

**KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY,
KUMASI**



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**ABUSE OF FREEDOM OF SPEECH AND EXPRESSION THROUGH THE
ELECTRONIC MEDIA: A CASE STUDY OF THE MONTIE THREE**

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A thesis submitted to the Faculty of Law in Partial Fulfillment of the Requirements
for the Degree of Master of Law

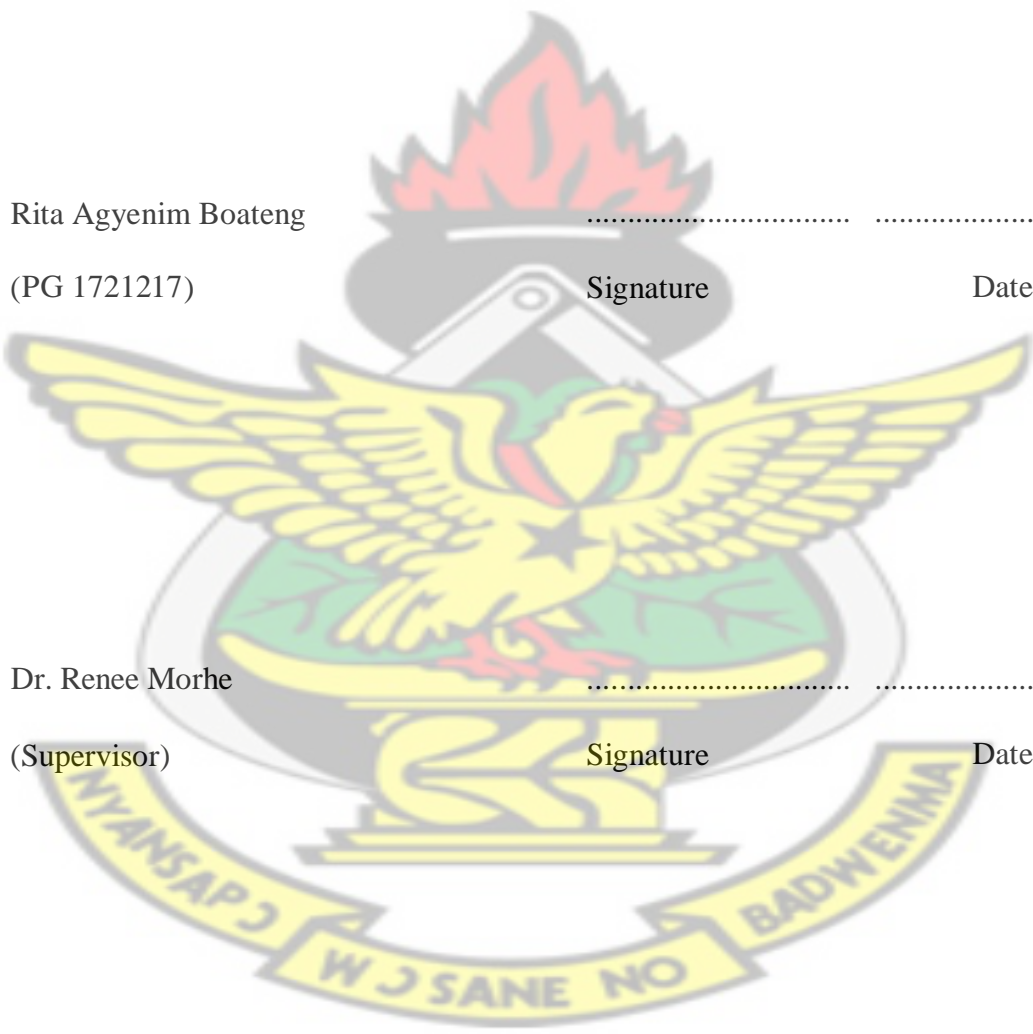
October, 2019

DECLARATION

I hereby declare that this submission is my own work towards the Masters of Laws (LL.M) and that, to the best of my knowledge, it contains no material previously published by another person or material which has been accepted for the award of any other degree of the University, except where due acknowledgement has been made in the text.

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Dr. Renee Morhe
(Supervisor) Signature Date



DEDICATION

I dedicate this project work to my family – Mr. Alfred K.A. Boateng, my husband and my children Ivan, Noel, Manuel and Josephine for the support they gave me throughout this project. I could not have come this far without them.

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First and foremost is my sincere gratitude to the ALMIGHTY GOD who has propelled me to come this far in my education.

This study owes its success to several people who in diverse ways assisted me. While time and space will not permit all names gathered to appear in this report, some personalities are worth mentioning: My appreciation to my project supervisor, Dr. Renee Morhe whose useful advice, guidance and criticisms enabled me to produce this report on schedule

I also sincerely express my profound gratitude to Manuel Kyei Boateng, who single handedly assisted me in typing all my work throughout this course especially this project work. Also, worth mentioning are Tony and Morgan in the arrangement and inputs necessary for the compilation of this study.

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TO GOD BE THE GLORY

ABSTRACT

Free speech is good and everyone is in favour of it. It is a strong tool because it provides a big platform for rights and freedoms to thrive but it has dangers. Human dignity should be essential; therefore, we need to reinforce each other according to its own strength. Abuse of freedom of speech and expression pulls valuable words out of the market place of ideas and lessens the value of discourse in nation building. In this study, I advocate measures against abuse because I cherish free speech. Many countries like Rwanda, South Africa, Bosnia Herzegovinian, Israel (Jews) have had their fair share of a shattered country because of Hate/abuse of freedom of speech. Ghana although not there yet, its media and affiliate bodies like the NMC, NCA and GJA need to put their strength together and enforce their rules and regulations in order to deal with any impending trouble. We need a save and peaceful Ghana for development.

This study adopted an interdisciplinary approach as well as doctrinal to find out why freedom of speech and expression is being abused in spite of the constitutional limitations provided. Aptly, the study explicitly finds out people's perception about abuse of freedom of speech through the electronic media, and people's knowledge of the law in respect of the limitations on free speech/ expression, and the boundaries within which it operates. The data was collected in Kumasi to represent Ghana and the findings used to generalize. The research revealed that most Ghanaians know the law that guide freedom of speech/expression and media practice but they see it as an expression of their constitutional right. They abuse because their understanding of freedom knows no limit. It was revealed that the parent law should be reviewed for stiffer sanctions against those who abuse this fundamental human right.

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LIST OF STATUTES

Universal Declaration of Human Rights (UDHR)

International Covenant on Civil and Political Rights (ICCPR)

The 1992 Constitution

Criminal Code 1960, Act 29

Canadian Human Rights

Criminal Code of Canada



CHAPTER ONE

BACKGROUND OF STUDY

1.1 Background of Study

Free speech is a concept that empowers every individual to articulate his or her opinion and ideas without fear or favour, censorship or legal sanction. The term “freedom of speech and expression” include any act of seeking, receiving and imparting information or ideas regardless of the medium used.¹ Per this research, the medium will be the electronic media: radio, television and the internet. The term ‘media’ was borrowed from the Latin word which means ‘middle’. It is impersonal communication channels directed at a vast audience which impacts enormously on the attitude and behavior of people. It is for this reason that the “media” cannot be easily ignored. The media has become a controversial medium that needs to be critically considered in content.²

With the electronic media disseminating information, educating and entertaining, its role in our everyday life have increased. It has become a common sight in recent times to hear the sound of music, talk shows and discussions all around from the place of work like hospitals, ministries, business centers and market places, while others walk with radio or mobile phones close to their ears or through the use of earpiece. But the electronic media and how it present freedom of speech and expression is not without problem: indecent language and hate speeches have characterized the airwaves. The internet has spawned a proliferation of hate speeches along with useful information³ which enable people to commit violence long after words have been said or published.

¹ Freedom of Speech, Wikipedia (Date accessed; February 27, 2019)

² Macionis, J.J et al, *Sociology* Scarborough, (Ontario Prentice hall Canada Inc. 1994) p 143

³ Joyce Arthur, *Where does free speech end and hate speech begin*, (Canada, 2018)

Violent acts of hate are generally preceded by hate speech that is expressed publicly and repeatedly for some time by public figures, journalist, activists of groups. Examples are the “Hutus against Tutsis” (1994), the ethnic cleansing of Bosnian Muslims in Bosnia & Herzegovina (1992-95) and the Holocaust. Free speech as a human rights tool is recognized in Article 19 of the Universal Declaration of Human Rights (UDHR)⁴ which states that:

“everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.

However, it is worthy to note that a proviso to Article 19 of ICCPR states that the exercise to these rights carries “special duties and responsibilities” subject to certain restrictions such as respect for the rights and reputation of others, protection of national security or of public order or of public morals⁵. In Ghana, the concept of free expression emanated from the 1992 constitution per article 162, 163 which guaranteed freedom of speech and independence of the media⁶.

- Article 162(2) prohibits censorship in Ghana.
- Clause 3 also states that there shall be no impediments to the establishment of private press or media; and in particular there shall be no law as a prerequisite to the establishment or operation of a newspaper, journal or other media for mass communication or information education.

⁴ United for Human Rights, <https://www.humanrights.com>, Universal Declaration on Human Rights (Adopted 10 Dec 1948 and entered into force in 1976) UNTS 267 Article 19

⁵ ICCPR Article 19 proviso clause, <https://www.ohchr.org/iccpr> Date Assessed 28th October 2019

⁶ 1992 Constitution of the Republic of Ghana Article 162 & 163

- Clause 4 also controls government interference in the operations of the media as far as editors and publishers work are concerned.
- Article 163 also states that all state owned media shall afford fair opportunities and facilities for the presentation of divergent views and dissenting opinions.

But the same 1992 constitution article 164 subjects these provisions in articles 162 and 163 to “laws that are reasonably required in the interest of national security, public order, public morality and for the purpose of protecting the reputation, rights and freedoms of other persons” setting limitations on how far freedom of expression should go.

Although the right to free speech is of fundamental value, many western countries do criminalize hate speeches in a more encompassing way. In Canada, it is illegal to expose a person to hatred or contempt on the basis of prohibited ground of discrimination,⁷ or willfully promote hatred against any identifiable group⁸.

Thane Rosenbaum, Fordham Law professor, noted that European countries and Israel outlaw certain kinds of speech like Nazi symbols, anti-Semitic slurs and holocaust denial and speech that incite hatred on the basis of race, religion, and so forth. He said, and I quote;

“Free speech isn’t free after all, a system that tolerates hate speech or abuse free speech is probably superior to the alternatives but defenders of an absolute right cannot pretend no one gets hurt”⁹

To him, repressing free speech comes with cost and so does allowing it. Judgement comes by looking at both ways: the option is that Hate speech should not be tolerated

⁷ Canadian Human Rights

⁸ Criminal Code of Canada

⁹ A quote from Garrett E.P.P.S February, 2014

in the name of free speech. It has real and devastating effects on people's life. It is harmful and divisive for communities and hampers social progress in fighting discrimination. If left unchecked, hate speech can lead to war and genocide. It should not be allowed to outweigh the basic human rights of other people, especially their right to life.

