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Defamation in the Age of Social Media: Re-Examining Ghana's Legal Framework in a Digitally Networked Society

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Abstract

The high rate of social media use in Ghana has changed the face of social discussion, information sharing, and the management of individual reputation. Although digital platforms have boosted the level of participatory democracy and citizen journalism, they have also aggravated the danger of defamatory publications, which in most cases may have far-reaching and irreversible effects. The system of defamation in Ghana, which is mostly based on common law practices and constitutional protections, was created within the framework of traditional media organization and editorial responsibility. This article critically analyses the reasons why the current legal provisions on defamation in Ghana are considered insufficiently positioned to deal with the unique features of social media communication, such as virality, anonymity, permanence, and algorithmic reinforcement. Utilizing a mixed method, which incorporates both doctrinal legal analysis and a qualitative approach based on interviews with legal practitioners, media professionals, and digital content creators, the study reveals that there are serious doctrinal and institutional loopholes in regulating digital defamation. The results imply that the current situation in Ghana reflects an imbalanced approach between the constitutional protection of freedom of expression and the necessity to protect personal reputation in the online world. The article proposes situational legal norms, more explicit judicial directions, and focused policy changes to make defamation law more receptive to new communication forms while upholding democratic principles.

Keywords

Defamation, Ghana, Law, Libel Tourism, Social Media, Freedom of Expression

1. Introduction

In Ghana, social media platforms have taken center stage in social communication, and the way information is generated, shared, and consumed has been altered. Social media platforms like Facebook, X (previously Twitter), TikTok, WhatsApp, and Instagram have become leading places for political discourse, social commentary, activism, and news coverage. This revolution has greatly reduced the barriers to publication, whereby people with no professional training in media or institutional control are able to reach large numbers of people in a short time. Although this has contributed to the reinforcement of positive democracy and pluralism, it has also increased the ease with which defamatory utterances are spread in the online community (Balkin, 2014; McGonagle, 2016).

The traditional approach to the law of defamation is to protect people against undue damage to their reputation with a careful balance of the freedom of expression. In Ghana, this has been enshrined in Article 21(1)(a) of the Constitution of 1992, which provides the right to freedom of speech and expression, and Article 164 of the Constitution, which allows restrictions for the safeguarding of reputations, public morality, and national security (Republic of Ghana, 1992). However, the design of Ghana's defamation law, which is mostly based on English common law and has been developed under the influence of judicial interpretation, was based on times when publication was concentrated in few hands and editorial liability was established (Kludze, 2013; Warby, Moreham & Christie, 2022).

Social media emergence makes this legal system more difficult in inherent aspects. Online communication is fast, vast, irreversible, and reproducible, which allows defamatory information to propagate quickly and live forever. In addition, the obscured boundaries between the individual and citizen journalist, media influencers, and media houses pose challenging questions concerning liability, standard of care, and defences (Tambini & Moore, 2018). Such issues are especially acute in Ghana, where social media has become so integrated into the aspects of political mobilisation, electoral campaigns, and accountability of the population (Yussif, Agyepong, Odoom, Tindi & Dick-Sagoe, 2020).

Although criminal defamation was repealed in 2001, there are still fears that civil defamation litigation and associated regulatory measures can achieve chilling effects on online speech, especially for activists, journalists, and those who are politically exposed. Meanwhile, victims of defamation over the internet usually encounter significant challenges in obtaining expedient and efficient solutions due to issues of jurisdiction, evidentiary complications, and limitations on enforcement (Saunders, 2018).

It is against this background that this article investigates the question of whether the current defamation system in Ghana could be considered suitable for a digitally networked society. The research questions in this study are as follows:

1) How well does Ghanaian defamation law consider the peculiarities of social media communication?

2) What is happening with courts and regulatory bodies in dealing with online

defamation claims?

3) What should be changed to strike a balance between freedom of speech and reputational rights protection in the digital era?

The article is important because it adds to the Ghanaian legal literature by placing the law of defamation in the context of new digital realities and providing practical and normative suggestions on how the law can be reformulated.

