic law, it is provided that:

- (a) every Nigerian is entitled to a right to life;⁷⁶
- (b) every citizen is entitled to respect for the dignity of his person and as a result-no individual shall be made subject to treatment that is degrading or not human or torture; no person shall be put under a situation of servitude or slavery; and no Nigerian shall be made subject to employment which is compulsory or forced;⁷⁷
- (c) every individual is entitled to a hearing which must be fair within a period that is reasonable by a court of law or other agency established by enactment and composed in such a manner as to ensure that the same is not partial and dependent;⁷⁸
- (d) every person shall be entitled to freely assemble and associate with other persons, and in specifics he may form or belong to a union of trade or any other association for the protection of his interests;⁷⁹
- (e) every Nigerian is entitled to the freedom of movement;⁸⁰
- (f) every Nigerian is entitled to privacy; accordingly, the privacy of citizens of Nigeria, their homes, correspondence, telephone conversations and telegraphic communications is guaranteed as well as protected;⁸¹

⁶⁸ See s 17(2)(b).

⁶⁹ See s 17(3).

⁷⁰ See s 15(5).

⁷¹ See 17(2)(e).

⁷² See s 22.

⁷³ See s 24(a).

⁷⁴ See s 24(c).

⁷⁵ See s 24(e).

⁷⁶ See s 33(1). This right was upheld in *Stanley Azuogu v The State* [2018] 16 NWLR (Pt. 1644) 46, 51, SC, Nigeria.

⁷⁷ See s 34(1).

⁷⁸ See s 36(1).

⁷⁹ See s 40. This right was upheld in *Mbanefo v Molokwu and Ors* [2014] 6 NWLR (Pt. 1403) 377.

⁸⁰ See s 41.

⁸¹ See s 37. This right was upheld in *Bi-Courtney Aviation Services Ltd v Kelani* [2021] LPELR 56365.

- (g) every citizen is entitled to equal protection of the law and freedom not to be discriminated against on account of sex and so on;⁸²
- (h) every individual shall have a right to own private moveable property;⁸³
- (i) every individual shall be entitled to the freedom of expression, including freedom to hold opinions and so on, as disclosed before.⁸⁴

It is noteworthy that any citizen of Nigeria, including a photojournalist who alleges that any of his communication media rights above has been, is being or likely to be contravened in any State may apply to a High Court of Justice in that State for redress.⁸⁵

A significant point to note is that the position of the 1999 Constitution, as could be discerned from its Chapter Four is in accordance with the position under international law or agreements, as expressed before. It is, also, consistent with what obtains in other countries, including Kenya and Congo, where the constitution guarantees to citizens, including photojournalists the communication media rights above.⁸⁶

The provisions of section 45(1) of the 1999 Constitution are important to take into cognisance. Section 45(1) above is re-iterated. This is called the derogation clause. It is in tune with the practice in other countries, including Tanzania and India.⁸⁷

A case decided with respect to section 39(1) and (2) of the 1999 Constitution is *President of the Federal Republic of Nigeria and Three Others v Mallam Ismaila Isa and Five Others (for themselves and on behalf of other members of the Newspapers Proprietors Association of Nigeria (NPAN))*.⁸⁸ In the case, the Nigerian Court of Appeal (per Chinwe Eugenia Iyizoba, JCA) in its judgment of 4 December 2015, on appeal, held that the Nigerian Press Council (Council) Act 2004, especially sections 3, 9, 11, 12, 16, 17, 20, 21, 22, 25, 30, 31, 32, 33, 35 and 36 which, among other things, confer on the Council the power to monitor the activities of the press do not constitute a gross violation of the respondents/plaintiffs right to freedom of expression and the press, embedded in section 39(1) and (2) of the Constitution above and a contravention of section 45(1) above, as the appellants/defendants enactment above satisfied the laid-down conditions in the section above and, therefore, the same was absolutely necessary and reasonably justifiable in a democratic society in the interest of public order and so on.

The authors take the stance that the decision of the Appeal court in the case above is correct and, in this way, acceptable. This is so, mainly because the fundamental rights, including the communication media right to freedom of expression accorded to Nigerians, including photojournalists are not absolute. Needless to re-call that in *Pharmabase Nigeria Limited v Ilegbusi Olatokunbe*,⁸⁹ the Nigerian Appeal court held that fundamental rights, including communication media rights bestowed on Nigerians in Chapter Four of the 1999 Constitution are not absolute.

The 1999 Constitution is plagued by some problems that should be pin-pointed with grief. To begin with, many Nigerians, including photojournalists are unaware of the 1999 Constitution and

⁸² See s 42(1). This right was upheld in *Salubi v Nwariaku* [1997] 5 NWLR (Pt. 505) 442.

⁸³ See s 44(1). This right was upheld in *Agbai v Okagbue* [1991] 7 NWLR (Pt.204) 391.

⁸⁴ See s 39(1) & (2). This right was upheld in *Socio-Economic Rights and Accountability Project (SERAP) v Federal Republic of Nigeria* (Unreported) Suit No. ECW/CCJ/APP/23/21 where the Community Court of Justice of the Economic Community of West African States (ECOWAS) held on 14 July 2022 that the Nigerian Government violated the Applicant's right to freedom of expression, access to information and the media guaranteed under Art 9 of ACHPR 1981 and Art 19 of the ICCPR 1966 by suspending the operation of Twitter on 4 June 2021. <<https://globalfreedomofexpression.columbia.edu>> accessed 25 February 2023.