1.2 Problem Statement

The concept of free speech/expression is being abused in our everyday discourse on National issues as presented in the electronic media and other medium of mass education. Panelists on various radio programs, social commentators, political party members and serial callers in their quest to contribute to issues of National interest acrimoniously trade insult against each other. In the heat of their debates and areas of divergent views decency is thrown to the background. It was on one such occasion that the Montie three were caught in the drag net of the law by the Supreme Court of Ghana to explain why legal action should not be taken against them.

In July 2016, the Supreme Court justices were indirectly threatened by three panelists on a radio program at Montie FM, this case came to be known as the Montie three. Salifu Maase (host of the program) Ako Gunn and Alistair Nelson made an unguarded statement that threaten the lives of the Supreme Court judges against the background of an impending case at the Apex Court. Abu Ramadan had sought the intervention of the Supreme Court to remove all NHIS Card holders from the electoral register. The case was titled Abu Ramadan and Annor v Electoral Commission and Annor. They accused the Apex Court of bias, defied and insulted, as well as lowered the authority of the court when they said they will not accept the decision of the court.¹⁰

¹⁰ Judgement of the Court, *Civil Motion No: J8/108/2016*, 27th July 2016

They threatened the then Chief Justice, Georgina Theodora Wood defaming her person with unpalatable words that cannot be mentioned, and reminded the others that they know where they live. The Supreme Court held that the panelists have scandalized the court by defying and lowering its authority and bringing its name into disrepute and therefore sentenced them to four months' imprisonment and a fine of 10,000 each. The owners of the station were not left out of the judgement, a fine of 30,000 was imposed on the directors and another 30,000 was imposed on the owner of the frequency.

It was undeniable that the choice of better words minus the conditional and indirect threats might have achieved the purpose of exposing the consequence of the judges conduct on the issues they disagree if any. Although the constitution mandates freedom of expression such irresponsible utterances from individuals should not be countenance. People should be responsible for what they say.

These situations have come up one too many. In another instance during one of the late afternoon show on radio XYZ, the presenter of the show sat behind the consul and insulted people in authority such as the President of the Republic, IGP, and a certain man of God. According to the news his program was provocative as it was vitriolic, words like "IDIOTS" "PIG" runs through a raging session of insults.¹¹ At the end of the day the police had to intervene when the man of God stormed the radio station to settle scores with the host and the situation became chaotic.

The criminal offences Act 1960 (Act 29) section 208 like other European countries in a way, sought to criminalize irresponsible statements. The law states that;

"A person who publishes or reproduces a statement, rumor or report which is likely to cause fear and alarm to the public or to disturb the public peace,

¹¹ Available at <<http://www.peacefmonline.com>>(Date accessed 25-03-19)

knowing or having reason to believe that the statement, rumor or report is false commits a misdemeanor”¹²

This law is seen as obnoxious and inimical to freedom of speech but it should be in mind that there is no absolute freedom hence the limitation.

1.3 Objective of the Study

The main objective of this study is to find out why people abuse Freedom of Speech and Expression through the analysis of the Montie three saga

- i. To find out people’s perception about abuse of freedom of speech through the electronic media.
- ii. To find out people’s knowledge of the law in respect of the limitations on free speech/ expression, and the boundaries within which it operates.
- iii. To identify some measure to control the abuse of freedom of speech.

1.4 Research question

In pursuant to the objectives, the following question have been set out by the researcher:

- i. Why do people still abuse freedom of speech and expression in spite of the limitations as provided in the 1992 constitution article 164 and other laws that frowns on hate speeches?
- ii. How do people perceive abuse of freedom of speech through the electronic media?
- iii. Is the media the cause of this notoriety?
- iv. Do people have knowledge of the law governing freedom of speech and expression?

¹² Criminal offences 1960 Act (Act 29) section 208

- v. What are some of the measures to control abuse of freedom of speech?

1.5 Overview of research methodology

The study adopts a mix of interdisciplinary and doctrinal research, a subject of social study interspersed with law, data was collected from a target population. A wider range of the public will be given the opportunity to speak their minds through questionnaire, by so doing employ the qualitative design of data collection to investigate the problem. More time will be spent in the field to understand the problem and report on it while ensuring that the selected participants have the ability to contribute.

The target population for this study is the media houses but for purposes of resources and time, some houses will be selected and used as the sample population whose findings will be used to generalize. The purposive sampling design will be used in selecting the media houses. The researcher's focus will be on data from the field to give firsthand information. The secondary source of information will be descriptive through existing materials from the internet, articles from newspapers and social media platforms. Questionnaires and semi structured interview guide will be employed in granting interview. Consultations are made from newspaper reports, journals, library, judgement from court and books in respect of the "black letter law" as secondary source of data.

The tool for Data management, analysis and representation will be used to analyze the quantitative and qualitative data collected and inferential analysis will also be employed to draw conclusions. The SPSS programmer is the tool for this section.

1.6 Justification of The Study

Freedom of speech and expression has drawn a large number of people to interact with the electronic media including the internet. The social media platforms to day is choked

with hate speeches that is vitriolic. This study is justified to bring to light the problem of abuse through hate speeches and indecent language and recommend solutions to make the media landscape vibrant and responsible as fourth estate of the realm.

1.7 Scope and limitation of study

Geographically, the scope of the research focused on Kumasi metropolis. The second largest city in Ghana. It is a heterogeneous Region in Ghana but dominated by the Akans.

Contextually, the study focused on media houses and its affiliate bodies in order to investigate the abuse of freedom of speech and expression through the electronic media.

Some problems encountered during the research work was that the respondents consist of media practitioners and workers who had busy schedules in terms of professional work, religious duties and social life activities. This affected the time frame for the data collection. The researcher solved this challenge by adjusting the time frame for the data collection to meet the time when respondents were available. One other challenge was convincing respondents to participate during the study. People normally do not wish to open up about their private matters and negative concerns about their profession. This posed a serious challenge to the work.

1.8 Organization of study

Chapter one Introduce the topic by explaining the term “freedom of expression” and the “electronic media” and its abuse emphasizing on hate speech. The constitutional provision for freedom of expression and examples of abuse as well as steps taken by Europe and other countries to curb it.

Chapter two analyses and discusses the literature available, what others have done about the abuse and the different thing to be done by the researcher.

Chapter three basically is about the research methodology. The research designs and techniques used in achieving the set objectives.

Chapter four analyze the data obtained from the field, analyze the Montie three saga judgment. The chapter five is more about the findings and discussions of the research work and Chapter six is about recommendations and the conclusion of the project undertaken.



CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

Free speech has always been important throughout history because it has been used to fight for change. When we talk about rights today, they would not have been achieved without free speech. For example, from the time past when women were not allowed to vote, terrible working conditions for mines workers, free speech had been employed to bring about change in these things.¹³ The debate that has ensued over freedom of speech and expression, hate speech and hate speech legislation has left the world divided as to which direction to go and the kind of legislation to make so as not to undermine free expression. We cannot talk of abuse of free speech if we do not acknowledge that free speech and expression is a fundamental human right in every democratic governance. It is the abuse of it that degenerates into other destructive tendencies such as wars, genocide, divisiveness and ill feeling against each other. Hate speech, an offspring of abuse of freedom of speech/expression is a statement intended to demean and brutalize another¹⁴. It is the use of cruel and derogatory language, gesture or vandalism often directed towards an individual or group. It attacks on the basis of attributes such as race, religion, ethnicity, sexual orientation and democracy. The abuse of free speech used interchangeably with hate speech incites violence or prejudicial action. It disparages and intimidates.

¹³ Raphael J., “*index on censorship magazine: why is free speech important?*” Available at; <<https://indexoncensorship.org/2016/04>> (Accessed, April 13, 2016)

¹⁴ Available at; <<https://en.wikipedia.org/wiki>> (Accessed, April 13, 2016)

Some countries like United State protect hate speeches because per their first amendment law, the only function of law on free speech is to protect people against physical harm. They tolerate unlimited emotional harm which is equally of intensity to people and even more lasting and traumatic. Many countries have propounded laws on various abuses of free speech criminalizing hate speech in order to protect human dignity. Canada, France, Denmark and Germany are examples of countries who have taken this step.

Belgium has holocaust denial law making it illegal to play down, justify or approve of genocide committed by the Germany Nazi Regime during the second world war. Australian law on hate speech seeks specifically to prevent victimization on account of race. In Canada, advocating genocide against any identifiable group is an indictment under the criminal code carrying a sentence of a 5yr jail term. In Africa, Rwanda has just passed a law that says it is a crime to insult the president. The law which was introduce last year august was being challenged in court but has been upheld and seek to punish any one insulting or defaming the president with at least 5yrs imprisonment. Media campaigners and right groups condemn the law saying it undermines freedom of expression.¹⁵ What is Ghana's position?

2.1 Conceptual Framework

The concept of free speech through the electronic media has been a subject of inclusion in both public international law and national law but whittle down the abuse and its consequences. A system that tolerate hate speech is probably superior in terms of choice but defenders of this position should not pretend no one gets hurt to the extent of emotional trauma. Freedom of speech has limitations and its abuse should be

¹⁵ Available at: <<https://face2faceafrica.com>> (accessed, April 25,2019)

criminalized. The constitution is clear that freedom of expression should not be enlisted as a tool for discrimination that is based on race, ethnic origin, gender, religion, creed or social and economic status¹⁶ in order not to incite violence nor propagate hatred. Canada, Germany and Israel have taken the lead in an encompassing way by outlawing certain kind of speech. Rwanda has recently passed a law that criminalize insults on the President and Ghana can take a cue from it because freedom of speech should not be absolute.

Though the term “free expression” and the “Media” are from different backgrounds they are not mutually exclusive because free speech thrives better in a free media being it electronic, print or the internet, but its abuse will have serious consequence on the world and the media cannot escape blame. This research intends to bring out the limitations for freedom of speech and the regulations to curtail hate speeches and abusive language. In contemporary times the “Law” and ‘Society” have become two deliberate instruments that work together to broaden intellectual engagement for the benefit of each other.¹⁷ The fact still remains that to understand the law, criticize it and improve upon it one has to understand society and its inputs.

2.2 Free Speech vis-a-vis Hate Speech in Ghana

The tendency of free speech turning into indecent or hate speech is rife in Ghana especially during election year. Freedom of speech can be critical but should not promote hate, insults or indecent language, neither should it promote acts that will promote instability in a society. The contents of speech define and tells who you are i.e. character. Therefore, before one can speak, a lot of thinking should be done to ensure

¹⁶ The 1992 Constitution of Ghana, Article 17(2)

¹⁷ Nkansah, Chumbwanda, “Interdisciplinary approach to legal scholarship” (KNUST Faculty of law), p 29

that what is said conforms to national health, civility, decorum and mutual respect as standardized by international laws. People should not hide behind freedom of speech and throw tantrums around to denigrate each other, otherwise the appropriate legal sanction should be applied. Engaging in hate speeches or unprintable language with the tendency of creating division in the country perpetrators should bear in mind that the greatest is not the wealthiest or the one with adorable physical features but the one who is circumspect in his utterance¹⁸. We should bear in mind that reckless speech can have disastrous consequences and as society we should guide against nation wrecking comments in order to ensure stability for nation.