2. Conceptual and Theoretical Framework

2.1. Defamation as a Legal Concept

The very first meaning of defamation is the making of an untrue statement that will bring a person down or paint him in a bad light in the opinion of right-minded members of the community (McConnell, 2025). It is also a situation where a person is subjected to hatred, contempt, or ridicule as a result of a statement about him or her (Barendt, 2019). The law of defamation in Ghana is heavily based on English common law, with the distinction being between libel, which entails making a defamatory utterance in permanent form, and slander, which entails a transient utterance like the use of words (Appiah & Klu, 2020). Even though the traditional distinction is still relevant in terms of doctrine, its practical usefulness under the conditions of digital communication is decreasing because even verbal statements can be recorded, shared, and stored indefinitely (Barendt, 2014).

In order to prove defamation as provided in Ghanaian law, a claimant has to typically demonstrate that the statement was defamatory, addressed to the claimant, and was published to a third party (Appiah & Klu, 2020). These factors, though appearing simple, are complicated in the online space. As an illustration, the social media concept of publication can include unique posters, reposters, platform algorithms, and unidentified users, indicating the issue of the extent of liability and responsibility (Lidsky, 1996). In addition, the stability and visibility of digital materials enhance reputational damage on a greater scale than what was considered in conventional defamation laws.

2.2. Freedom of Expression and Protection of Reputation

The defamation law is based on the theoretical conflict between the freedom of expression and the protection of reputation. Freedom of expression is generally accepted as one of the primary democratic principles, which is the source of political participation, responsibility, and the exchange of ideas (Dworkin, 2009). Meanwhile, reputation is also interpreted as a component of personal dignity and personal life, which is worthy of legal protection (Post, 1986).

The modern constitutionalism theory resolves this tension by means of proportionality and balancing, where restrictions of speech must be legal, necessary, and proportional to a legitimate purpose. Under the Ghanaian Constitution, the courts have a constitutional obligation to interpret restrictions on expression in a very limited manner, and in a way that is in line with democratic principles

(Bimpong-Buta, 2009). However, the traditional balancing strategies are problematic due to the use of social media, since the scale and pace of online rhetoric amplify the positive sides of democracy, as well as its potential negative sides.

The harm principle is yet another form of analysis. Although speech protection should be the norm unless it causes unreasonable harm, in the digital realm, it is difficult to establish harm due to cumulative impact, viral distribution, or the breakdown of contextual frames (Sunstein, 2017). Such dynamics indicate that a more adjusted way of looking at defamation, aware of digital facts, without compromising healthy public discourse, is required.

3. Ghanaian Legal and Regulatory Framework for Defamation

3.1. Constitutional Foundations

The Ghanaian legal framework governing defamation is heavily enshrined within the Constitution of 1992, which also places a high regard on the freedom of expression, but at the same time, it recognizes the justification of reputational interests. Article 21(1)(a) ensures the freedom of speech and expression, which includes the freedom of the press and other media. This clause is indicative of a post-authoritarian Ghana in terms of its open dialogue and democracy. This freedom is not unconditional, however, as Article 164 clearly permits laws that are reasonably needed to serve such purposes as the preservation of reputations, rights, and freedoms of other persons.

The constitutional architecture thus conceives a balancing exercise and not an absolutist approach. Ghanaian courts have repeatedly emphasized that freedom of expression must be interpreted broadly, particularly where political speech and matters of public interest are concerned, while also recognizing that reputational harm may justify proportionate limitations (Gawu & Mensah, 2022). This constitutional balancing framework is especially relevant in the social media context, where expressive freedoms are exercised more frequently, informally, and often without editorial restraint.

Notably, the Constitution is silent about the difference between traditional and digital expression. Consequently, speech on social media is subject to constitutional protection despite the fact that these modalities were not considered during the drafting. This has placed in the hands of the courts a great responsibility to interpret the constitution to fit modern communication realities. For instance, in the case of *Ace Anan Ankomah v Kevin Taylor & Another* [2020], a series of online video commentaries and Facebook livestreams by Kevin Taylor alleged that Ace Anan Ankomah, a prominent lawyer, was corrupt and guilty of misusing his profession. The messages were spread across social media and were presented not as opinions but as factual claims. Anan Ankomah argued that the publications severely tarnished his reputation, his standing at the Bar, and his personal integrity.