⁸⁵ See s 46(1).

⁸⁶ See the Constitution of Kenya 2010, ss 26, 27, 30, 31, 33, 34, 35, 36, 39, 40, 48 & 50; and the Constitution of Congo 2005, arts 12, 13, 16, 19, 20, 23, 24, 25, 30, 31, 34, 36, 37 & 46.

⁸⁷ See the 1977 Constitution of Tanzania, as altered by Act No 1 of 2005, art 30; and the Indian Constitution 1949, art 19(2)-(5).

⁸⁸ [2017] 3 NWLR (part 1553) 347, 52–364, CA, Nigeria.

⁸⁹ [2020] 10 NWLR (part 1732) 379, 86, CA, Nigeria

or import and purport of the communication media rights granted to all photojournalists in Nigeria under Chapters Two and Four of the 1999 Constitution. Second, the 1999 Constitution does not provide for the meaning of the elastic terms: 'public morality', 'public health', 'public safety', 'defence' and 'public order', as employed in section 45(1) above in order to guarantee the reasonable restrictions of the communication media rights specified in the provisions above, as expressed already.⁹⁰

Third, the 1999 Constitution has 'claw-back' clauses in its section 45(1) above and in many other provisions which accord communication media rights to photojournalist so as to make it possible for Parliament in the country to promulgate laws which are derogations from the many communication media rights of photojournalists, encapsulated in the Constitution for the benefit of all citizens of Nigeria, including photojournalists. Finally, the communication media rights enshrined in Chapter Two provisions are not justiciable, going by section 6(6)(c) of the 1999 Constitution, as disclosed before.⁹¹ In order to sum up on the issue of communication media law and communication media rights of photojournalists in Nigeria, it is not out of place to contend that the violation of communication media rights of photojournalists in Nigeria is illegal, against the 1999 Constitution as well as international human rights' norms or treaties.

V Is there digitalisation influence on the public perception of photojournalism in Nigeria?

The above question is the second to the last matter that comes to the fore for consideration by the authors. There are certain key-words in the said question, namely 'influence', 'digitalisation', 'public' and 'perception'. The term 'digitalisation' an English word is derivable from the English word 'digital'. *The Oxford Advanced Learner's Dictionary* explains 'digital' as: 'using a system of receiving and sending information as a series of the numbers one and zero, showing that an electronic signal is there or is not there: a digital camera...'⁹² The English word 'public' means

⁹⁰ See, also, Abuza (n 65).

⁹¹ Note that it can be argued that section 22 of the 1999 Constitution is justiciable, since another provision of the Constitution, that is, section 39(1) accords similar right to Nigerians. See *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation [2019] 5NWLR* (Pt. 1666) 518, 542, SC, Nigeria. Other domestic legislations, include: (a) the Nigerian Press Council Act Cap N 128 LFN 2004 which seeks to regulate the press in Nigeria, going by ss 3, 9, 11, 13,16, 17, 19 20, 21, 22, 25, 30, 31, 32, 33, & 36 of the Act; (b) the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A 9 LFN 2004 whose art 9 guarantees to Nigerians, including photojournalists the right to freedom of expression and the Press; (c) the Nigerian Evidence Act 2011 whose s 84 regulates the admissibility of computer-generated evidence, including photographs in court; (d) the Nigerian Copyright Act Cap C28 2004 whose s 20 makes it an offence to infringe copyright in or steal or distribute photographs posted on the internet by photojournalists (e) Nigerian Criminal Code Act Cap C 38 LFN 2004 whose s 491 makes it an offence for any person who knowingly distributes infringing copies of copyright works, including photographs; and (f) the Nigerian Penal Code Law Cap 89 Laws of the defunct Northern Nigeria 1963 whose s 286(1) provides for the offence of theft; (g) the Nigerian Data Protection Act 2019 whose art 2. 10 makes it a crime to manipulate personal data, including photographs of a Data subject; and (h) Code of Ethics of Journalists in Nigeria, as adopted by the Nigerian Press Organisation (NPO), comprising the Nigerian Union of Journalists (NUJ), the Nigerian Guild of Editors and the Newspapers Proprietors Association of Nigeria 1998 which prescribes, among others, dissemination of truthful information; (i) the Nigerian Cybercrimes (Prohibition, Prevention e t c) Act 2015 whose s 16(1) prohibits the modification of data, including photographs and s 24(b) makes it a crime for any person who knowingly or intentionally sends a message through a computer system or network that he knows to be false for the purpose of causing annoyance, inconveniences, danger, obstruction, insult and so on. Note that the Economic Community of West African States (ECOWAS) Community Court of Justice nullified s 24 of the Act above on the ground that the same was inconsistent with the right to freedom of expression and the press, embedded in Art. 9 of the ACHPR 1981 and Art. 19 of the ICCPR 1960 to which Nigeria is a State-party. See *Socio-Economic Rights and Accountability Project (SERAP) v Federal Government of Nigeria and Others* (Unreported) Suit No. ECW/CCJ/APP/09/19, judgment of the Court delivered on 25 March 2022 by Hon. Justice Gberi-De Guattara (presiding judge), Hon. Justice Dupe Atoki (member) and Hon. Justice Keikura Bangura (member) and 'Rights violations: ECOWAS Court orders Nigerian Government to...' <<https://www.premiumtimesng.com>> accessed 25 February 2023; and (j) the Nigerian Freedom of Information Act 2011 whose s 1(1) allows a person to request information whether or not in the form of writing which is in custody or possession of any public official, agency or institution.

