

CURBING HATE SPEECH:

Definition Matters



A Policy Brief



**CENTRE FOR INFORMATION
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DEVELOPMENT**

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A POLICY BRIEF

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INTRODUCTION

Since 2014, there has been increasing concern about the likely consequences of hate speech in the political development of Nigeria. This has spurred a number of initiatives aimed at curbing or combating it across different media spaces in the country. These include the monitoring and countering of hate speech by CITAD, the documentation and effort to prosecute politicians who had deployed hate speech in the 2015 electioneering campaign by the National Human Rights Commission (NHRC) and the advocacy to promote policy review in the media sector by the Savannah Centre, all supported by the MacArthur Foundation. Other efforts include the research and production of the Hate Speech Lexicon by Peace Tech Lab and CITAD, various advocacy and sensitization events supported by NEXUS Fund, the legislative initiative by the Interfaith Centre, Kaduna and more recently the incorporation of provisions against hate in the revised Nigerian Media Code of Election Coverage.

From the side of the government, there has been a bill in the National Assembly to curb hate speech which proposed a death penalty for those who deploy it. Government spokesmen have on a number of occasions also informed that government was considering the review of the anti-terrorism law to include hate speech as an act of terrorism. There has also been the revision of the National Broadcasting Code by the National Broadcasting Commission, which has now made some provisions against hate speech in the broadcast media.

While the concern is understandable, there is the danger that, given a lack of clarity of what hate speech means across actors, that hate speech narrative could be used to either stifle freedom of speech or silence criticism of government, including political opposition. This is not helped by the fact that even the government itself has no working definition of what it considers to be hate speech. Indeed, outside of a few partners, there is hardly a shared definition of what it constitutes. In such a situation, government or indeed any person who has low threshold for criticism will simply label such in order to dismiss the substance of the criticism. This would be injurious to both the effort at curbing hate speech and the consolidation of democracy in the country. Additionally, without precise definition, legal action would be difficult to determine and may result in arbitrary decisions.

Moreover, a lack of precise definition of hate speech means that, organizations and authorities are expending efforts chasing all manner speech acts in the name of hate speech, wasting resources and time. Such a situation means also that energy is dissipated aimed at supposedly combating hate speech but on all form of offensive speech that is harmless from the point of view of catalyzing violence.

A PARADE OF DEFINITIONS

Defining hate speech has globally been controversial in the literature because its content and circumstances are dynamic. However, what countries and organizations have done is to articulate a definition for hate speech that

takes into consideration the specificity of the context, history and cultural norms of the relevant society. To illustrate this and the variety of definitions of the term, we provide below a number of definitions taken from different contexts:

Hate speech is speech that attacks a person or group on the basis of attributes, such as race, religion, ethnic origin, national origin, sex, disability, sexual orientation or gender identity. The law of some countries describes hate speech as speech, gesture or conduct, writing or display that incites violence or prejudicial action against a protected group or individual on the basis of their membership of the group or because it disparages or intimidates a protected group or individual on the basis of their membership of the group (Wikipedia).

Hate speech is speech that offends, threatens or insults groups, based on race, color, religion, national origin, sexual orientation, disability or other traits. Should hate speech be discouraged? The answer is easy of course! However, developing such policies runs the risk of limiting an individual's ability to exercise free speech. When a conflict arises about which it is more important protecting community interests or safeguarding the rights of the individual, a balance must be found that protects the civil rights of all without limiting the civil liberties of the speaker.

American Bar Association

Hate Speech is [Public speech](#) that [expresses hate](#) or [encourages violence](#) towards a [person](#) or [group based](#) on something, such as [race](#), [religion](#), [sex](#), or [sexual orientation](#) from the [Cambridge Advanced Learner's Dictionary & Thesaurus](#) © (Cambridge University Press)

Speech that attacks, threatens or insults a person or group on the basis of national origin, ethnicity, color, religion, gender, gender identity, sexual orientation or disability (Dictionary .com).

Any form of speech that degrades others and promotes hatred and encourages violence against a group on the basis of criteria, including religion, race, colour or ethnicity. It includes speech, publication or broadcast that represents as inherently inferior or degrades, dehumanises and demeans a group on the basis of the criteria above.(4) The term is also commonly used to refer to speech or expression, which is intended to hurt and intimidate a person or group because of their sexual orientation disability or other personal characteristics (Kenya National Commission on Human Rights - KNCHR).