The High Court ruled in favour of the plaintiff and decided that the social media publications would be considered as "publication" in the context of defamation

under Ghanaian law. The court determined that the statements were defamatory and false, and that the defendant had not established the existence of any valid defence, such as justification or fair comment. The court made a judgment in favour of Anan Ankomah and awarded substantial damages in millions of Ghana cedis, as well as injunctive relief, retraction, and an apology. The case successfully cemented the fact that defamatory content spread across online video platforms is subject to the same legal implications as traditional media.

3.2. Defamation: Statute and Common Law

The substantive law of defamation in Ghana is more or less based on the common law that was passed on by English jurisprudence. Since the criminal libel and seditious libel provisions were repealed in 2001, libel tourism (Hartley, 2012) in Ghana has been addressed as more of a civil delinquency (Appiah & Klu, 2020). This repeal was hailed as a breakthrough for press freedom and democratic consolidation that marked the point of departure from punitive restraints on speech (Arthur, 2010).

According to the civil law system, damages, injunctions, and in some situations apologies or retractions are usually paid or given to remedy defamation. Such defences as justification (truth), fair comment, and qualified privilege still hold, at the discretion of the court. Although such doctrines have been developed in small steps via case law, they are still mostly bound to assumptions of professional journalism and recognisable publishers.

The application of these principles to social media publications has exposed doctrinal tensions. As an example, the defence of fair comment always assumes a separation of fact and opinion, and an environment where the commentary is given on an issue of public interest in a responsible manner. On social media, however, opinions are often expressed in compressed, emotive, or ambiguous forms, making it difficult to apply conventional doctrinal tests without contextual distortion (Barendt, 2014). Similarly, the notion of publication becomes diffuse when defamatory content is reposted, shared, or algorithmically promoted by multiple actors.

In addition to common law defamation, certain statutory regimes indirectly affect online speech. Electronic communications, cybercrime, and harassment statutes can be applied in situations where defamatory publications involve threats, impersonation, or the dissemination of false information. Although they are not laws that directly prohibit defamation, their application in some instances raises the issue of indirect speech suppression and over-regulation, especially in the context of politically sensitive speech (Velenchuk, 2019).

3.3. Media Control and Regulation

The historical nature of institutional regulation of expression in Ghana has revolved around traditional media. The National Media Commission (NMC), which was formed in accordance with Chapter 12 of the Constitution (Article 166), is at

the centre of ensuring media freedom, professionalism, and ethical conduct. The resolution of complaints and mediation is also part of the NMC's mandate, especially when they involve newspapers, radio, and television stations.

Nonetheless, the powers of the Commission regarding content on social media are not significant and are mostly informal. Citizen journalists, bloggers, influencers, and average users are not subjected to a traditional regulatory system as they are usually not professionally trained or do not follow a moral code. This regulatory loophole has left a grey area in terms of accountability criteria and remedies for victims of online defamation (Mumuni, 2023; Obeng, 2025).

The courts are thus still the most important units when it comes to resolving defamation cases that may arise due to the use of social media. Facebook posts, WhatsApp messages, and online videos are becoming frequent issues in courts, but few signs exist of a sensible or consistent jurisprudence for an online communication context. The analogies used in judicial reasoning are usually based on examples of print and broadcast media, which might do a poor job of representing the severity, pace, and irreparability of reputational damage online (Lidsky, 1996).

The Ghanaian courts have, however, consistently assumed a standpoint that defamation law can be easily transferred to digital and social media contexts. The courts have disregarded the idea that online speech is more likely to have a lower threshold of accountability and have instead emphasized the impact of the publication on the claimant's reputation. Damages should not be conflated with remedies that have been awarded, which have extended past damages to encompass injunctions, takedown orders, and forced apologies, as the judicial system is sensitive to the scale and speed of internet defamation harm (Obeng, 2025).

This institutional environment demonstrates a more systemic problem: the Ghanaian defamation system exists within a media regulation paradigm, which presupposes the distinguishability of publishers, editorial control, and dissemination of information in a pyramidal way. These assumptions are challenged by social media, and this requires the readjustment of doctrines and institutional innovation.