⁹² L Hey and S Holloway (eds), *AS Hornsby Oxford Advanced Learner's Dictionary of Current English* (Oxford, 9th edn.: Oxford University Press) 427.

'connected with ordinary people in society in general',⁹³ while the English word 'perception' is derivable from the English word 'perceive'. The latter means to understand or think of somebody or something in a particular way.⁹⁴ Lastly, the English word 'influence' means 'the effect that somebody or something has on the way a person thinks or behaves or on the way that something works or develops'.⁹⁵

Put in another words, the question above concerns the effect that the use of a system of receiving and sending information as a series of the numbers one and zero, showing that an electronic signal is there or is not there or the digital camera has on the way the ordinary people in the society at large understand or think of photojournalism. The answer to the question above is obviously in the positive for the following reasons:

First, the public understand photojournalism to be involved in photo manipulation, as expressed before. Digitalisation is, without doubt, a welcomed development. What remains in contention is the deliberate manipulation of images through the technology of digital photography to suit the photojournalist's intended frame of the news or selfish or vested, interest or other nefarious reasons.⁹⁶ The advent of digital technology has actually made it feasible to manipulate images so easily that the changes are not detectable,⁹⁷ as disclosed already.

It should be noted that photo manipulation or alteration in photojournalism, includes colour enhancement and adding or removing elements of the scene. It would seem acceptable if the photojournalist presents the photograph in an artistic way which entails slightly editing the photograph to enhance features such as brightness, sharpness, saturation, contrast, and so on, provided it does not alter the truth the image is meant to portray.⁹⁸ But it seems unacceptable or against ethics to edit the photograph or image beyond what was previously described such that it results into representation of the photograph or image which is inartistic or one that was not created initially by the photojournalist, and thus changes its meaning or misleads news consumers.⁹⁹ Whichever way a person looks at the matter, the truth is that these manipulations alter the truth of the photograph or image, contrary to Journalistic code of ethics.

According to Gavard, 'one of the most systematic premises held regarding digital imaging is that, the new technology's endless possibilities for manipulation are destroying the truth effect of the photographic image'.¹⁰⁰ This is a serious ethical issue in journalism. The position adopted by Quinn and Spence on the issue is apt. In their view:

Public trust in Journalism is waning with each day that passes, but the press' role as watchdog is still necessary for democracy. One contribution to this decline in public trust is confusion about photographic integrity.¹⁰¹

Arguably, any erosion of the confidence of the readers in the relation to photographic images to reality or any doubt that image on the pages of newspapers and magazines correspond to real events certainly threatens the news photography's very existence of as a means of conveying

⁹³ *Ibid.*, 1241.

⁹⁴ *Ibid.*, 1140.

⁹⁵ *Ibid.*, 806.

⁹⁶ See 'Impact of digitalization in Nigeria' 3 <<https://www.academia.edu/33923740/IMPACT-OF-DIGITALIZATION-ON-PHOTO-JOURNALISM-PRACTICE-IN-NIGERIA>> accessed 30 November 2022.

⁹⁷ See Eldin (n 10) 20.

⁹⁸ J.A Garrison, 'Ethical Consideration for digital manipulation of sports photography' A Thesis presented to the Faculty in Communication and Leadership Studies School of Professional Studies, Gonzaga University 2015 in partial fulfillment of the Requirements for the award of the Degree of Master of Arts in Communication and Leadership Studies 16.

⁹⁹ *Ibid.*

¹⁰⁰ See 'Impact of digitalization on Photojournalism practice in Nigeria' (n 96).

¹⁰¹ *Ibid.*

information to readers of newspapers and magazines as well as other news consumers.¹⁰² The New York times photographic critic has summed-up the threat of manipulated images thus:

... in the future readers of newspapers and magazines will probably view pictures more as illustrations than as reportage since they can no longer distinguish between a genuine image and one that has been manipulated.¹⁰³

It should be pointed out that a legal issue which has arisen from the manipulation of photographs or images by photojournalists is whether such photographs or images produced by the digital camera or computer are admissible as evidence of any fact stated in them in Nigerian courts of law.

Arguably, the photographs or images produced by the digital camera or computer are admissible as evidence of any fact stated therein subject to the satisfaction of the laid-down conditions in section 84(2) of the Evidence Act of Nigeria¹⁰⁴ 2011. The section above actually deals with the principles governing admissibility of computer-generated evidence. One of the conditions above, is that it must be shown that the document containing the statement was produced by the computer during a period over which the computer was utilised to process or store information for the purposes of any activity which is executed regularly over that period, irrespective of whether it was motivated by profit or not, by any person, whether a corporate body or non-corporate body or by any other person.¹⁰⁵

Sub-section (4) of section 84 of the Nigerian Evidence Act 2004 is significant. It provides for the certification of documents produced by a computer, dealing with any of the issues to which the conditions mentioned in section 84(2) relate and so on.¹⁰⁶

A related legal issue is: who is the person who can tender a photograph or image that has been manipulated or modified as evidence in Nigerian courts of law? Under the Evidence Act 2011 of Nigeria, it is the maker of the statement in documents that can tender the same as evidence in Nigerian courts of law.¹⁰⁷ Arguably, it is the photojournalist who has manipulated or modified a photograph or picture that is the maker of the statement in the manipulated or modified photograph or picture and, thus be the person who can tender such a manipulated or modified photograph or picture or image as evidence in the Nigerian court of law. This is so, because the manipulated or modified photograph or picture or image is now a different document from the original one before its manipulation or modification.