The “politicking” of our time in Ghana has generated a lot of hate speeches among supporters, especially of the two main political parties. This calls for the Media Foundation for West Africa (MFA)¹⁹ to monitor series of language reports on indecent expression recorded on 1,906 radio programs monitored on sixty(60) electronic media across the country in 2016 before the elections. It revealed that the National Democratic Congress and New Patriotic Party supporters were the most culpable in the month of September and October 2016. Some of the stations reported were Happy FM, Okay FM, Peace FM all based in Accra.

Individuals however are not left out. The MFWA have in their report 21st December 2018, that a pastor lost his temper in a radio interview and insulted and assaulted the interviewer whiles damaging studio property. Recently another prophet stormed into a radio station with thugs to cause mayhem because the host of the program called him “a pig”. It is due to such occurrences that the former Archbishop of Catholic Diocese

¹⁸ Dr. Kingsley Nyarko, Freedom of Speech in Ghana; The Role of the NPP Tradition, (KNUST, October 2017)

¹⁹ Media Foundation for West Africa, IFEX Ghana, Available at; https://www.ifex.org/ghana/2016/10/24/abusive_language (Date accessed 25-03-19)

Accra, Rt. Rev. Bishop Palmer Buckle, in an interview with an Accra based radio station expressed worry at the acrimonious language used in trading insults against each other²⁰ on the airwaves as a growing concern and needs to be nipped in the bud if Ghana credentials as a peaceful nation in the sub region can be sustained and avoid civil war. He opines that the country requires level headed and ethically guided media practice and open mindedness in society to promote development. Freedom of speech does not mean spewing out everything “on your chest”, nor having an unlimited freedom to abuse one another. John Stuart Mills, a philosopher and an economist had said that,

“social and scientific progress occurs through vigorous debate involving opposing points of view. To generate different points of view, people must have freedom of thought and speech. Progress cannot occur if majority uses its power to suppress minority viewpoints”

This is how freedom of speech in a democratic nation should work devoid of abuse, indecent and hate speech. Ghana has had its fair share of hate speech online through its social media platforms. Politicians are the worst offenders although teachers, lawyers, doctors and pastors speak and chew it like gum, thinking and expecting that the few cases that have made headlines like the Montie three saga, “some people will flee Ghana” by Salifu Maase who also dehumanizes people by calling them “pigs” and “idiots” should be chastised and shamed. Others also advocate for punishment by statute which will serve as a deterrent to others. This will trap them in the drag net of the law.

²⁰ Owusu Achaw’s interview with Rt. Rev. Bishop Palmer Buckle, Archbishop of Catholic Diocese, *Acrimonious languages* Daily Graphic (Accra ,2005)

Politicians and their supporters have done a great disservice in terms of speech to Ghana. Kennedy Agyapong claimed the former EC boss, Madam Charlotte Osei was not selected on merit but through sexual favors, a statement that degrades women in authority. This angered women groups who described his comments as offensive and embarrassing and must therefore apologize²¹. In another instance, the newly elected member of parliament for Ayawaso-West Wagon, Honorable Lydia Seyram Alhassan, was described by the opposition party as “bloody woman” “as if she killed her husband in the august house of Ghana’s parliament

In 2010 during a political discourse in the media, a certain “high priest” who has little respect for himself and the president said that the president looked like a “chimpanzee”. It was a speech in a very bad taste but defenders of such comments said he was expressing his rights under free expression as stipulated in the 1992 constitution. Provocative and vitriolic statements such as these should not be allowed to pass under the cloak of free expression. A former IGP, John Kudoloh had said, hate speech poses a threat to the very foundation of free speech which results in needless fear and panic in society. To him, hate speech is not part of freedom of speech and society should not equate the two to spew venom. Elections are about issues and not insults.²² The media should be strategically positioned to report responsible journalism because a responsible media is a great tool for nation building hence media practitioners and owners are called upon to be wary of what they use their platforms to promote

The 1992 Constitution of Ghana, Article 164 spell out the limitations on rights and freedoms: “The provisions of Article 162 & 163 of this constitution are subject to laws that are reasonably required in the interest of national security, public order, public

²¹ Available at; <<https://www.africareport.com.gh>> (Date accessed 25-03-19)

²² Daily Graphic, Public Forum on Media and Hate Speech and Elections in Ghana, 27th July 2015

morality and for the purpose of protecting the reputations, rights and freedoms of other persons.” This explains why there is no absolutism in rights and freedoms anywhere. This is what the framers and implementers of the constitution wanted to showcase and therefore anything contrary to this is null and void. If there is any law in the country that frowns on hate speeches, let it be consolidated together with the punishment that goes with it. Ghanaians should be educated on some of these laws because ignorance of the law is no excuse. If there are no laws, then new laws should be enacted and tailored to solve the canker once and for all.

2.3 Proponents of Hate Speech

According to Kim R. Holmes, the Executive Vice President of the heritage foundation is of the view that none but the most extreme will argue that intolerance and censorship are good things in themselves.²³ Normally, the preferred course is subtler. However, he believes that something must be done to make these [prohibitions more palatable because there is still a great deal of respect for freedom of thought, speech and expression in America.²⁴

Justice Oliver Wendell Holmes Jnr expressed his worry that every attempt to curb free speech in America has run up against the first amendment which clearly provides that, “congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof or abridging the freedom of speech, or the press...”²⁵

In his speech in *Schneck v. United States*,²⁶ he argued that falsely shouting fire in a crowded theater was prohibited.

²³ Kim R. Holmes, “The Heritage Foundations, The Origins of Hate Speech” (2nd October 2018)

²⁴ *ibid*

²⁵ Justice Oliver Wendell Holmes, *Clear and Present Danger* (1999)

²⁶ Citation of this case

According to Bill Clinton, a former president of the United States, He blurred the lines between speech and action when he attributed the Oklahoma City bombing to the loud and angry voices of hate. He explained that hate speech was no longer the explicit words of individuals meant to incite violence but a general atmosphere of public opinion that could be construed to encourage violence against certain kinds of people.²⁷

Thane Rosenbaum, a Fordham Law professor noted that repressing free speech is cost and so does allowing it. The American law of free speech only assumes that the only function of law on free speech is to protect people against physical harm but he disagrees on the basis that “emotional harm is equal in intensity to that experienced by the physical body and even more long lasting and traumatic.”²⁸

The UDHR, adopted in 1948, does not include an explicit duty to prohibit hate speech. Article 19 simply secures “freedom of opinion and expression”.²⁹ However, the drafting history shows that the issues of hate speech regulations and restrictions on free speech were frequently discussed. In negotiating Article 19, the drafters faced the challenge of whether and if so to what extent freedom of expression should tolerate even intolerance³⁰. It is the ICCPR that cautions against any advocacy of national, racial or religious hatred that contribute incitement. The Convention on Elimination of all forms of Racial Discrimination (CERD), prohibits all incitements to racism.

2.4 Contributions relevant to the topic by other researches

Abuse of free speech/expression has been a problem of the world and more especially with the creation of the internet. According to PEW research center survey 2017 it has

²⁷ Available at: <<https://www.heritage.org>> (Date accessed 25-03-19)

²⁸ Available at: <<https://rewire.new>articles>2011/9/21>> (Date accessed 25-03-19)

²⁹ The UDHR, adopted in 1948

³⁰ Mchangawa J, “*The Sordid Origin of Hate Speech Laws*” (Hoover Institution, 2011)

been escalating despite efforts by various platforms like Facebook and Twitter to control it. These platforms have had to face the challenge of managing users with sharp and offensive tones which is vitriolic and at the same time maintain enough space for expression, feedback and interaction³¹. The survey further revealed that a vast majority of abusers go unpunished, yet it is claimed under conventional wisdom that free speech is under assault. The cause of this, they claim is attributable to intolerance and the increasing number of platforms on the internet. It has been a daunting task to curb abuses on the internet considering the way the youth and the educated population have increasingly been using the internet and the proliferation of many platforms.

On the quality of ideas that abuse lessens in our everyday discourse, Anita Bernstein 2015 resolved in her article, “Abuse and Harassment diminish Free Speech” that, just as free speech functions as both an individual and a source of social institutional tool, silencing of speech by abuse not only takes away value ideas from the market place, She cautioned that if current levels of online abuse were checked, then abusers will lose the full benefits of their present opportunity to slur, intimidate, threaten and insult their target. If on the other hand abuse remains unchecked, then the losses grow and amount to lost speech, words not published, ideas cut off before they can ripen, arguments not articulated etc. are pushed from the market place of ideas³² These are the true consequences of abuse of free speech and expression if concrete steps are not taken to curb this increasing problem. The nation will lose valuable contributions in nation building.

What then is freedom of speech, which the UDHR has couched in a persuasive and kind language designed to comfort the oppressed and challenge the oppressor translating its

³¹ <https://theguardian.com>

³² Anita Bernstein, *Abuse and Harassment Diminish Free Speech*, Brooklyn Law School (Fall 2015)

effect into everyday life? It is chaotic, perverse complexity of some of the issues it is called to address. In relation to this, I can agree with the author that freedom of speech is not a neutral, fixed concept uncontrolled by societal prejudice. The believe that it is absolute untainted hallmark of civilization is a delusion³³ Those who believe that words can hurt are seeking a balance. A treasured human right should not be hedged by so many qualifications that the right itself becomes mere rhetoric than actual³⁴

In Ghana, a survey conducted by the CDD Ghana, under the name Afrobarometer Dispatch revealed that, Ghanaians rely more on the electronic media, social media and the internet for their information especially among the youth and well educated citizens. A majority of the citizens trust information from the media. However, many also see some members of the media as corrupt.

Surprisingly, Ghanaians have moved from their former position in support of full media freedom to a position that government should have the right to prevent the publication of information it deems harmful to the society. Per the report, among the 21 African countries surveyed, Ghana ranks below average in its support for media freedom. A position that is against the law. What might have accounted for this needs to be investigated. Article 162(4) forbids government interference in editors, publishers and other institution of mass media. Ghanaians have always fought for free speech and free media since time immemorial so why this change if the report is anything to go by?

The reason given for this change in position is that Ghanaians believe that some members of the public and private media are corrupt including almost 1 in 5 citizens who say that “most” or “all” media are corrupt. From this point of view, the researcher

³³ Naserine Malik, We need New Stories: Challenging the toxic Myths Behind Our Age of Discontent, published by W&N, September 2019.

³⁴ McAleese, Defense of free speech is enhanced by concerns of its abuse, October 1990

believes that there are other variables that has culminated into this position. There is a gap that has to be investigated further if Ghanaians trust the media including the internet and depend so much on the information they give as claimed by the survey. Then there is the need for the researcher to find the missing link through the study as proposed.

2.5 The Criminal Libel Law, Its repeal and aftermath

The repeal of the criminal libel law³⁵ in 2001 came as a relief for a country like Ghana which was seeking to develop on democratic principles on the basis of transparency and accountability. The NPP had campaigned and were committed to the process of democratic consolidation in the country and they were determined to fulfill its campaign promises when they come to power. The criminal libel law was enacted during the colonial period to frustrate the freedom of the people and perpetuate servitude other than that the criminal libel law should have been repealed after gaining independent. Unfortunately, the law was maintained and used to harass people in the first republic and still remained in our statute book in the 1992 constitution. The repeal of the criminal libel law has come with great responsibility and media practitioners must draw the line on what can be said and cannot be said in public whether print or electronic. Their platforms should stand for decorum and that is responsible media. The lack of responsible journalism especially when it fuels hate speech and propaganda has been a major contributor to turmoil in Africa and for that matter Ghana.