4. Social Media and the Changing Nature of Defamation

The advent of social media has radically changed the social, technological, and normative context in which defamation is practiced. Social media, in contrast to traditional media, where publication is mediated by editors and institutional gatekeepers, allows immediate communication at a decentralized level with a large number of actors. This has been especially pronounced in Ghana, where digital avenues have emerged as leading arenas of political participation, social commentary, and community discourse. These changes have strained the core of the law of defamation, which, until then, assumed the regulated atmosphere of publication and the relatively fixed frames of the audience. One of the features of social media communication is virality; Facebook, X, and WhatsApp may reach thousands and even millions of users in a few days, which is often a much larger audi-

ence than the readership of traditional newspapers or broadcast programmes. This amplification magnifies the reputational harm associated with defamatory statements, as false or misleading claims may be rapidly replicated and recontextualized across networks (Sunstein, 2017). In the Ghanaian context, where social media discourse frequently intersects with partisan politics and ethnic sensitivities, virality can intensify social polarization and personal harm.

Related closely to the virality is the permanence of online content. In many cases, even when defamatory posts have been deleted, the screenshots, reposts, and caches can linger on. This makes it difficult to employ usual remedial strategies for defamation, including retractions or apologies, which were created for media contexts where harm may be confined and remedied over a limited period. The continuity of online publication, as Lidsky (1996) indicates, means that the reputation damage may be sustained instead of being occasional, which renders damages an ineffective remedy.

Anonymity and pseudonymity are other unique features of social media. It is common to have many users under aliases or unauthenticated identities, and this may give them confidence in defamatory speech because they feel less accountable. In Ghana, victims of online defamation can have to surmount the technical, procedural, and jurisdictional challenges of determining the author(s) of an online statement, especially when the platforms or servers are not within the country. These barriers compromise the right to justice and could preferentially impact the individuals who are less able to seek complex legal remedies (McGonagle, 2016).

Social media also disintegrates the historic dichotomy between personal and public speech. Even what seems to be a private or semi-personal digital space, like a WhatsApp group or closed Facebook page, can be shared on a large scale via forwarding or sharing. As with their common law counterparts, Ghanaian defamation law has yet to grapple with the issue of the contextual expectation of privacy and size of audience in evaluating liability and damages in contexts such as these. The outcome is a lack of certainty regarding doctrine, where the courts tend to rely on the publication principles that were applied to public media for digitally mediated interpersonal communication.

Besides, platform algorithms introduce another dimension of intricacy. As a result, algorithmic curation favors engaging, controversial, or emotionally charged content and unintentionally encourages defamatory content and valid expression. Although the liability of individual speakers has been a central concern of Ghanaian law in recent years, this platform-based amplification poses normative challenges of responsibility, foreseeability, and systemic harm which the current doctrines of defamation are poorly suited to resolve (Tambini & Moore, 2018).

These dynamics highlight a more general structural incompatibility between traditional defamation law and digital communication practices. The very premises of liability, responsibility, and injury are stretched to the limit in a media space that is simultaneously fast, massive, and decentralized. In the case of Ghana, this incongruence is not purely scholastic, but has presented practical challenges for

the courts, litigants, and the quality of citizen debate. Defamation law, absent doctrinal recalibration, will either tend to go too far, thereby trampling on legitimate expression, or not far enough, thereby failing to perform its essential remedial role of reputation protection.

5. Methodology

This article uses a mixed research design, which incorporates both doctrinal legal analysis and qualitative research. The selection of the methodology is based on the specifics of the research issue, which is situated at the nexus of legal doctrine, institutional practice, and lived experience in the changing digital public sphere in Ghana. A purely doctrinal context, as much as required, would not be sufficient to reflect the reality of how the law of defamation applies in practice, especially regarding the use of social media. On the other hand, empirical research that lacks a doctrinal basis would pose a threat of missing the normative and constitutional aspects of the subject.

5.1. Doctrinal Legal Analysis

The theoretical aspect of the research entails a coherent review of the constitutional provisions, the statutory machinery, and applicable case law on defamation and freedom of expression in Ghana. Specific focus is placed on judicial interpretations of Articles 21 and 164 of the 1992 Constitution, and common law principles on libel that apply to defamation, as a result of the repeal of criminal libel. The current analysis aims to determine some of the underlying assumptions in the Ghanaian defamation jurisprudence, with particular reference to publication, fault, and remedies.