In summing-up on the matter of manipulation of photographs, it is not out of place to re-iterate that the Code of Ethics for Journalists in Nigeria, adopted by the NPO in 1998, to guide Nigerian journalists, including photojournalists in the performance of their duties enjoins journalists to disseminate information, including photographs that are truthful.

Also, the authors wish to repeat section 16 of the Nigerian Cybercrimes (Prohibition, Prevention etc) Act 2015 and article 2.10 of the Nigerian Data Protection Regulation 2019. To sum-up, the conduct of some photo-journalists in manipulating or altering images to give them a false meaning or deceive news consumers or the public is unlawful.

¹⁰² See the view-point of T Wheeler and T Gleason, writers on the manipulation of photographs in Adorama Learning Centre, 'How Digital Technology has changed Photojournalism' <<https://www.adorama.com/alc/0012375/article/How-Digital-Technology-has-changed-photojournalism>> accessed 10 March 2010, quoted in Maillot (n 18) 55.

¹⁰³ See T Wheeler and T Gleason, 'photography of Photo-fiction: An Ethical for the Digital Age', AJSTOR <https://www.tandfonline.com/doi/abs/10.1080/15551393.1993.103875151?journal_code=hvcqzo> accessed 2 December 2010, quoted in *Ibid.*, 12.

¹⁰⁴ No 18 of 2011.

¹⁰⁵ For details on the conditions, see, s 84(2) of the Evidence Act 2004 of Nigeria.

¹⁰⁶ This provision was upheld in *Gabriel Daudu v Federal Republic of Nigeria* [2018] 10 NWLR (part 1626) 169, 175, SC, Nigeria.

¹⁰⁷ See s 83(1) of the Evidence Act 2011.

Second, it has been expressed before that the public understand works of photojournalists, namely photographs posted online to be stolen by some news consumers or internet users who distribute the same on social media platforms other than the one it was originally-posted without the consent of the photojournalists. In this way, the affected photojournalists are not being compensated for their works, as disclosed before.

It is significant to bear in mind that the law provides certain protections in respect of the products of the human intellect.¹⁰⁸ They are called copyrights.¹⁰⁹ Copyright or right of author as it is sometimes called is a term in law employed to describe the rights that creators have over their works.¹¹⁰ Works that qualify for copyright are statutorily stated in section 1 of the Copyright Act 2004 of Nigeria to, include artistic work. This artistic work, irrespective of artistic qualify, includes photographs which are not comprised in a cinematograph film.¹¹¹ In this way, a photograph is an eligible work under the Copyright Act 2004 of Nigeria. The Act above states that 'author' in the case of a photographic work means the person who took the photograph.¹¹² This implicates that the author of a work is the person who creates the work and, therefore, he is the initial owner of the copyright in the work.¹¹³ Section 10(1) of the Nigerian Copyright Act 2004 actually provides that copyright conferred by sections 2 and 3 of the Act above shall vest initially in the author. It can be deduced from the sections above that the photojournalist who took a photo is the owner of the copyright in the photo.

A point to note is that registration of a copyright is not a pre-condition for copyright protection. Indeed, there is no compulsion in registration of copyrights.¹¹⁴ Should there be any registration, which would be entirely voluntary, it can only be for administrative purposes or other purposes that cannot derogate from the automatic qualification of a literary, artistic, musical or cinematographic work.

It should be pointed out that the author or owner of a photograph has certain rights. These rights, include:(i) reproduction of the work in any material form; (ii) publishing the work; (iii) including the work in any cinematograph film; (vi) making an adaptation of the work; and (v) do, with regards to an adaptation of the work, any acts specified in connection with the work in sub-paragraphs (i)–(ii) above.¹¹⁵ It is worthy to note that only the author or owner of copyright in a photograph can determine who publishes or makes public use of the photograph. He usually does this by copyright assignment or licence, going by section 11 of the Copyright Act 2004 of Nigeria. Arguably, any person or user of the internet who steals or distributes the photograph of the photojournalist as if he is the owner on any social media platform, including Twitter other than the one it was originally-posted has committed copyright infringement.¹¹⁶

Needless to state that stealing is a crime punishable under both the Nigerian Criminal and Penal Codes.¹¹⁷ It is important to bear in mind that copyright infringement is both a criminal offence or wrong and a civil wrong under the Nigerian law. The authors wish to repeat sections 20(2)(a) and (b) and 491 of the Copyright Act 2004 of Nigeria and the Criminal Code Act 2004 of Nigeria, respectively.

¹⁰⁸ See EH Adigun, 'Excess Copyright Granted to Photographers: The need to amend section 6(1)(b) of the Nigerian Copyright Act 2004' <<https://thenigerialawyer.com/excess-copyright-granted-to-photographers-the-need-to-amend-section-6-1b-of-the-nigeria-copyright-act-of-2004/>> accessed 27 November 2022.

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

¹¹¹ See s 51(1) of the Copyright Act 2004 of Nigeria.

¹¹² *Ibid.*

¹¹³ *Ibid.*, s 10(1).