2.6 How the Internet is abused

The internet is a computer network made up of thousands of networks worldwide. No one knows exactly how many computers are connected to the internet. It is certain however that these numbers run into millions. No one is in charge of the internet but

³⁵ Criminal Libel Law Repealed, Daily Graphic, 30th July 2001

there are organizations which develop technical aspects of this network and sets standards for creating opportunities on it. The internet backbone through which services flow is owned by private companies like Yahoo and Google. An internet user has wide varieties of services like electronic mail, popularly known as Email, World Wide Web (www) etc.

Hate Speech is not peculiar to the traditional electronic media i.e. radio and television alone, but the internet and other social media platforms such as Facebook, Twitter, WhatsApp. Since May 2016, Facebook, Google, Twitter have jointly agreed to European Union code of conduct obligating them to review majority of valid notifications for removal of illegal hate speech posted on their services within 24hrs³⁶. Many extremists disseminate hate speech by publishing posts that acts as prompts on these platforms. Therefore, though an original post may technically adhere to hate speech policy, the ideas the post conveys prompt reader to use the comment section to spread overt hate speech which are not monitored as much as the main post. Facebook has however issued a blanket rule that any group or person known for promoting hate speech and propaganda is not allowed to be on the platform whether they post hate speech or not. Are these regulations enforceable? The problem is on the increase. It is a different story as to whether the rule is being enforced. LOUIS FARAKAN, the nation of Islam leader had called Jewish people “TERMITES” which sparks off racism on twitter but still on and use the platform. Hate speech is still easy to find on social media platforms even though companies that manage these sites have taking additional steps to fight hate speech and other abuses on their sites.

³⁶ The EU code of conduct on countering illegal hate speech online, May 2016

The internet's speed and reach makes it difficult for government to enforce national legislation in the virtual world hence government control is weak and minimal. Hate speech online is a vivid example of how technology with a transformative potential such as the internet, bring with them opportunities and challenges and it implies complex balancing between fundamental rights and principles including freedom of expression and the defense of human dignity.

The character of hate speech online and its relation to offline speech and action are widely talked about by politicians, activists and academics but the debate tends to be removed from systematic empirical evidence making it more perceived. This focus has limited deeper attempts to understand the courses underlying the phenomenon and the dynamics through which certain types of contents emerge to bring about hostility or violence as in a recent anti-Semitic attack by the Nation of Islam leader,

The internet had spawned proliferation of hate speech along with useful information which enable them to commit violence long after words have been said and turned into violent acts of hate. These are generally proceeded by hate speech that is expressed publicly and repeatedly for years by public figures like politicians, journalists and various activists.

Though hate speech in Africa and the internet tend to take cultural, economic, social and political dimension, it is the political that generate the most heat. A former Durban counsellor of south Africa called the President of South Africa Cyril Ramaphosa the "K****President" sparking off violent acts. Facebook, Twitter, Google are dedicating resources to the problem yet there are many challenges. In the meantime, lawmakers are reviewing calls for tighter regulations for social media platforms

A New Yorker who posted strong words on his Facebook wall was found guilty by a law court which sentenced him to three years' imprisonment. The reason is that the act of speaking insulting words or better still hate speeches in our schools, communities and cities has become so common that it calls for a strong collaborative effort to raise awareness to control it. Although some concerns have been raised about it, it seems more people are not bothered as the insults keep flying every day in the sky like scud missiles hitting their targets and creating tension in our communities, schools, work places and homes.

In another instance, the Toronto Sun newspaper, on August 6 2013, was investigating a hate speech after a controversial anti-Israeli rally. Someone said that, "*Jews must vacate the country or be shot dead.*" According to the Centre for Israel and Jews Affair (CIJA), the group who had complained to the police identified the speaker as Elias Hazneh. A footage of the said event was showed with the speaker insisting on what he said. He was arrested, charged and jailed. These are examples of stiffer punishment to prevent hate speeches. Canada does not tolerate hate speeches whether by insulting or advocating genocide or inciting hatred among groups and individuals. It is an indictable offence under the criminal code of Canada with maximum prison terms of 2-14 years. Even after this, the law still monitors and does not allow anyone to go scot free. Even the Book of Life is not without admonishing on abusive language.³⁷ *Ephesians 4:31* says, "*Let all bitterness, wrath, anger, clamor and evil speaking be put away from you*"

³⁷ Quaye A. "*Speak Not, Hate Speech*" (2018), Available at; <<https://www.modernghana.com/>> (Date accessed 25-03-19)

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction

The chapter provides information concerning the various methods and designs used for collecting the necessary data for the study. The research is anchored in an interdisciplinary research approach that has been interspersed with doctrinal. The effect of it is to research within the ambit of law.

3.1 Theoretical Method of Enquiry – Interdisciplinary research

This study is anchored in the interdisciplinary legal research paradigm. The choice of the interdisciplinary approach is based on the fact that the doctrinal alone will be limited in terms of exploring and understanding the perceptions, beliefs and experiences of the target population. Whilst the study will be undertaken on a doctrinal legal paradigm research approach, the scope of the objectives requires an interdisciplinary analysis focusing on the social sciences approach to research to obtain some social reactions from the area under study. This approach according to Laurais, is an attempt to create a 'space of encounter' between law and other social disciplines.³⁸ This differs from the doctrinal research approach which generated legal research from pure legal philosophy. Thus, the interdisciplinary approach means the combination of the legal method and other methods of social science like economics etc. The interdisciplinary approach requires diversified perspectives from outside the doctrinal paradigm to generate some social consideration about the freedom of speech in Ghana.

³⁸ Kalman L., "The Strange Career of Legal Liberalism" (1996) at239

3.2 Doctrinal Approach

The doctrinal legal approach, also known as the “black letter law”, is a theoretical method of enquiry which, according to Posner, referred to as “law as an autonomous discipline”. That is the preserve of persons properly trained in law and no one else.³⁹ This idea has generated a unique approach to legal research known as the “*black letter*” approach.⁴⁰ Doctrinal research treats the law and legal systems as distinctive social institutions and is characterized by a fairly unique method of reasoning and analysis.⁴¹ Since the study seeks to find out the reasons behind the abuse by the analysis of the Montie Three saga, it will involve the assessment of various laws identified on the freedom of speech and contempt proceedings in Ghana. Accordingly, the ‘black letter’ research approach is adopted by the researcher for doctrinal analysis of the relevant laws and judicial opinions of the topic understudy.

3.3 Research Design

This study adopts an interdisciplinary and social survey approach that utilized both qualitative and quantitative research methods and techniques in the collection and analysis of data. A qualitative design provides an in-depth understanding which cannot be achieved from a structured questionnaire and the quantitative design will also help to acquire a lot of information from a large number of populations⁴². The qualitative method unlike the quantitative has the advantage of giving room for flexibility and allows for an in-depth focus on the study. Through the qualitative approach, a case study design was used since it focused on studying a single or small number of cases

³⁹ Richard A. P., “The Decline of Law as an Autonomous Discipline: 1962-1987”, (100 Harvard Law Review 761 1987)

⁴⁰ Ibid

⁴¹ Sherman C.P., “Roman Law in the Modern World”, (1924)

⁴² Priest, S. (2010). *Doing qualitative research* (2nd ed.). California: Sage Publication

into detail.⁴³ This design was appropriate for the research because it helped in exploring the processes and events involved in the lives of the participants⁴⁴. This enhanced the evaluation and results to achieve the objective of the study and free it from biases. Both probability and non-probability sampling techniques were also employed for the collection of field data for the study.

3.4 Sampling Techniques and Sample Size

The sampling size for this study is fifty (50) respondents: twenty (20) respondents from the general public and twenty (20) from the selected media house. Each media house answered five questionnaires and ten (10) senior journalists with in-depth knowledge in media practice together with the GJA, NMC were interviewed. It was to the advantage of the researcher to reduce the sampling size to fifty in order to reduce investment in time and money since a smaller number of respondents will give quality time to the researcher to spend in the field to understand perceptions, attitudes and feelings of stakeholders. The simple random sampling and the purposive sampling technique were adopted for the study. The simple random sampling technique was employed to give every person within the study area an equal opportunity of being selected. The purposive sampling technique was adopted because it focuses on particular characteristics of a population that are of interest, which will best enable the researcher to answer research questions appropriately. In this study, the four media houses were selected based on its special characteristics of extensive coverage of the media house and its big platform for discussion of issues of national interest.

⁴³ Silverman, D. (2013). *Doing Qualitative Research*. Los Angeles: USA: SAGE Publication.

⁴⁴ Cresswell, J. W. (2002). *Research Design: Qualitative, Quantitative and Mixed Methods Approaches* (2nd ed). New Delhi: SAGE Publications.

3.5 Sources of Data

Both primary and secondary sources of data were adopted in this study. Essentially, primary data was obtained through semi structured interviews and questionnaires administered to the selected target population. The primary data are mainly data collected from the field through the use of the research instruments (questionnaire and interview guide). The study also used secondary data derived from books, peer review journals, articles from the internet, judgment of the court and newspapers. The secondary data was useful to clearly understand the theoretical and conceptual framework of the research. Additionally, the secondary source was helpful in the determination of the research method in the development of the research instrument.⁴⁵

3.6 Data Collection Instrument

The survey employed questionnaire and semi structured interview guide in collecting data in response to the research objectives. The questionnaires and semi structured interview guide (designed to reflect the key themes) were designed to obtain information in response to the research objectives set out. According to Crotty, “interview guide is a widely used research instrument for studies undertaken on a qualitative research design”.⁴⁶ The NMC, GJA and some senior journalist of the media houses selected were interviewed to bring out the in-depth knowledge that the researcher needs to understand the problem and give recommendations. The semi structured interview guide was to give flexibility to the respondent in answering question.

⁴⁵Cronin, P., et al., “Undertaking a literature review: a stepby-step approach”, (British journal of nursing, 17(1)2008), 38.

⁴⁶ n(78) supra

3.7 Data Analysis

Miles and Huberman identify three procedures in qualitative data analysis. Firstly, data reduction of the quantity of qualitative data the researcher obtained from the respondents⁴⁷ Here the researcher tries to discard all the irrelevant aspect of the responses and in order to ensure that the quality of the data is guaranteed.

Secondly, data is summarized in the form of tables, charts and other graphical forms to enable conclusions to be drawn appropriately.

Last but not the least is conclusions and verifications. The researcher undertook some logical deductions from the interview data in the data analysis process. The analysis was undertaken on a content analysis of the data obtained from the Respondents and the available secondary data. The SPSS program was used to analysis both qualitative and quantities data collected. Inferential analysis was also adopted to draw conclusions from the qualitative data collected and recommendations made from the outcome of the analysis.

3.8 Ethical considerations

It is trite knowledge that the researcher must observe some basic and general ethical considerations when using respondents in sampling data. Accordingly, respondents were given the option to participate or otherwise in the survey. Voluntary participation was enhanced through informed consent in order to ensure no harm to participants. Also, the information given by the respondents remained confidential and the identity, interest and wellbeing were protected to ensure the principle of anonymity. In this instance, the NMC and GJA respondents pleaded anonymity in their interview.