Besides sources in Ghana, comparative material from other common law jurisdictions is also selected to shed light on alternative approaches to doctrine and new best practices. These comparative implications are not seen as prescriptive models but rather viewed as interpretative tools that help to analyze the weaknesses and strengths of the existing framework in Ghana (Zelezny, 2006). Principles such as constitutional interpretation, proportionality, and rights-balancing were used in the doctrinal analysis, which is also based on the wider jurisprudential context in which the defamation law is applied.

5.2. Qualitative Research Design

In order to supplement the doctrinal examination, the research will adopt a qualitative element to seek to understand the experiential and professional perceptions of online defamation in Ghana. Participants were selected using the purposive sampling method and included legal practitioners who had previously been involved in defamation litigation, media professionals with digital publishing experience, and social media content creators. Semi-structured interviews were used to collect the data. This method enabled one to be flexible and versatile in investigating the understanding of participants and also to be consistent in important

thematic areas (Creswell & Poth, 2018).

The qualitative data were analyzed using a thematic analysis framework. Interview transcripts were reviewed iteratively to identify recurring patterns, points of convergence, and areas of divergence. Issues of regulatory uncertainty, evidential problems, chilling of the freedom of expression, and access to recourse became the themes for the discourse. This process was not applied in a mechanical way but was reflexive, whereby the researcher is aware of the role he plays in creating meaning but is sensitive to the participants' stories and contextual realities (Braun & Clarke, 2021).

The qualitative aspect of the study focused on ethical considerations. The participants were informed of the study's objective, guaranteed confidentiality, and given the freedom to drop out at any point. Since defamation cases are sensitive and the findings may have professional consequences for the research participants, anonymization was observed, and the findings were presented in a manner respectful of both the personal and professional integrity of the individuals.

From the foregoing, the study gave a more in-depth and grounded analysis of defamation and social media in Ghana by combining doctrinal and qualitative approaches. This methodological pluralism allowed for an increase in the validity of the findings and made the legal analysis based on realities in practice instead of unrealistic assumptions.

Sample Size and Characteristics of Participants

To strengthen the credibility and transparency of the qualitative component of this study, the sample size and participant characteristics are stated explicitly. The qualitative strand of the research comprised eighteen (N = 18) purposively selected participants, drawn from three professional categories that are directly implicated in the production, regulation, and contestation of allegedly defamatory content in Ghana's digital space. These included six legal practitioners with demonstrable experience in civil defamation litigation, six media professionals working across traditional and digital platforms, and six social media content creators or digital commentators with substantial online followings. This composition ensured that the study captured doctrinal insight, institutional practice, and lived digital experience, thereby enhancing the analytical depth of the findings. In qualitative legal research, such carefully delimited samples are not intended to achieve statistical representativeness, but rather to enable a rich, contextualised understanding of complex normative and social phenomena (Creswell & Poth, 2018; Braun & Clarke, 2021).

In terms of demographic profile, participants ranged in age from their early thirties to late fifties, reflecting both early-career and senior professional perspectives. The sample included both male and female participants, with representation across public-sector institutions, private legal practice, and independent digital media work. All participants were professionally active in Ghana at the time of the study, with several having transnational exposure through litigation, journalism, or online publishing involving foreign-based platforms. This diversity was delib-

erate, as qualitative validity is enhanced when participant characteristics align closely with the social locations in which the phenomenon under investigation occurs (Patton, 2015). By specifying both the size and composition of the sample, the study demonstrates methodological coherence between its research questions, data collection strategy, and analytical claims, thereby reinforcing the trustworthiness of the qualitative findings underpinning the broader doctrinal analysis of defamation and social media in Ghana.

Data collection was concluded at the point of thematic saturation, that is, when successive interviews no longer generated substantively new insights but instead reinforced already identified patterns across doctrinal understanding, institutional practice, and digital experience. In qualitative socio-legal research, saturation is recognized as a principled basis for determining sample adequacy, particularly where the study seeks depth, convergence, and explanatory richness rather than numerical generalization (Guest, Bunce & Johnson, 2006; Saunders et al., 2018; Braun & Clarke, 2021). The attainment of saturation across the three participant categories provided confidence that the empirical material was sufficiently robust to support the analytical claims advanced in the study.