¹¹⁴ See *Zain Nigeria v TVXtra Productions Ltd. and Anor.* [2021] LPELR-53534, per Mustapha, JCA, CA, Nigeria.

¹¹⁵ See s 6(1)(b) of the Nigerian Copyright Act 2004.

¹¹⁶ Note that there is Copyright infringement, because the taking and distribution of the photograph were without authorisation of the photojournalist. The word 'authorise' was defined by the apex Court of Nigeria (per Uwaifo, JSC) in *Michael A. Omo v Judicial Service Committee of Delta State and Ors* [2000] LPELR-2642 as: 'to give formal approval to.'

¹¹⁷ See Criminal Code Act, s 383(1)-(6) and the Penal Code Law, s 286(1).

Furthermore, under section 16 of the Copyright Act 2004 of Nigeria, the author or owner, assignee or an exclusive licensee of the copyright in a photograph can institute a civil action in the Federal High Court in Nigeria, for damages or monetary compensation. It was decided by the Federal High Court, Lagos in *Peter Obe v Grapevine Communication limited*,¹¹⁸ that the unauthorised public use of a picture protected by copyright is a clear-cut infringement of the copyright in the picture which renders the wrong-doer liable to general damages, as it is not imperative to prove actual damage. Thus, once it has been established that the photojournalist's copyright in the photograph has been infringed, he is by that fact alone entitled to damages.

A relevant case in point is the American case of *Agence-France-Presse v Daniel Morel, US District Court for the Southern District of New York*.¹¹⁹ In the case, the USA District Court (per Alison Nathan, J) in its judgment of 13 August 2014 affirmed the decision of the jurors of the trial Federal District Court, New York that the two media companies, namely the Agence-France-Presse (AFP) and Getty Images, the appellants/plaintiffs willfully-violated the copyrights of Daniel Morel an Haitian freelance photojournalist, the respondent/defendant, contrary to the USA Copyright Act 1976 and the Digital Millennium Copyright Act (DMCA) 1998¹²⁰ by uploading eight of Morel's exclusive news images or photographs of the January 2010 Haiti earthquake, killing more than 250,000 people, without his permission which the said Morel had within two hours of ensuing chaos hastily uploaded to his Twitpic account in Twitter, offering to licence them to news organisations. AFP got copies of Morel's images under licence from one Lisandro Suero a Dominican and another Twitter user who stole the images, that is copied the images and distributed them to his Twitpics account under his name. It distributed copies of the images to Getty Images with credit or attribution to Suero instead of Morel. Getty Images, in turn, distributed copies of the said images to international media organisations, including the Cable News Network (CNN). Justice Nathan confirmed the Jurors award of 1.22 million dollars, as damages for willful copyright infringement and violations of the DMCA 1998.

Third, the public understand any citizen who take and send photographs to news agencies with his digital camera or camera or smart phone brought about by digitalisation as a person engaged in photojournalism. This has engendered huge increase in citizen journalism. Here, any citizen who can take and send pictures to the traditional media and social media platforms is considered a citizen journalist. Many citizen journalists take photographs with their digital cameras or camera or smart phones which they post in internet or even send to the print and electronic media. Put in another words, nowadays almost every one owns a camera, even if only a camera phone. This implicates that more significant events are being documented as they transpire by

¹¹⁸ [2003-2007] 51PLR 354, 380, FHC, Nigeria.

¹¹⁹ (Unreported) Suit No. 10-02730, Judgment of Alison Nathan J, delivered on 13 August 2014. See, also, J Keller, 'Photojournalism in the Age of New Media' 4 April 2011 <<https://www.heatlantic.com/technology/archive/2011/04/photojournalism-in-the-age-of-new-media/73083/>> and <<https://pdnpulse-pdn-online.com/2014/08/judge-upholds-1-2-million-verdict-morel-v-afp-copyright-case.html>> accessed 27 November 2022.

¹²⁰ Note that the USA DMCA 1998 was actually enacted to implement two 1996 World Intellectual Property Organisation (WIPO) Treaties, namely WIPO Copyright Treaty and WIPO Performance Phonograms Treaty. It was signed into law by President Bill Clinton on 28 October 1998. Under the DMCA 1998, an aggrieved Copyright owner who feels that his copyright has been infringed upon may send a 'Takedown Notice to the Internet Service Provider (ISP) such as Youtube and Google. He must include in the notice the specific violation and internet link of the infringing material. Once proper notice has been received by the ISP the allegedly infringing material must be taken down and the customer who put it on line must be informed of the development. The affected customer can immediately put in a 'Counter Notification' if he had acted in good faith, that is he has a legal right to the material. For instance, he could invoke fair doctrine. The doctrine is invoked, for instance, if the customer put the material online for purposes of education and criticism. If there is no court action by the aggrieved person against the customer within 14days the ISP puts back the material online. The ISP that follows the procedure strictly is shielded from copyright liability for whatever content its customer uploaded on its site. See s 512 of the DMCA 1998. This procedure seems to be a compromise position. First, it allows the owner of copyright to monitor infringement of his copyright. Second, it allows the ISP to escape liability for copyright infringement if he complies strictly with the procedure. Third, it allows the customer to resist an unlawful removal of the material online. For details, see Rockson Akpotiri Igelige, 'Beyond the Takedown notice on Tiwa Savage's Youtube 'one' video' <<https://saharareporters.com/2019/03/23/beyond-takedown-notice-tiwa-savages-youtube-%E2%80%one%E2%80%99-video-rockson-akpotiri-igelige>> accessed 16 December 2022.