Hate speech lies in a complex nexus with freedom of expression; individual, group and minority rights; and concepts of dignity, equality and safety of person” (United Nations Educational, Scientific and Cultural Organization report, 2015).

Speech that “propagates for war; incites imminent violence or advocates hatred that is based on race, ethnicity, gender or religion and that constitutes incitement to cause harm” (South Africa).

The African Commission on Human and People's Rights defines hate speech as any form of speech which degrades others, promotes hatred and encourages violence against a group on the basis of the following criteria: race, colour, religion, national origin, gender, disability or a number of other traits.

When an act of speech has a reasonable chance of catalyzing or amplifying violence by one group against another, given the circumstances in which it was made or disseminated, it is Dangerous Speech (Prof Susan Benesch).

CONTEXTUALIZING A DEFINITION FOR NIGERIA

Nigeria is one of the most diverse countries, with over 500 ethnic groups, a mixture of the adherents of Christianity, Islam and traditional religions and a vast geographical peculiarity that shapes a variegated cultural presence. Although these diversities could be strengths, in Nigeria they have tended to generate a fractious politics with an unhealthy competition, generating hate speech and leading to conflicts, which are often violent.

Given the complexity of the country, a hate speech must encompass a wide spectrum of identify markers. CITAD has identified eight of these levels along to which a definition can be contextualized. They include:

1. Insulting people for their religion
2. Abusing people for their ethnic or linguistic affiliation
3. Expressing contempt against people because of their place of origin
4. Disparaging or intimidates women or girls because of their gender
5. Condoning discriminatory assertions against people living with disability
6. Abusing or desecrating symbols of cultural or religious practices
7. Derogates or otherwise ridicules traditional or cultural institutions of other people
8. Deliberately spreading falsehood or rumour that demeans, demonizes, maligns or otherwise ostracizes other people on the basis of religion, ethnicity, gender, place of origin, or the accident of one form of disability or the other.

At CITAD, we define hate speech as any speech act that denigrates people on the basis of their membership in a group, such as an ethnic or religious group that has a reasonable chance of catalyzing or amplifying violence by one group against another, given the circumstances in which it is made or disseminated. A Speech act in this context includes any form of expression, including images, such as drawings or photographs, dance, films, cartoons, etc.

While hate speech has been commonly used, there has over the years been an effort to differentiate between hate and dangerous speech, the former as a collection of all forms of inflammatory speech practices while dangerous speech is reserved for that specific category that *leads to itself to inciting people to act or accept violence against others as normal.*

Given that in this country the term “hate speech” has entered and become dominant in public conversation, we have retained its use, although in reality our focus is on dangerous speech. This is the sense we use hate speech in a restricted sense, implying dangerous speech.

THE WAY FORWARD

There is the need for stakeholders to continue the conversation around the need for a clear and precise definition of hate speech. A clear definition will allow us to all concentrate on energy around commonly perceived threats rather than working at cross purposes.

In deciding for a clear definition, a number of factors have to be taken into consideration. First, we have above drawn attention to the complexity of the Nigerian society with its multiplicity of religions, languages, cultures, etc. In defining hate speech to take into consideration the cultural and historical context as well as the specificity of inter-group and cultural relationships between and within groups in the country.

Second, operational terms must be clear and concrete. Terms like “discrimination” and “offensive” are too generic as to make significant meaning in determining what hate speech is. For example, in the context of election, the party faithful will legitimately create a distinction between their fellow party members and nonparty members and create a system or incentive with a view to getting more people into their folder. That is discrimination but it cannot be placed into the docket of hate speech.

Third, we need to draw a distinction between libel and hate speech. This is important because many politicians who complain about hate speech are actually referring to libel and slander both of which are forms of defamation and not hate speech. Defamation is to impinge on the character of someone. There are clear laws for dealing with it. Libel is a written defamatory statement and slander is a spoken or an oral defamatory statement. It is this lack of understanding and low level of the threshold of tolerance of criticisms that make people respond to libel and slander as hate speech rather than to take legal action.

Fourthly, we must be sensitive to bring out the hateful content of the many ways in which inciteful statements that put women and people with living disabilities at serious disadvantage or even danger are normalized in everyday speech, including in the media. Emphasis in national discourse has been focused on hate speech in the political realm and underplays the significant volume of hate speech that is directed at marginalized groups, such as women and people with disability.