6. Findings and Discussion

The findings of this study show that the current defamation laws and principles laid down by Ghana are increasingly failing to conform to the situation of communication via social media. The doctrinal and qualitative evidence indicates that although the law applies to statements or expressions made on the Internet, it does so in a manner that is frequently tense, ad hoc, and lacking in intuition regarding the nature of online platforms. The findings presented in this section are discussed in the context of three interconnected themes: doctrinal inadequacies, institutional and judicial challenges, and the overall implications for freedom of expression and access to justice.

6.1. Gaps in the Existing Legal Framework

A central finding of the study is that Ghana's defamation law continues to rest on assumptions that no longer hold in a social media-dominated communication environment. Traditional defamation doctrine presumes identifiable publishers, editorial control, and relatively linear dissemination of information. Social media, by contrast, operates through decentralised networks in which content is created, reshaped, and redistributed by multiple actors, often without clear lines of responsibility.

In their interviews, legal practitioners remarked that there was ongoing confusion regarding the issue of liability in reposts, shares, and comments. Although common law principles consider the repetition of a defamatory statement as a new publication (*Duke of Brunswick v Harmer* [1849]; *Hemming v Poulton & Ors* [2025]; Warby et al., 2022), the application of this rule to social media is bound to create disproportionate results. Ordinary users who merely forward content—

sometimes without endorsement—may be exposed to liability comparable to that of the original author. This raises normative questions about fault, intention, and fairness that current doctrine does not adequately address (Lidsky, 1996).

Another area of doctrinal gap is with regard to remedies. In Ghanaian courts, damages are still the main answer to defamation, but participants constantly noted that financial redress cannot always have a practical impact on repairing reputational damage caused by hate speech online. When slander has been spread far and wide, damages can play a ceremonial or a penal role but have little practical reparative effect. Though potentially effective, injunctions and take-down orders are not always sought or enforced in good time, especially when the location of the platform or authors falls outside the jurisdiction of Ghana.

6.2. Courtroom and Institutional Problems

The study also found that Ghanaian courts remain at the initial phase in working out an online defamation jurisprudence. Cases involving social media are often judged with reference to print or broadcast media, without long-term consideration of the technological and social peculiarities that characterize digital communication. While these analogies offer continuity in doctrine, they can conceal important distinctions based on the size of the audience, its persistence, and algorithmic amplification.

Definite difficulties in terms of evidence proved to be a common hindrance to online defamation litigation among several participants. The process of establishing the authorship, authenticity, and context of digital information may also be complicated, especially through the deletion, editing, and sharing of posts in closed groups. Courts are being compelled to work with screenshots, metadata, and platform records, but there is little procedural explicitness on how this evidence should be evaluated. This evidentiary uncertainty is disadvantageous to both claimants who aim to receive redress and defendants who endeavour to invoke valid defences.

At an institutional level, the peripheral role of the media regulatory agencies concerning social media adds to a regulatory gap. In contrast to traditional media, which is fairly regulated, social media users are not subject to ethical directives and legal redress, as they are much less regulated by a rule framework. Consequently, defamation cases are pushed to the courts, thus causing a further burden to the judicial system, while opportunities to resolve these cases by other means are restricted (Obeng, 2025; Quashigah, 2022).

6.3. Chilling Effects and Democratic Implications

The most significant implication of defamation law on online expression perhaps concerns the impact of the law in general. The qualitative data indicate that the risk of civil defamation actions, especially in situations where the harm is perceived to be random or excessive, has already started to influence the behavior of journalists, activists, and content producers on social media. Other participants

explained their conscious self-censorship, particularly when they were commenting about politically powerful people or institutions.

This chilling effect is not even. The popularity and financial capability of the individuals, along with the media actors, allow them to better dodge the pitfalls of the law, whereas common users and free commentators might avoid the social sphere altogether. These asymmetries have raised the question of equality of participation in the digital public and the possible effects of defamation law usage to effectively muzzle criticism, a frequent feature of strategic lawsuits against public participation (SLAPs) (Pring & Canan, 1996).