random persons who just happen to be in the appropriate place at the appropriate time.¹²¹ Many news organisations, including the CNN indeed makes use of these amateur documentary photographs when news stories break.¹²²

There are many drawbacks to the concept of citizen journalism. In the first instance, pictures or photographs taken by citizen photojournalists generally lack quality or substance when compared to the ones taken by photojournalists who are trained or skilled photographers, using professional equipment. In this way, the quality of pictures or photographs suffers. Most often, these images taken by such citizen journalists are, nevertheless, being received with the same importance as photographs or pictures taken by a professional photographer or photojournalist with a great or professional equipment or camera, if the only witness to a grand-breaking news story happens to be shooting with a smart phone or camera.¹²³

Also, citizen journalists are often not allowed into certain venues, including Government House to cover events or ceremonies taking place in the same unlike the official members of the press who are usually accredited to cover such events or ceremonies.¹²⁴ Furthermore, many people have criticised or questioned citizen journalism collective objectivity.¹²⁵ Some citizen journalists are activists, documenting events or ceremonies in communities they are members of and may not be able to report what they see without bias, due to their personal or selfish interest.¹²⁶ This is unlike the trained photojournalist who has imbibed the journalistic code of ethics which places emphasis on truth and objectivity.

Lastly, the concept of citizen journalism is actually a misnomer. A journalist properly so called is a person who has undergone formal training in the work of writing, editing and publishing news story. Of course, the citizen journalist lacks this formal journalistic training above. Besides this, a journalist in Nigeria must be a person who is fully-registered by the Press Council in Nigeria to practise the profession of journalism in Nigeria, going by section 19(1) of the Press Council Act 2004 of Nigeria. Also, he must be a person of age eighteen and above who is involved in the collection, processing and dissemination of information for use in the media or press and who the Council has accredited, going by section 37 of the Act above. The provisions above implicate that unless a citizen journalist is 18 years and above, registered as well as accredited by the Council to practise journalism he cannot be called a journalist in Nigeria. Many citizen journalists, if not all citizen journalists, fall short of these requirements and, therefore are not journalists in Nigeria.¹²⁷

¹²¹ See Magaji (n 22).

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

¹²⁷ Other ways the public understand photojournalism, include: (a) the public understand the taking of a person's photograph for pecuniary interest and publication of the photograph of the photographee in the internet, arising from digitalisation without the consent of the same to be violations of the right to privacy, accorded to all Nigerians under section 37 of the 1999 Constitution. See the *Kelani* case and *Portland Paints and Products Nigeria Limited and Another v Jimmy S Olaghere and Another* [2019] 2 NWLR (Pt.1657) 569. Arguably, the rights of the photographer mentioned in s 6(1)(b) of the Nigerian Copyright Act 2004, including the right of the photographer to take and reproduce the photograph taken by him and publish or include the same in any cinematographic film for the general public to see are excessive rights, as the same contravene the privacy rights of the photographee under s 37 above. For details, see arts 1.3(x), 2.1(1), 2.1(2), 2.1(3) & 2.3(2) of the Nigerian Data Protection Regulation 2019, EH Adigun, 'Excess Copyright Granted to Photographer: The need to amend sections 6(1)(b) of the Nigerian Copyright Act 2004' <<https://thenigerialawyer.com/excess-copyright-granted-to-photographers-the-need-to-amend-section-6-1b-of-the-nigeria-copyright-act-of-2004/>> accessed 27 November 2022 and ES Nwauche, 'The right to Privacy in Nigeria' (2017) 1 (1) *CALS Review of Nigerian Law and Practice* 65; (b) the public understand photojournalists to be producing better photographs nowadays, due to digitalisation. Photojournalists no longer have to use film cameras and go to the laboratory or darkroom, which has been replaced by computer terminals and sophisticated software such as the Adobe Photoshop, to develop or print pictures, following the emergence and use of digital cameras like the 1.5 mega pixel Kodak DCS 100. The photojournalist instantly sees the result or outcome of pressing the shutter button on his digital camera. He makes necessary and adjustments in the digital camera in order to get the picture, background and settings

VII Observations/findings

In this section, the authors provide the summary of findings or observations made in the course of the study, as can be discerned in the sections preceding this sections.

It's glaring from the foregoing examination of digitalisation influence on public perception of photojournalism in Nigeria that digitalisation has brought about changes in the public perception of photojournalism in Nigeria in numerous ways. A classic example is the issue of manipulation of photographs by photojournalists. The manipulation is carried-out with ease and done in such a way that the public cannot tell or know whether such manipulated images or photographs are true or false.

It is observable that some photojournalists are changing colours, adding objects in photographs and removing objects from photographs to satisfy their interest which is selfish or vested or other nefarious interest under the guise of photo-editing, which is ordinarily allowed or permitted in photojournalism, provided it is not done to mislead or deceive the public. What these photojournalists are doing in the name of photo-editing have affected the profession of photojournalism adversely. For instance, readers of newspapers and magazines as well as other news consumers no longer know when a photograph is real or when it is a fake one.

Also, it is observable that the Code of Ethics for Journalists in Nigeria formulated in 1998 by the NUJ forbids false reportage of news story, including news photography.