⁴⁷Miles, M. B., Huberman, A. M., "Qualitative data analysis: An expanded sourcebook", (Sage 1994)

3.9 Conclusion

The mixed methods adopted in this study called for the use of law materials such as the Constitution, judgement from the Supreme Court on the Montie contempt case, judicial opinions from the internet and international laws. Also, views from the field including regulatory bodies were put together in undertaken this research and the findings and discussion form the next chapters.



CHAPTER FOUR

DATA ANALYSIS AND FINDINGS

4.0 Introduction

The chapter consists of Data analysis and findings. The quantitative results were generated from the SPSS (Statistical Package for Social Sciences), and the qualitative result from manual interpretations. Tables and charts are used in presentation of the findings. The findings comprise of the case and verdict, as well as views from the public through questionnaire and interview.

4.1 Findings – Results 1

4.1.1 Background (A case study of Montie 3)

On the 29th of June, 2016, a political radio discussion program dubbed “Pampaso” and hosted by Salifu Maase alias Mugabe incurred the wrath of the Supreme Court. He had invited two panelists Alistair Nelson and Godwin Ako Gunn to an Accra based radio station Montie FM 100.1 MHz to contribute to the pending court case petitioned by Abu Ramadan and Another vs. the Electoral Commission on the validity or otherwise of the voters’ register⁴⁸.

The panelists had indirectly threatened the Supreme Court Justices if their verdict does not favor the Electoral Commission. They threatened the Chief Justice, Her Lordship Georgina Theodora Woode by the use of unpalatable words to denigrate her womanhood. They incited their listening public to reject the decision of the Supreme Court once it does not favor the electoral commission.

⁴⁸ Montie FM, (2016). Pampaso.

They accused the judges of exhibiting bias because of their desire to ensure that the opposition New Patriotic Party wins the forthcoming elections. They did not fail to remind the justices of the consequences of their actions if it does not go the way they want it. Coincidentally that day was the eve of the 34th anniversary of the Martyrs' Day celebration in Ghana where three High court judges were kidnapped and cruelly murdered in cold blood in 1982. Let me hasten to add that it is not their attitude to the murder of the three high court judges and their family that sent them to court but because the case they commented on was pending in court.

The Supreme Court summoned the three and their radio owners to appear in court and explain why they should not be committed to prison for

- a) Scandalizing the court
- b) Defying and lowering the authority of this court
- c) Bringing the authority of the court into disrepute

Before the hearing the BNI had issued a statement that the panelists had no capability of unleashing mayhem on the judges since their claims were just "Show of needless bravado".

4.1.2 The Judgment of the Court

Per the judgment of the court, it was held that the respondents had been summoned to show cause why they should not be committed to prison for contempt of court on the above mentioned grounds.

Scandalizing the court

In this case the third and the fourth respondents, willfully attacked the chief justice whom they mentioned by name and accused her and the rest of the court of favoring

the plaintiff in the suit number J1/14/2016 intitule Abu Ramadan & Anor v Electoral Commission & Anor while exhibiting bias against the electoral commission. They alleged that the court was motivated by a desire to assist the opposition New Patriotic Party in the forthcoming elections. The attack which was directed at the chief justice of the republic of Ghana and the apex court of the land amounts to criminal contempt of the judiciary.

KNUST

Defying and lowering the Authority of the court

They defied, insulted and lowered the authority of the court when they stated that they will not accept the decision of the court on the voter's register and incited listeners and the general public to reject same.

Bringing the authority of the court into disrepute

Per the court's ruling, statements that attempt to dictate the orders or other dispositions that a court should make or should not make are calculated to interfere with and obstruct the course of justice and thereby bring the authority of the court and administration of justice into disrepute. That is exactly what the third and the fourth respondents did when they threatened to deal with the judges if the motioned filed by the applicants in CM/J/108/2016 as delivered by the court displeased them.

They cruelly and callously reminded the justices of the murder of the three High Court Judges on 30th June 1982 and their action was undoubtedly intended to brow beats and prevent the court from performing its duty to administer justice as it deemed fit.

The Supreme Court found them guilty of contempt and sentenced each to four months' imprisonment and a fine of ten thousand cedis (GHS10,000) each. The directors of Network Broadcasting, operators of Montie FM, were fined thirty thousand cedi

(30,000) including the owner of the frequency who was also fined the same amount to be paid by close of day 28 July 2016,

4.2 Findings (Results 2)

4.2.1 Socio-Demographic Background

This section of the data analysis focuses on the socio-demographic characteristics of respondents.

4.2.2 Personality description of respondents

Table 1 Personality description⁴⁹

Description	Frequency	Percentage
Media House Personnel	28	70
General Public	-	-
Organized Media Bodies	12	30
Total	40	100

From the table 1 above, the result revealed that, 28 respondents were the majority respondents representing 70%, followed by 12 representing 30%.

4.2.3 Gender of respondents

Table 2 Gender of respondents⁵⁰

Gender	Frequency	Percentage
Male	24	60
Female	16	40
Total	40	100

From table 2, out of the total of 40 respondents, 24 of them were male representing 60%, whiles, 16 of them were female corresponding to 40%. This indicates that, male avail themselves for the study as compare to the female students.

⁴⁹ Source: Field survey, 2019

⁵⁰ Source: Field survey, 2019

4.2.4 Nationality of respondents

Table 3 Nationality of respondents⁵¹

Nationality	Frequency	Percentage
Ghanaian	38	95
Non- Ghanaian	2	5
Total	40	100

Table 3 statistically display the nationality of respondents. out of the total of 40 respondents, majority of 38 were Ghanaian representing 95%, while, 2 of them were non-Ghanaian corresponding to 5%. This was because the study was conducted in Ghana. Hence, the indigenous dominated the study.

4.2.5 Media House of Respondents

Table 4 Media House of Respondents⁵²

Media House	Frequency	Percentage
Kessben media	10	25
Kencity media	9	22.5
Despite media	10	25
Otec Fm	11	27.5
Total	40	100

The summarized result in table 4 above revealed that, Kencity media was the least among the respondents with 22.5% followed by Kessben media and Despite media with equal corresponding percentage (25%). However, Otec had the majority respondents of 11 equivalent to 27.5%.

4.2.6 Educational background of respondents

Table 5 Educational background of respondents⁵³

Educational background	Frequency	Percentage
Literate	40.	100
Total	40	100

⁵¹ Ibid

⁵² Source: Field survey, 2019

⁵³ Source: Field survey, 2019

In table 5, the result presented shows that among the various option provided for educational background, all the respondents were literate.

4.2.7 Place of Residence of Respondents

Table 6 Place of Residence of Respondents⁵⁴

Place	Frequency	Percentage
City	21	52.5
Town	16	40
Community	3	7.5
Total	40	100

From table 6, the result of place of residence of respondents were presented. The statistical distribution revealed that out of (N=40), twenty-one (21) representing 52% resided in the city, sixteen (16) representing 40%, stayed in town and the rest 3 (7.5%) stayed in community. This revealed that majority of the respondents resides in the city.

4.3 Media attention

In table 7 below, respondents were asked if they do listen to the media or pay some particular attention to the media. The result is presented in table 7 as shown below. The analysis of data obtained for this purpose shows that, all the respondents listen to the media at some times or they pay particular attention to the media within their localities.

Table 7 Do you listen to the media?⁵⁵

Responds	Frequency	Percentage
Yes	40	100
Total	100	100

⁵⁴ Source: Field survey, 2019

⁵⁵ Source: Field survey, 2019

4.4 Views on “Montie Three” Saga

Table 8 Do you know anything about the “Montie Three” saga⁵⁶

	Frequency	Percentage
Yes, I do	9	22.5
Know to some extent	8	20
No, I don't	17	42.5
I have fair view	6	15
Total	40	100

From table 8, the result on whether respondents know anything about the “Montie Three” saga was presented. Out of the total of 40 respondents, majority of them representing 17 (42.5%) indicated that they do not know anything about the “Montie Three” saga, followed by 9 (22.5%) indicated that they know something about the “Montie Three” saga. 8 (20%) indicated that they know something to some extent about the “Montie Three” saga, while 6 (15%) indicated that they have fair view about the “Montie Three”. It is a matter of degree of knowledge of the case

Table 9 What respondents think about the verdict.⁵⁷

	Frequency	Percentage
Too harsh	6	15
Proportionate to the offence	17	42.5
Could have been lenient	9	22.5
Did not consider it	8	20
Total	40	100

From table 9 above, the result on what respondents think about the verdict was presented. Out of the total of 40 respondents, majority of them representing 17 (42.5%) indicated that the verdict was proportionate to the offence, followed by 9 (22.5%) indicated that the verdict could have been lenient. 8 (20%) indicated that they do not know much about the verdict, while 6 (15%) indicated that the verdict was too harsh.

⁵⁶ Ibid

⁵⁷ Ibid

4.5 Abuse of freedom of speech and expression

Here the researcher seeks to ascertain why people abuse the freedom of speech in spite of the limitations as provided in the 1992 constitution article 164 to the extent that hate speech keeps ascending. The researcher interviewed 10 participants with the purpose of acquiring information relevant to answer the research question. Here respondents were asked to state in their opinions what account for the recent ascendancy in the abuse of freedom of speech and expression both in Ghana and outside. The respondents were of the view that, they have problems with language on our radio, television, social media and the internet. Some respondents also think politics is taking over everything, people sit on radio, television, etc. to use abusive language towards others in order to gain favour from political parties or politicians, whilst others are paid by politician to do so.

According to one of the respondents, *“it is the freedom of speech which is not checked by the regulations”* (respondent 1). Another respondent is of the opinion that *“proliferation of radio stations without the necessary checks on their programme contents”* (respondent 2). It seems that portion of the problem is attributable to the authorities placed in charge of regulating the activities of the media landscape. The 7th respondent precisely stated that *“Institutional failure is liable”*. Accordingly, one other respondent observed that, *“I think the National Media Commission is not doing enough to sanitize the airwaves. If punitive measures are put in place and enforced, some of these things would not happen”* (3rd respondent)

The 4th respondent is of the view that, freedom of speech is under threat or censorship because it has been a repetitive normative for centuries. Freedom of speech has been stoked up by the very people who are supposed to protect this principle: democratically

elected politician, cartoonists and bloggers. The 6th respondent also believe many people have mistaken belief that the freedom of expression as guaranteed by the Constitution is an absolute one. It is not absolute. The opening article under chapter 5, article 12(2) states that the enjoyment of one's rights is subject to the protection of others' rights and public interest. This is the reason why one cannot freely make expressions to the extent of defaming another person because the same constitution that provides for freedom of speech also provides for right of dignity (article 15). Being privy to our law on rights and freedoms will guide one to be circumspect in his expressions.