At the same time, the findings also bring to the limelight the reality and the real harm caused by online defamation. In the long run, victims were reported to suffer professional damage in addition to social ostracism, emotional distress, and stigma. These accounts discredit the naive accounts that explain the law of defamation as imposing a threat to the freedom of speech alone. Instead, they cite the need to have a complex system that allows expressive freedom and personal dignity to be recognized as important values in the constitution (Post, 1986).

A combination of these findings implies that the Ghanaian defamation system is at a crossroads. In the absence of doctrinal refinement and institutional adjustment, the law runs the danger of swinging between over-deterrence and under-protection, neither of which can be good for the nation's democratic or justice-based goals.

7. Best Practices and Comparative Insights

The comparative analysis is a very helpful yet cautious analytical tool, which could be used to analyse the Ghanaian approach to defamation in the online era. It is not an attempt to export foreign ideals in large blocks, but rather to find principles and practices that might be used to shape context-specific reform. Common law jurisdictions, such as South Africa and the United Kingdom, from which Ghana has derived its own law of defamation, provide a particularly fascinating insight into the rebalancing of the law of defamation in the aftermath of social media-driven communication.

In South Africa, constitutional jurisprudence has been at the forefront in transforming the law of defamation to suit the demands of democracy and the emerging realities. Courts have given growing importance to the necessity of weighing dignity and reputation against freedom of expression in a context-sensitive way, including the character of the speaker, the medium through which the speech is delivered, and the interest of the audience in the speech (*Hoho v The State*, 2008). Notably, the South African courts have demonstrated a readiness to question the reasonableness of damages awards in defamation cases, especially where excessive damages can discourage the fair practice of open debate in society. This focus on proportionality is highly reminiscent of Ghana itself and its constitutional system and indicates a way toward a more principled solution to online defamation cases.

Another educative case is provided by the United Kingdom, especially with the

introduction of the Defamation Act 2013. The introduction of the so-called serious harm threshold is one of the most notable novelties of the Act, and claimants are required to show that a publication has resulted in or is likely to result in serious harm to their reputation. The UK context also varies in some significant aspects; though, this test can be seen as an attempt to sift out non-significant or vexatious conduct, and in so doing, minimize the chilling effect of measures to combat defamation on the freedom of speech (Barendt, 2014). When applied to social media, in which utterances are typically informal, temporary, or hyperbolic, this criterion prompts courts to accord substantive injury the consideration it warrants over formal publication.

Another important change in comparative practice is the growing visibility of the intermediaries' and platforms' role. Though most common law jurisdictions remain slow to hold user-created content platforms to general liability, there is growing recognition of the need for platforms to utilize notice-and-takedown mechanisms and collaborative regulatory structures. Such tactics seek to remedy reputational harm in the short term without necessarily resorting to litigation, which can be particularly useful in Ghana, where litigation may be a costly as well as time-consuming process.

African human rights views also provide guidance in terms of regional norms. The African Commission on Human and Peoples' Rights has continuously emphasized the necessity of safeguarding freedom of expression and warned of disproportionate penalties for defamation. The soft-law instruments and declarations stress that civil remedies must not be punitive in effect and that speech on matters of public interest must be given greater protection. Although not as binding as domestic law, these standards serve to support the principles of the constitution that are already established in the Ghanaian legal system (Saeed & Agbove, 2023).

The comparative insights presented in this context are oriented toward a collection of best practices, as opposed to fixed models. These encompass embracing context-specific liability thresholds, proportional remedies, early dispute resolution vehicles, and increased judicial interaction with the facts of digital communication. In the case of Ghana, the usefulness of these practices is that they go hand-in-hand with already established constitutional obligations, and not that they are brand new. They show that the law of defamation can be dynamic to safeguard both reputation and democratic dialogue without compromising either.

8. Recommendations for Legal and Policy Reform

An analysis of this article reveals that to reform the way Ghana approaches defamation in the age of social media, it is important not to undertake a wholesale re-evaluation of constitutional principles. Instead, the process requires specific changes that would clarify the doctrine, enhance institutional capacity, and align the legal responses with the realities of digital communication. The suggestions provided herein are thus context-dependent and gradual, geared towards boosting co-

herence without diminishing the freedom of expression that has been hard-won.