Furthermore, it is observable that due to the danger which manipulated photos pose to the profession of photojournalism and the survival of Nigeria, the Government of Nigeria has

he desires. See Eldin (n 10) 21-2; (c) the public understand photojournalism to be easy nowadays, due to digitalisation. With the use of such digital camera above, the photojournalist can print photographs immediately which the same, using the internet, could send to the newsroom in broadcast stations, including television and social media platforms. Thus, within few seconds, photographs taken instantly by photojournalists get to news consumers. See Eldin above; and (d) the public understand many photojournalists as employees who have no security of tenure in their employment, due to the advent of digitalisation. Due to decline in revenue, arising from many news consumers not subscribing for daily or weekly newspapers and magazines and Digital Satellite Television (DSTV), because they can listen to and watch news online for free and many entrepreneurs placing advertisement online, many print and electronic media lay-off their staff, including photojournalists. This is contrary to s. 17(3)(a) of the 1999 Constitution which gives the right to suitable employment, as disclosed before. The right is non-justiciable. See s. 6(6)(c) of the Constitution above and *Musa Baba-Panya v President of the Federal Republic of Nigeria and Two Others* [2018] 15 NWLR (part 1643) 395, 401-402, CA, Nigeria. In other countries, including South Africa, Congo, Ukraine, Zimbabwe the constitution guarantees its citizens, including photojournalists the right to work or labour, as a fundamental and enforceable right. See, for example, the South African Constitution 1996, s 22; and the Constitution of Congo 2005, art 36. There are certain challenges of photojournalists, arising from the advent of digitalisation in Nigeria. They include: (a) the manipulation of photographs contrary to Nigerian law, as disclosed before; (b) there is the problem of some photojournalist not being compensated for their photographic works posted on the internet, as they are being stolen or distributed by other internet users under their names without authorisation of the photojournalists, contrary to Nigerian law, as disclosed before; (c) the problem of decline in the status of photojournalists as a result of competition from citizen journalists and other people who use digital cameras or smart phones to take and send photographs to news organisations, as disclosed before; (d) the problem of photojournalists being laid-off from employment by news organisations, due to decline in revenue arising from non-subscription of weekly or daily newspapers or magazines and DSTV as well as declining revenue from advertisement, as disclosed already; (e) the problem of more stress on working photojournalists in Nigeria. This is so, because photojournalists are now required to work fast as the internet has become increasingly faster. Maillot (n 18) 49. Also, the digital environment requires photojournalists to take up new responsibilities, formerly performed by news organisations, including coming-up with an idea, writing the proposal, finding and interviewing individuals, creating and writing captions for the story, selecting most suitable photographs, digitally-editing their photographs and posting the same on line. See Maillot (n 18) 49; (f) the problem of the photojournalist having less or no time to work on traditional photojournalism formats, including photo-essays, reportages and or documentaries; (g) the problem of acquiring the digital cameras by many photojournalists, as digital cameras are considerably more expensive than the traditional cameras. For example, a Canon EOS M50 Mark 11 Mirror-less digital camera is retailed at \$779.95. <<https://www.gadget-review.com> > accessed 2 December 2022; and (h) the problem of adopting new strategies to take pictures or photographs, due to the advent of the digital cameras. All these new strategies for taking and or getting better photographs or pictures, using the digital camera must be learnt by the photojournalist in order to carry-out his duties effectively.

prohibited the modification of photographs in its entirety under Nigeria's laws, as disclosed before. Thus, the behaviour of some photojournalist manipulating or altering images to give them a false meaning or deceive news consumers or the public is unlawful.

Another typical example of the numerous changes in the public perception of photojournalism in Nigeria due to digitalisation is the view held by the public that the taking of a person's photographs for pecuniary interest or for other public use and publication of the photographs of the photographee in the internet or online, arising from digitalisation without the consent of the same is unconstitutional, being a violation of the privacy right, accorded to Nigerians, including a photographee by section 37 of the 1999 Constitution. A noteworthy point to put-forth is that due cognisance must be given to the import of Chapter Four provisions of the 1999 basic law in which section 37 of the 1999 Constitution is a part. In actual fact, these provisions are sacrosanct. Should any of the provisions demand alteration, the 1999 basic law provides for a very difficult procedure in section 9(3). The nation, in this connection, should apply, and exhibit respect for, the Constitution. It's significant to bear in mind that in the country the constitutional provisions of are supreme and binding on all people as well as bodies throughout the Federation of Nigeria. Arguably, any law, including the Copyright Act 2004 of Nigeria which is inconsistent with the Constitution is void to the extent of the inconsistency, by virtue of section 1(3) of the 1999 Constitution. This contention is strengthened by the decision of the apex Court of Nigeria in *Efunwape Okulate v Gbadamasi Awosanya*¹²⁸ and *Attorney-General of Abia State v Attorney-General of the Federation*.¹²⁹

A continuation of the problem of manipulation of photographs and other problems associated with photojournalism, as disclosed before constitute a devastating blow to the development, protection and the survival of the profession of photojournalism in Nigeria. The development, protection and survival of the profession of photojournalism must be of over-riding interest to all citizens of Nigeria. This is so, because news photography is part of the ways of disseminating information in Nigeria and exercising the freedom of the press, as enunciated by section 39 of the 1999 Constitution. Besides this, it must be repeated that the press in Nigeria is given the responsibility under section 22 of the 1999 Constitution to uphold the fundamental objectives stated in Chapter Two of the Constitution above and the responsibility and accountability of the Nigerian Government to the Nigerian people. In this way, the Nigerian press plays the watchdog role in Nigeria's democracy.