From our National discourse, it is realized that journalists and their affiliate bodies are not interested in the prosecution of journalists or media personnel hence does not pay attention to the abuse/hate emanating from the airwaves even when it comes from journalist who should know better. In trying to ascertain why this trend from the media and its affiliate bodies, one respondent said, *"because it is believed that the media has to protect and defend colleagues in the industry who knows, perhaps it maybe you tomorrow. You need to help, protect and defend the image of the journalism industry"* (1st respondent). The second respondents said, "it is the freedom of speech which is not checked by the regulations", and the 4th respondent is of the opinion that, hate from air waves are largely due to boldness that lack wisdom, youthful exuberant and unavailability of clear work ethical qualities.

The 5th respondent said *"it is because journalists seem to be of the believe that those in authority are not up and doing and that using abusive words would make them know how serious they are of which I think it's not the best. Again, most of these journalists get carried away by their emotions and tends to forget that they should be professional"*

enough in the discharge of their duties” (5th respondent). The 6th respondent also clarified that; the trend can be attributed to a show of solidarity towards their colleagues. It stems from what is popularly known as “support your own” mentality. I hold the view that this shouldn’t be the most appropriate approach in this regard. What is wrong must be condemned irrespective of whether one has any form of association with the wrongdoer or tortfeasor. The vociferousness the journalists use to criticize state officials must be maintained when their own colleagues also go wrong.

4.5.1 What respondents make out of abuse of freedom of speech

Table 10 What respondents make out of abuse of freedom of speech⁵⁸

	Frequency	Percentage
Expression of constitutional right	16	40
Epitome of hate speech	9	22.5
Effect of liberal airwaves	2	5
Host should moderate their panelists	13	32.5
Total	40	100

From table 10, when the result on what respondents make out of abuse of freedom of speech in respect of the Montie 3 saga was presented, out of the total of 40 respondents, majority of them representing 16 (40%) indicated that the abuse of freedom of speech in that case was seen as expression of constitutional right, followed by 13 (32.5%) who indicated that the host should moderate their panelists. 9 (22.5%) indicated that it is an epitome of hate speech., while 2 (5%) indicated that it is an effect of liberal airwaves.

4.5.2 Absolute freedom or limitation of freedom

The researcher sort to ascertain if absolute freedom should be the order of the day or there should be limitation being it speech or expressions. The 4th respondent said, *“he does not believe in absolute freedom”, especially in an environment where many of the*

⁵⁸ Source: Field survey, 2019

media personnel are not well educated. Listening to previous programmes, one can conclude that many host and/or presenters may only be versed in the area of Radio and television presentation of which he doesn't expect them to know everything under the sun. but he added by saying he found it appalling when they want to talk on every aspect of the topic, even to the areas they are not conversant with. Sometimes, some of them are not humble enough when someone phone them to correct them. The arrogant reply by saying "you are not the one to tell me what to present on my show" in a very arrogant manner. Therefore, he said, "the fact that you are on the airwaves don't make you omniscient". (4th respondent). The 7th respondent answered in the same manner as others when he said "frankly speaking, there should never be absolute freedom. Even though media freedom is better than media tyranny where contents are under the control of state power, their operations should be within the confines of the law." (7th respondent). Like other respondents, the 6th respondent also do not believe in absolute freedom. He said, "for any ordinary human being, when you confer anything with absolutism on the person, the person is likely to abuse it to the detriment of others. This is very synonymous with conferring absolute power on a person with a portfolio. As Lord Artkin is reported to have once said, power corrupts and absolute power corrupts absolutely. Similarly, absolute freedom can corrupt by way of creating the space for one to abuse the freedom in an arbitrary and capricious manner. For purposes of protecting others' rights and freedoms and also catering for public interest, it is always prudent to place limitations on freedoms." (6th respondent).

Respondent were asked to share what in their thinking can be done to this canker in order not to allow indiscipline to permeate deeply into our social fabric life especially to the yout who are coming up, the 1st respondent responded that, "freedom is very important, but I strongly believe there should be limitation in order not to use your

freedom to abuse others. There should be disciplinary actions against peoples who deliberately abuse their freedom” (1st respondent). The 3rd respondent believes in measures that provide deterrence. According to him, “where persons make expressions to the extent of infringing on others’ rights, the aggrieved persons must seek redress in court. He believes this will deter others from doing same...” He Also, added, “that the NCCE must be tasked to conscientize the citizenry that free speech does not necessarily mean you are free to say anything. As indicated earlier, our Constitution, 1992, does not make the freedom of expression and other rights absolute. They are subject to the enjoyment of others’ and public interest. This must also emphasize in the Social Studies syllabi right from basic school.” (3rd respondent).

The 8th respondent informed the researcher during the interview that, the National Media Commission (NMC) also exists to ensure that high journalistic standards are preserved. Thus, where a journalist acts in an unethical manner, the Complaints Settlement Committee of the NMC is competent to deal with such journalists and their employers. The media must also not operate under the false thought that they are free to say anything on air

4.6 The perspective of NMC’s and GJA’s

4.6.1 The NMC’s perspective

In an interview with the NMC respondents, they were asked of their take on media personnel who indulge in hate speeches and go beyond their limits in media practice especially the electronic media. One respondent said, “*practitioners should try to desist from being influenced by politicians to do their bidding, avoid stereotyping and being used as pawns to indulge in hate speeches in order to protect minors and the vulnerable*

who stand exposed to the ridicule of society. Practitioners who go beyond their bounds will be sanctioned per law”

They were also asked to iterate some of the causes of hate speeches from the perspective of the NMC. One of the answers was that, the political ownership of media houses is one of the main causes of hate speech in Ghana. It is their opinion that most of unpalatable words being witnessed on the air waves are as result of lack of policy and standards in the electronic and inky fraternity. They were also asked Who is charged with ensuring high journalistic standards and providing guidelines for responsible journalism, the answer is that, *“the 1992 constitution Article 12 provides assurances of press freedom but also provides guidelines for responsible journalism. That is why the NMC was established as regulating body to oversee high standards of journalism as well as ensuring freedom from governmental interference. Article 162 provides all the freedoms and responsibilities of the media. However, the NMC has put in place the Media Legislative Instrument (LI) on contents standard regulations 2015 which when fully functional will regulate “content” that has been part of the ills of journalism and responsible media. So, you see the NMC is poised to work”* (NMC officer)

Also, on how the frequency modulation issuance is handled and who is eligible to access it, it was answered by one respondent that, *“to me there is no transparency in the issuance of frequency in Ghana. Most of the owners are politicians and once the frequency is given to politicians to set up Radio and Television station for one reason or the other specially to perpetuate their political ambition. This issue of abuse will continue to go back and forth. Frequencies should have been given purely on business grounds and not political considerations”*

Lastly, most of the respondents kept saying that the NMC has no power to bite and that they are toothless. This was clearly stated by one of the respondents that to some extent it is true because the NMC had no mandate to arrest offenders but is supposed to ensure checks and balances. They have no control over the operation of stations but their duty is to encourage responsible practice, investigate, mediate and settle complaints made against or by the press or other mass media. NMC had no hand in allocation or management of the spectrum granted to radio station owners by the NCA but expected to control the contents that the station will generate and this is the problem we face, he said

4.6.2 The GJA's perspective

The researcher sort to ascertain from the GJA whether they have a code of ethics for its member. It was observed that, the GJA has its code of ethics that have served the association well throughout the years, but with the proliferation of the media types; print, electronic, internet and the social media, it has become necessary to review its code of ethics to meet the new challenges that have sprung up in the intervening years. The respondent mentioned that, *“GJA has taken cognizance of all issues on breaches such as fabrication of stories publishing without sourcing or authentication and presenting advertisement and promotional materials as news. The most disturbing is the hate speeches that has emanated on the electronic media more in recent times.”* (Respondent from GJA)

In order to ascertain whether the GJA is only interested in protecting its own against any other person being it a group, individual or government even if the presenter or host is wrong, the respondent shared his opinion as follows: the data shows that, *“this assertion is not always true but the fact is that the association as a group has an*

objective to protect itself and members from the attacks that comes from outside and ensure their media freedom and independence. It does not mean we pamper and cover them up when they go wrong all the time. Every circumstance is on its own merit. Our responsibility as an association is to protect and defend our members from attack in the eyes of the general public, then we sanction when the need arises. We also uphold the public interest all the times.” (Respondent from GJA)

It seems to me that the GJA has an ardent task to train its members again due to the influx of many journalism schools who may not be up to the standard of professional journalism hence bias reportage, political influence, collecting moneys, no in-depth analysis of issues. Accordingly, the researcher was interested in how the GJA address these issues moving forward. The respondent said: *“there should be frequent training sessions for members and writing of licensure exams before one can become a professional journalist but because of the proliferation of present day schools of journalism, it has become difficult to bring them in through that single door. Also, many of the presenters and hosts are not members of the GJA and not oblige to follow GJA REGULATIONS. The laws of Ghana allow freedom of association and therefore if one is not a member of your association, you cannot bind him with your rules. It is the aim of GJA to establish a standard program that matches the best programs in journalism and communication education worldwide”* (Respondent from GJA)

For the Montie Three Saga, the respondent recounted, *“the GJA does not protect members who fall foul against the law. Events of Montie three has gone through history as a bloat in the life of journalism. We as a body can only caution media practitioners to take a cue from the Supreme Court ruling and desist from actions that taint the judiciary and the association. We will continue to remind media practitioners that their*

rights come with responsibilities and this is a case for reflection. GJA appreciates the courts efforts to sanitizing the media landscape throughout the country per this case, considering the increasing rate of foul language in the media fraternity. Although, the jail term was too harsh it provides a lesson for media practitioners. My advice to them is that media practitioners in the course of their duty should know that there are legal landmines and potholes which they should not fall into” (Respondent from GJA)

4.7 Is the Media Cause of this Notoriety

4.7.1 Performance assessment

Table 11 performance assessment.⁵⁹

Assessment	Frequency	Percentage
Very good	19	47.5
Good	12	30
Bad	5	12.5
Cannot rate	4	10
Total	40	100

Table 11 presented a statistical result of how respondents assess their performance. Out of the total 40 respondents 19 of them representing 47.5% responded very good, followed by 12 (30%) of them who responded good. 5 (12.5%) of them answered bad, while 4 representing 10% cannot rate their performance.

4.7.2 Language for communication

Table 12 What language do you use to communicate.⁶⁰

Language	Frequency	Percentage
English	15	37.5
Twi	25	62.5
Others	-	-
Total	40	100

⁵⁹ Source: Field survey, 2019

⁶⁰ Source: Field survey, 2019

From table 12, the language the respondents used to communicate was presented. out of the total of 40 respondents, 15 communicates in English representing 37.5%, whiles, 25 of them communicates in Twi (the indigenous Ghanaian language) representing 65.5%. This was because the study was conducted in Ghana, where the indigenous language dominated the English language.

4.7.3 The impact of media to the country

Table 13 Impact of media to the country.⁶¹

Impact	Frequency	Percentage
Development	5	12.5
Education	10	25
It is the voice of the voiceless	4	10
It serves as a check and balance	21	52.5
Total	40	100

Table 13 presented a statistical result of the impact of media on the country. Out of the total 40 respondents 21 of them representing 52.5% responded that the media serves as check and balance to the authority, followed by 10 (25%) of them who responded that the media provide education. 5 representing (12.5%) of them answered that media play a role in development, while 4 representing 10% responded that the media serves as the voice of the voiceless.