A final point for consideration is the debate over whether we adapt a narrow or a broad definition of hate speech. A broad definition tries to include all the possible cases of discrimination and incitement. However, researchers have observed that it is not all the forms of such inflammatory speech acts that have the chance of catalyzing violence. While the intention may be good, it will lead to an overburdened concern with all manner of speech acts as hate speech. It is for this reason that some researchers such as Prof Susan Benasch, of the Dangerous Speech Project at the Berkman Center for Internet and Society at Harvard University, USA that have opted to use the term “dangerous speech”

as distinct and different from hate speech. Some even contend that “hate speech”, as such does not exist. Dangerous speech is that segment of inflammatory speech, which has the chance and capacity to catalyzing violence.

In our work, we focus on this genre of inflammatory segment and we think that from the perspective of policy engagement, the focus should be on this and not on the whole spectrum of hate speech.

RECOMMENDATIONS

While a definition is critical to the legal recourse to hate speech, it is important to recognize that legal recourse has not been the most effective instrument for curbing hate speech. Instead, legal instruments have often tended to be used against its victims rather than the perpetrators of hate speech. In this connection, while we urge for continuing dialogue and consultation towards a precise national definition of hate speech, the following recommendations are offered:

Governments

1. Should not rush into legislative action on hate speech without engaging different stakeholders towards a national consensus on what it is.
2. Should direct all media regulatory agencies to review their laws and regulation to make them effective against hate speech.
3. All government MDAs should comply with the Freedom of Information Act to enable citizens to have access information from government, so as to provide a disincentive for the generation of rumours by citizens.
4. Government should address the drivers of hate speech in society, such as unclosed conflicts, perception or real marginalization, etc.
5. Engage in extensive consultation with a view to have consensus on the meaning of hate speech and generate ideas on how it can be more effectively tackled.
6. Domesticating the UNESCO definitions for hate speech as a benchmark toward articulating a national definition for it.

Media Regulators

1. Continue to consult among themselves and with other stakeholder towards agreeing on a shared definition of hate speech.
2. Conduct a review of their laws and regulations to make them more effective in dealing with hate speech.
3. Ensure the full enforcement of existing laws as they pertain to inciting statements or broadcast, including applying appropriate sanctions where cases of violations have been established.

Civil Society

1. Continue to conduct public education and sensitization to raise awareness about hate speech as well as enhance the threshold of people against being provoked by it.
2. Observe and demand for the full implementation of existing rules and regulations as they relate to hate speech including the applications of sanction on violators of these rules and regulations.
3. Advocate for the review of all media laws and regulations to incorporate clear provisions on hate speech including adequate and effective sanctions for breach of these provisions.
4. Popularize the concept of hate speech in local languages, so as to allow for ordinary people to engage in the discussion on defining it and generate more effective ways of curbing it.

Religious and Community Leaders

1. Monitor and sanction clerics and leaders who indulge in hate speech.
2. Educate their followers on religious injunctions against hate speech.
3. Engage in interfaith and intercommunity dialogue to address the use of religious insensitive and discriminatory words and phrases that demean others.
4. Support the enhancement of the capacity of clerics and preachers in conflict sensitive communication.

Political Actors

1. Observe and respect the guidelines on election campaigns by the Independent Electoral Commission (INEC).
2. Do not indulge in nor be provoked by hate speech.
3. Promote a culture of civil dialogue during campaigns and at all times.
4. Enjoin their supporters not to engage in hate speech on their behalf and to promptly denounce anyone who does so.

Media Organizations

1. Join the campaign against hate speech by providing space to counter hate and dangerous speech.
2. Refrain from providing space for the promotion of hate and dangerous speech by others.
3. Adhere to all the regulations governing the control of inflammatory and inciting language such as those contained in the National Broadcasting Commission (NBC) Code, the Advertising Practitioners Council of Nigeria (APCON) Act and the Nigerian Press Council.
4. Enjoin all media regulatory agencies/organizations, particularly the NBC, APCON, the Press Council, the Guild of Editors and the Nigerian Union of Journalists (NUJ) to have proactive monitoring of the media and ensure that those found spreading hate and dangerous speech are appropriately sanctioned.
5. Individual journalists to adhere to high professional and ethical standards in carrying out of their trade.
6. Provide continuing training for journalists on conflict sensitive reporting.

About CITAD

CITAD (www.citad.org) is a capacity building civil society organization whose activities covers research, advocacy, training and publicity in all areas of ICTs. Its vision is; a knowledge-based democratic society free of hunger while its mission is; using ICTs to empower citizens for a just and knowledge-based society that is anchored on sustainable and balanced development.

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