Of course, democracy in Nigeria suffers when photojournalists disseminate false information to the citizenry through manipulated photographs. This is certainly a hydra-headed problem ravaging or rocking the profession of photojournalism in Nigeria.

Finally, it is observable that the photojournalist in carry-out his duties is confronted with manifold challenges, due to the advent of digitalisation. These include decline in the status of photojournalists as a result of facing competition from citizen journalists and other persons who use digital cameras or camera or smart phones to take and send photographs which are warmly-embraced by some news organisations, including the CNN, as disclosed before. These challenges must be tackled by the President Muhammadu Buhari's civilian administration in order for photojournalists' roles in dissemination of information to Nigerians as well as holding the Nigerian Government responsible and accountable to the people through news photography could yield the desired results for the over-all benefit of the nation's democracy.

VIII Recommendations

The challenges of photojournalists in the performance of their duties arising from digitalisation and other problems associated with the practice of photojournalism must be addressed in the nation. The authors strongly suggest the following with a view to surmounting the challenges above and other problems associated with the practice of photojournalism in Nigeria:

¹²⁸ [2002] FWLR (part 25) 1666, 1671.

¹²⁹ [2002] 6 NWLR (part 763) 264.

Chapter Four of the 1999 Constitution should be altered to include the right to suitable employment as a fundamental and enforceable right. It is in consonance with the practice in other countries, including Portugal, South Africa, Ukraine, Congo and Zimbabwe, as disclosed already.¹³⁰

IX Concluding remarks

The examination of digitalisation influence on public perception of photojournalism in Nigeria has been carried-out in this article. The article highlighted gaps in the various pertinent norms which are legal and asserted that the violation of the communication media rights of photojournalists in Nigeria is illegal and against the 1999 Constitution as well as international human rights' treaties or norms. This article, also, examined the digitalisation influence on public perception of photojournalism in Nigeria. This article, again, indicated the practice in other countries and postulated solutions which, if executed could effectively tackle the challenges of photojournalist in their roles of disseminating information to Nigerians as well as holding the Government of Nigeria responsible and accountable to the Nigerian people in a digital environment.

¹³⁰ Other recommendations of the authors, include: (a) Nigeria should rise to the challenge of faithfully enforcing Nigeria's laws, including the Nigerian Copyright Act 2004 which seeks protection of the copyright of photojournalists in their photographs; (b) Nigeria should rise to the challenge of faithfully enforcing the Press Council Act 2004 of Nigeria which forbids persons other than fully-registered journalists with the Council from practicing the profession of journalism, including the profession of photojournalism in Nigeria; (c) Nigeria should rise to the challenge of faithfully enforcing the Cybercrimes (Prohibition, Protection etc) Act 2015 of Nigeria and the Data Protection Regulation 2019 of Nigeria which prohibit the modification of photographs; (d) Nigeria should organise public lectures to sensitise or interface with Nigerians, including photojournalists on the importance and purpose of the rights guaranteed under the Nigerian Constitution and other Nigerian Laws, including the Nigerian Copyright Act 2004, Nigerian Cybercrimes (Prohibition, Protection etc) Act 2015 and Nigerian Data Protection Regulation 2019; (e) photojournalists in Nigeria should be assisted financially to acquire new working tools such as the digital camera by way of loan given to them by their employers, including the Federal and State Governments in Nigeria; (f) photojournalists in Nigeria should be required to undergo training on the new strategies to take, print and send pictures to the internet as well as necessary skill and techniques required to function effectively in a digital environment; (g) Nigeria should enhance the pay package of photojournalists arising from their increased responsibilities, due to digitalisation; (h) the Council and the NUJ must work assiduously toward sanctioning journalists, including photojournalists who breach the Code of Ethics for Journalists in Nigeria 1998; (i) Nigeria must borrow a leaf from other countries, including the USA a country practicing the common law, by enacting a Digital Millennium Copyright Act which provides for 'Takedown Notice' and 'Counter-Notification' as they enure under the USA Digital Millennium Copyright Act 1998; (j) Section 45(1) of the 1999 Constitution should be altered by the NAN to define the elastic terms of 'defence', 'public safety', 'public morality', 'public health' and 'public order'; (k) Section 16 of the Cybercrimes (Prohibition, Protection etc) Act 2015 of Nigeria and article 2.10 of the Data Protection Regulation 2019 of Nigeria should be altered by the NAN to provide for the penalty of a minimum fine of ₦500,000.00 or a term of imprisonment for three years or to both such fine and imprisonment; (l) sections 20 (2)(b) of the Nigerian Copyright Act 2004 and 491 of the Nigerian Criminal Code Act 2004 should be amended by the NAN or the Nigerian Parliament to provide for the penalty of ₦50,000.00 for every copy of any work in which copyright subsists dealt with in contravention of these sections, or to a minimum term of imprisonment for three years, or in the case of an individual, to both such fine and imprisonment; and (m) Nigeria should borrow a leaf from the UK-a country practicing the common law where section 85 of the UK Copyright, Designs and Patents Act 1988 guarantees to an individual who for domestic and private purposes commissions, the taking of a photograph that copyright subsists, the rights not to have: copies of the work given to the public; the work exhibited in public; and the work disseminated to members of the public.