4.7.4 Hate speech during media interaction

Table 14 hate speech during media interaction * the reasons Crosstab.⁶²

		The reasons of respondents			Total
		Is a bad habit	to appreciate the significant of media	Code and ethics do not permit	
Do you throw hate speech during media interaction?	No	13	17	10	40
Total		13	17	10	40

⁶¹ Source: Field survey, 2019

⁶² Source: Field survey, 2019

The table 14 above is a bi variate analysis between whether respondents throw hate speech during media interaction and the reason behind their action. Out of (N=40), all of them responded No to the throwing of hate speech during media interaction. Among the 40 respondents, majority of them representing 17 indicated that the reason for responding no is because they appreciate the work of the media,13 say it is a bad habit,10 respondents say their code and ethics do not permit them to do so.

4.7.5 media playing its watchdog role critically

Table 15 Is the media playing its watchdog role critically?⁶³

Watchdog role	Frequency	Percentage
Yes	38	95
No	2	5
Total	40	100

From table 15 statistically information to whether media plays it watchdog role was displayed. Out of the total of 40 respondents, majority of 38 answered yes representing 95%, while, 2 of them corresponding to 5% answered no

4.7.6 Media engagements and phone-in segment.

Table 16 Time media heavily patronized * engagement of phone-in segments Crosstab.⁶⁴

		Engagement of phone-in segments		Total
		Yes	No	
The time media is heavily patronized	Morning	18	9	27
	Afternoon	2	0	2
	Evening	4	3	7
	Night	4	0	4
Total		28	12	40

The table 16 above is a bivariate analysis between the time media is heavily patronized and whether respondents engage in phone-in segments. Out of (N=40), majority 27 of

⁶³ Source: Field survey, 2019

⁶⁴ Ibid

them responded that media is heavily patronized during the morning, followed by 7 of them indicated evening. 4 indicated Night and 2 indicated afternoon. Among them majority representing 28 indicated that they use phone-in segments, while 12 do not use phone-in segment. Furthermore, out of the 27 who responded morning, majority (18) of them revealed they use phone-in segments while 9 do not, followed by 4 who responded that they use phone-in segments and 3 do not. The rest responded yes for afternoon and night

4.7.7 Level of hate exhibited by listeners

Table 17 level of hate exhibited by listeners⁶⁵

Level of hate	Frequency	Percentage
Very angry	2	5
Not really angry	3	7.5
Indifferent	4	10
Depends on the programme	31	77.5
Total	40	100

From table 17, the level of hate exhibited by listeners was presented. Out of the total of 40 respondents, 31 representing 77.5%, say the level of hate depends on the programme while 2 representing 5% say they are very angry, 3 respondents representing 7.5% say they are not really angry. However, 4 respondents representing 10% say they are indifferent to the level of hate exhibited through the media.

4.7.8 Controlling vitriolic speech or attitude on media platforms

Table 18 How outfit control people with vitriolic speech

Outfit control	Frequency	Percentage
Missing	2	5
Hang up on them	25	62.5
Allow them express themselves	3	7.5
We have delay apparatus to control it	5	12.5
Educate them to withdraw their statement	5	12.5
Total	40	100

⁶⁵ Source: Field survey, 2019

From table 18, how outfit control people with vitriolic speech was presented. Out of the total of 40 respondents, majority of 25 representing 62.5% hang up on people with vitriolic speech, followed by both respondents who indicated that they have delay apparatus and educate people with vitriolic speech to withdraw their statement with a summation of 25% representing 10. 3 (7.5%) of them representing those who allow people with vitriolic speech to express themselves.

4.7.9 The media and political influence

Table 19 media influence by politics of respondents.⁶⁶

	Frequency	Percent
Yes	36	90.0
No	4	10.0
Total	40	100.0

From table 19, statistically information on whether media is influence by politics or not was displayed. Out of the total of 40 respondents, majority of 36 answered yes representing 90%, whiles, 4 of them corresponding to 10% answered no. This means that politics has an influence on media.

4.8 Press Freedom and Society Development

Table 20 how press freedom helped develop society⁶⁷

	Frequency	Percent
Missing	2	5.0
Enlighten people	12	30.0
It helps people to be interactive	7	17.5
Its Liberate people from oppressiveness	8	20.0
Dissemination of information	9	22.5
It helps keep leaders on their toes	2	5.0
Total	40	100.0

⁶⁶ Source: Field survey, 2019

⁶⁷ Source: Field survey, 2019

From table 20, the result on how press freedom helped develop society was displayed. Out of the total of 40 respondents, majority of them representing 12 (30%) indicated that press freedom helped develop society, followed by 9 (22.5%) indicated that press freedom helped by dissemination of information. 8(20%) indicated that it liberates people from oppressiveness. 7(17.5%) also indicated that it helps people to be interactive, while 2 (5%) also indicated that it helps keep leaders on their toes.

4.8.1 Media contribution to the upsurge of abuse of free expression

Table 21 media contribution to the upsurge of abuse of free expression⁶⁸

	Frequency	Percent
Believe very strongly	18	45.0
I don't really believe	7	17.5
Rightly so	6	15.0
Not quiet	9	22.5
Total	40	100.0

From table 21, the result on media contribution to the upsurge of abuse of free expression was presented. Out of the total of 40 respondents, majority of them representing 18 (45%) indicated that media contributed to the upsurge of abuse of free expression, followed by 9 (22.5%) indicated that is not quite so. 7 (17.5%) indicated that they do not really believe that media contributed to the upsurge of abuse of free expression. 6 (15%) also indicated that is rightly so that media contributed to the upsurge of abuse of free expression.

⁶⁸ Source: Field survey, 2019

4.8.2 Perception about hate speech in defend of freedom of speech

Table 22 Perception about hate speech in defend of freedom of speech⁶⁹

	Frequency	Percentage
Missing	2	5
No relationship between the two	21	52.5
Is unfortunat issue	14	35
Weak Institution	3	7.5
Total	40	100

From table 22, the result on perception about hate speech in defend of freedom of speech was presented. Out of the total of 40 respondents, majority of them representing 21 (52.5%) indicated that there was no relationship between hate speech and freedom of speech i.e. hate speech is not freedom of speech, followed by 14 (35%) indicated that it is an unfortunat issue for people to think in that manner. 3 (7.5%) indicated that hate speech is used in defend of freedom of speech because of weak institution.

4.8.3 Advocate for absolute freedom of speech and expression

Table 23 Advocate for absolute freedom of speech and expression or limitations⁷⁰

Category	Frequency	Percentage
Yes, absolute freedom	9	22.5
There should be some limit	16	40
Wider operation space	3	7.5
Checks and balance	12	30
Totals	40	100

From table 23, the result on Advocate for absolute freedom of speech and expression or limitations was presented. Out of the total of 40 respondents, majority of them representing 16 (40%) indicated that there should be some limit, followed by 12 (30%) indicated that there should be check and balance. 9 (22.5%) indicated That there should

⁶⁹ Ibid

⁷⁰ Source: Field survey, 2019

be absolute freedom, while 3 (7.5%) indicated that there should be wider operation space.

4.8.4 Media's right to publish any news without government control

Table 24 Should media have the right to publish any news without government control?⁷¹

	Frequency	Percentage
The media should have the right to publish	22	55
Government should prevent them from publishing	3	7.5
Peoples interest should be considered	14	35
International communities should place limit	1	2.5
Total	40	100

From table 24, the result on whether the media have the right to publish any news without government control was presented. Out of the total of 40 respondents, majority of them representing 22 (55%) indicated that the media should have the right to publish, followed by 14 (35%) indicated that the people interest should be considered. 3 (7.5%) indicated that government should prevent them from publishing, while 1 (2.5%) indicated that the International communities should place limit on right to publish.

4.8.5 Institutional role

Table 25 Who should set the agenda for the nation?⁷²

	Frequency	Percentage
The media	5	12.5
Citizens	20	50
Government	11	27.5
No one	4	10
Total	40	100

From table 25, the result on who should set the agenda for the nation was presented. Out of the total of 40 respondents, majority of them representing 20 (50%) indicated

⁷¹ Ibid

⁷² Source: Field survey, 2019

that the citizens should set the agenda for the nation, followed by 11 (27.5%) indicated that the government. 5 (12.5%) indicated that the media should set the agenda for the nation, while 4 (10%) indicated that no one should set the agenda for the nation.

4.8.6 The media and abuse of its mandates

Table 26 How often the media abuses its mandates?⁷³

	Frequency	Percentage
Often	29	72.5
Always	6	15
Never happened	3	7.5
Media is always right	2	5
Total	40	100

From table 26, the result on how often the media abuse its mandates was presented. Out of the total of 40 respondents, majority of them representing 29 (72.5%) indicated that often the media abuse its mandates, followed by 6 (15%) indicated that always the media abuse its mandates 3 (7.5%) indicated that the media never abuse it mandates, while 2 (5%) indicated that the media is always right.

4.9 Knowledge about the laws that govern free expression.

Table 27 Knowledge about the laws that govern free expression⁷⁴

	Frequency	Percentage
I don't know any	5	12.5
The laws are not available	1	2.5
The laws are not biting enough	16	40
Have a fair view of the law	18	45
Total	40	100

Table 27 above, displayed knowledge about the laws that govern free expression. Out of the total of 40 respondents, majority of them representing 18 (45%) indicated that they have a fair view of the law, followed by 16 (40%) of them who indicated that the

⁷³ Source: Field survey, 2019

⁷⁴ Ibid

laws are not biting enough. 5 (12.5%) claimed they do not know anything, while 1 (2.5%) indicated that the laws governing free expression are not available.

4.9.1 The media and ethical operations

Table 28 Is the media operating ethically?⁷⁵

	Frequency	Percentage
Yes	8	20
Not exactly	14	35
Much is desired	10	25
The media needs guidance	7	17.5
The media is doing well	1	2.5
Total	40	100

From table 28 above, the statistical result on the media operating ethically was presented. Out of the total of 40 respondents, majority of them representing 14 (35%) indicated not exactly, followed by 10 (25%) indicated that much is desired from the media to operate ethically. 8 (20%) indicated that the media operate ethically, while 1 (2.5%) indicated that the media is doing well in terms of operating ethically.

4.9.2 Considerations for Amendments to the existing laws

Table 29 Any amendment to the parent law for consideration⁷⁶

	Frequency	Percentage
Yes	15	37.5
No	10	25
Review	15	37.5
No education needed	-	-
Total	40	100

From table 29 above, the result on any amendment to the parent law for consideration was presented. Out of the total of 40 respondents, majority of them representing 15 equivalents to (37.5%) specified yes. The same 15% indicated that the parent law must

⁷⁵ Source: Field survey, 2019

⁷⁶ Source: Field survey, 2019

be reviewed. However, 10 respondents representing 25% indicated no to any amendment to the parent law.

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CHAPTER FIVE

DISCUSSIONS BASED ON THE FINDING FROM MONTIE JUDGEMENT AND FIELD SURVEY

5.0 Introduction

The chapter consists of discussions of findings. The findings on the Montie Three and the findings from the field are discussed below.