To begin with, there is an evident requirement for judicial guidance that is specific to online defamation. The creation of interpretive norms would also be beneficial to Ghanaian courts because they would clearly recognize the challenges of virality, republication by sharing, and the informality of discourse on social media. This kind of guidance may help judges differentiate between intentional reputational attacks and accidental or hyperbolic speech, especially in cases where intention and approval are unclear. There would be a gradual stabilization of expectations on both sides as a result of uniform judicial reasoning in this field.

Second, remedial strategies need to be recalibrated. Damages will obviously continue to play a crucial role, but a growing number of courts must prepare to pay attention to remedies more responsive to the dynamics of online harm. Timely takedown directives, corrections, and apologies brokered by the court can, in most instances, provide more significant redress than large financial damages. In cases where damages have been awarded, proportionality must be given priority to prevent consequences that discourage lawful involvement in the public arena. This practice is compatible with constitutional principles of necessity and proportionality, and new comparative practice.

Third, alternative dispute resolution mechanisms in defamation cases resulting from the use of social media can be strengthened. Not every case of online defamation is suitable for full-scale litigation. Dispute mediation and complaint-resolution procedures, possibly facilitated by existing institutions like the National Media Commission, might help offer quicker and less enmity-related options to settle disputes. Although the Commission is currently tasked with more traditional media in its mandate, its experience in ethical mediation puts it in a good position to play, at least normatively, a role in the debates over the standards of online speech.

Fourth, there should be capacity building for judges and legal practitioners. Social media-related defamation cases increasingly require familiarity with digital evidence, platform mechanics, and online communication norms. Targeted judicial education programs could enhance the quality and consistency of decision-making, reducing uncertainty and improving public confidence in the legal process. This is particularly important in a jurisdiction where technological change often outpaces formal legal reform.

Finally, digital literacy and civic education should be incorporated as supplements to the reform. Online defamation has a social dimension that cannot be addressed only by legal measures. Defamatory speech may be eliminated through responsible online behavior, the development of ethical content, and critical media usage of the internet. This initiative is within the broader Ghanaian democratic culture where dialogue and accountability are highly valued.

The foregoing recommendations collectively reflect a middle-ground reform agenda, which recognizes the legitimate concerns of offended parties on the inter-

net without taking away the expressive liberties upon which Ghana's constitutional democracy is built.

9. Conclusion

This article sets out to examine whether Ghana's existing defamation framework remains fit for purpose in an era defined by social media-driven communication. The analysis demonstrates that while Ghana's constitutional and common law foundations provide a robust normative basis for balancing freedom of expression and reputational protection, they were developed within a media environment markedly different from today's digitally networked society. Social media has altered not only the speed and scale of publication, but also the social meaning of speech, the structure of audiences, and the pathways through which reputational harm occurs.

The study has revealed that in a mixed doctrinal and qualitative strategy, implementing traditional principles of defamation in relation to online speech is likely to reveal doctrinal tensions and institutional ambiguities. Courts are more encouraged to resolve cases of virality, anonymity, and digital permanence in the absence of clear, context-specific norms. Concurrently, victims of online defamation face practical challenges in accessing prompt and efficient redress, and content creators and commentators operate under a legal grey area that can lead to self-censorship. Such dynamics threaten to erode the constitutional balance with regard to freedom of expression and personal dignity.

As has been shown in the article, Ghana is not the only country facing these challenges. Other common law jurisdictions provide us with comparative experience on this matter, showing that over time there has been a move toward proportionality, seriousness tests, and flexibility in remedies in defamation law. Most significantly, the developments do not leave reputational protection behind; instead, they reset the legal reactions to mirror modern communication patterns. In the case of Ghana, these approaches are not relevant due to their foreign provenance, but rather because they are compatible with the current constitutional obligations and democratic principles.

Finally, the regulation of defamation on social media should not be considered a zero-sum game between freedom of speech and reputation. These two interests are inseparable from a life of democracy, and both are at stake in the digital age. An effective defamation regime should thus be able to prevent serious reputational damage to individuals without inhibiting the rich and indeed disorderly mass conversation that social media has facilitated. Ghana can be confident that the development of its defamation law will keep pace with the realities of digital communication by adhering to principles of doctrinal clarity, proportional remedies, institutional adaptation, and public education.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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