5.1 Discussion of Results One (Montie 3)

The Verdict

According to the Supreme Court, Scandalizing the court consist of scurrilous abuse of a Judge or impugning the integrity or impartiality of a court or judge. After denigrating her person (chief justice) and the justices of the Supreme Court, the respondents cruelly and callously reminded the Justices of the murder of the three high court judges on June 30th 1982, an event which is seen as doom for Ghana and will forever remain in the annals of the history of Ghana as a day of infamy. From all perspective, this was undoubtedly intended to prevent the court from performing its duty of administering justice as it deemed fit by putting fear in the justices.

In Ghana, it is only in respect of the judiciary that the constitution in plain words commanded every state authority and persons in Ghana to accord assistance in protecting its independence, dignity and effectiveness. The reason is simply to sustain the democratic system of government established by our constitution. The judiciary is the arm of government that has been given authority to police the other arms, i.e. the executive and legislature as well as all governance institutions. The court therefore deserves the utmost respect and reverence if our democratic enterprise as a nation is to

succeed. Ghanaians should therefore learn to respect the authority of the court as has been enshrined in article 125(1) of the constitution to have its independence.

“Justice emanates from the people and shall be administered in the name of the Republic by the judiciary which shall be independent and subject only to this constitution”

The Supreme Court described the attack on the Judiciary as criminal and contemptuous conduct eroding the dignity and effectiveness which is the very foundation of the judiciary as established in the 1992 constitution article 127,⁷⁷ where the independence of the judiciary is enshrined. Per their action, they had calculatedly intended to erode the confidence of the people in the judiciary to be independent in dispensing justice. Ghanaians should not lose sight of the fact that, the judiciary is the arm of government that has been given the authority to maintain law and order and administer rule of law

For the second respondents, as a host of the programme he was expected to moderate and keep any vituperative panelist in line but he rather joined and spurred them on with supporting comments to denigrate the chief justice and the court with his intermittent comments of “open the fire”, then added his own vicious words in the most disrespectful and deadly terms that cannot be repeated nor measured against the judiciary. That to the court, was not the proper role of a host in a radio program. He was to have tailored his panelist to have stayed within bounds and acted with utmost professionalism which Ghanaian journalists were noted for. Frankly, if host of programs tailor their panelists alongside the ethics of journalism as in the GJA code, most of these abuses on free expression could have been curtailed. The GJA should

⁷⁷ The 1992 Constitution of Ghana Article 125(1) & 127(2), *Independence of the Judiciary*

make its code of ethics accessible to all especially the up and coming young ones in the fraternity. This can sanitize the profession to some extent.

Some of the code of ethics that bothers on ensuring free speech and expression without abuse are stated as follows.

1. People's right to true information

The public has the right to unbiased, accurate, comprehensive information and the media will help the public to achieve this.

2. Social Responsibility

The media in disseminating information should bear in mind its responsibility to the various social interest in society. It should be Ghana first.

3. Professional Integrity.

Media men should not accept bribe or any other thing that will induce them to influence their thinking especially politicians who will go any length to project their ambition. This breeds corruption and anti-nationalistic tendencies

4. Respect for privacy and human dignity

The media should respect the right of individual privacy and human dignity. A journalist worthy of his salt should guard against defamation, libel and slander in the performance of his duty.

5. Respect for National and Ethical values

This is an important code that should have guided the Montie 3 to apply decorum, ethical and cultural considerations to their comments such that respect for authority and elders should be prominent in the midst of freedom of speech and expression.

6. Corrections/Rejoinders

Whenever there are inaccuracies or misleading reportage, it should be corrected promptly and given the same prominence. Journalist and presenters of programs should likewise also give the person affected the same opportunity to explain himself without intimidation or threat. They should humbly accept their mistake whenever they go wrong, after all they can never know it all

7. Separate comments from facts

They should ensure that their own comments or any other comments are clearly stated from facts and conjectures. In this way people will be held responsible for their own comments and not misrepresent others.

8. Respect for embargoes

Areas that they are not supposed to thread should be respected if it is according to law.

These and many more when observed religiously will put the media in a professional position to discharge their duties without abuse.

Revisiting the actions of the third and fourth respondents, they went on a full scale attack holding nothing back, not even the laws and regulations of this country could control them. Though we have freedom of expression, it is reciprocal with responsibility, decorum, code of ethics and decency. These respondents were totally reckless and insensitive to the plight of the judges who were gruesomely murdered and their families, making such pronouncements on the heels of the eve of the murdered justices anniversary; a painful and sorrowful period for most patriots of Ghana who have vowed never again to allow this to happen is culturally unacceptable.

It was undeniable that the choice of better words minus the conditional and indirect threats might have achieved the purpose of exposing the consequence of the judges conduct on issues of disagreement if any. Although the constitution mandates freedom of expression such irresponsible utterances from individuals should not be countenance. People should be made to take responsibility for what they say.

The directors and owners of the company were not left out because they had provided the physical facility for the respondent's statements to be aired to the public. In law, when a corporation is held in contempt of court, it is the directors who are held responsible since they constitute the human face of the legal entity. It is when the contempt is committed by unincorporated body that its members answer for it. Hence, in the case of *Republic v Liberty Press Ltd.*,⁷⁸ it was the MD of Liberty press, the printer and the twenty-eight professors and lectures who were members of the "Legon Society of National Affairs", publishers of "Legon Observers" who answered for the publication in the magazine that scandalized the judiciary. The media should be reminded that the court has authority to lift the veil when legislation has provided express authority for piercing the corporate veil and affixing liability on shareholders, directors and other persons in effective control of the corporation or some relevant aspects of its activities.

As directors and owners of the organization, the ultimate responsibility falls on them as to what is done in the name of the media house and therefore must not just take a casual interest in what is aired or said on the station. Even more shocking was the statement from the directors that they had not until the recording of the offending programme was played in court listened or heard the reprehensible utterance of the third and fourth

⁷⁸ Republic v Liberty Press Ltd

respondents even though all radio stations and the print media for couple of weeks had been discussing the diatribe that had been aired by the station. Their attitude connotes total irresponsibility and ignorance when they say they had not been paying attention to what happens in the radio station because there is a management board in place. Whether it was out of carelessness or dissimulating of their duties is mind boggling.

The lawyers had also pleaded with the court to temper justice with mercy since they are first offenders who lost their heads out of excitement over the liberal nature of the use of the airwaves with the freedom of expression.

This plea clearly shows the abuse and misunderstanding of freedom of expression that had settled in the minds of people and therefore the need to crack the whip to awaken the consciousness of the people and bring sanity. We need to remind ourselves that freedom of expressions goes with responsibly and that is where sustenance and success of our democracy can be assured.

People who decide to criticize the judiciary should know that within the right to publish and transmit within the freedom of expression, there is a thin line that ought not to be crossed. This is captured in the directive principle of state policy *Article 41 which states that, the exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations and accordingly it shall be the duties of every citizen..... d) to respect the rights freedoms and legitimate interest of others and generally to refrain from doing acts detrimental to welfare of other persons....*

This case illustrates the tension between freedom of speech /expression and the administration of justice because of the abuse associated with freedom and the need to apply justice. These two principles need to be protected

A section of the Ghanaian civil society groups and individuals had expressed worry over the heavy handedness of the Supreme Court verdict on the Montie three saga. The National Democratic Congress (NDC) the party in power then is one of such groups that had express its sentiments and gone ahead to asked the then President, H.E John Dramani Mahama to pardon the respondents. A former Attorney General Martin Amidu likewise expressed the unconstitutionality of the actions of the Supreme Court. The fact is that freedom of speech/expression as contained in the constitution is a fundamental human right but the abuse of it needs the application of justice. Civil society groups, like the Ghana Journalist association, Ghana Bar association also added their voice to this matter.

Having said this, it is undeniable that the indirect threat to the judges was calculated to prevent the court from performing its duty of administering justice as it deems fit. Montie' three had obviously committed contempt of court because the case they were commenting was pending before the Supreme Court and this compelled the judges to react the way they did. Although the offence was not criminal, their conduct was contemptuous.

Criminal offence is an offence against the state, that is where the offender has broken the laws of the state and this has been proven beyond all reasonable doubt. On the other hand, criminal contempt is an open disrespect for the court. It punishes a conduct that violates a court's rule rather than a penal statute and this is where the Montie panelist stand accused.⁷⁹

⁷⁹ Free Advice Legal, <https://criminal-law.freeadvice.com>

I do not agree with the school of thought that want to portray the Supreme Court harsh sentence as a clear case of abuse of power, we have a history in this country where such rejection of verdict led to the gruesome murder of three High court Judges. Hence the country has determined never again to allow such an action to happen just because a group of people do not agree to the ruling of a court. To make matters worse these unguarded comments had come on the eve of the 34th anniversary of the murder of the three high court judges. The effect was that the whole country was panic stricken once again in remembrance of the bizarre incidence over 30 years ago. The current situation in Ghana in which one side of the political divide perceive the judiciary of bending over to kotow to the demands of the opponents when it is in power is rather rendering the judiciary's position in governance insecure and we need to move away from this trend.

Some school of thought had question whether the Supreme Court acted within the spirit and letter of the 1992 constitution. They relied on article 19(11) which says that no person shall be convicted of a criminal offence unless the offence is defined and the penalty for it is prescribed in a written law and for that matter, the Supreme Court acted illegally. But this is not a criminal offence case article 19(12) stipulates that clause 11 shall not prevent a superior court from punishing a person for contempt of itself notwithstanding that the act or omission constitute the contempt not defined in a written law and the penalty is not prescribed. This buttress the point that to every rule there is an exception and article 19(12) is an exception to the rule of illegality. The Supreme Court therefore has the power to punish in contempt cases where the punishment had not been prescribed by law. Again article 26(2) also empowers the superior court of records to commit for contempt to themselves. The Supreme Court therefore acted as permitted by law in contempt cases and the punishment is discretional (article 296.)

Another contention by a section of analysts was the fact that the Supreme Court should not have tried its own case. They come under the principle of “*nemo judex in causa sua*”. Thus, the Supreme Court should have asked the Attorney General to prosecute the respondents and the high court to try the case. I do not see the wrongs of the Supreme Court because the same article 19(12) and article 126(2) have been stated in clear language which allows the court to punish for contempt cases by that same court such that the court must immediately take steps to stop the court from being further scandalized, brought into disrepute or unable to administer justice.

It is common knowledge that the Montie Three comments happened outside the court and could have been described as *Ex Facie Curia*, where the attorney general is mandated to prosecute but it is *In Facie* because the judges used their sense of hearing (through the electronic media) to hear how its proceedings were being treated with contempt. Hence, on their own motion had to stop the court from being further scandalized.

The respondents were given a fair hearing with access to their counsel who freely represented them according to the procedures permitted by law. They accepted liability of the offence and apologized to the court. They opted not to put up a defense.

The owners and directors of the company also have a responsibility to ensure that the company's interest is represented and not that of individuals or groups. They should project the vision and mission of the company and the means to achieving its objects, Otherwise the court had every right to lift the corporate veil and apply sanctions when it has the cause to do so. The directors were held responsible because they are the agents of the company.

Ghanaian should not forget that freedom of speech and expression is not absolute and it should not be absolute. The laws of limitation per article 164 of the 1992 constitution puts limitation on rights and freedoms to protect reputations, rights and freedoms of other persons. The recalcitrant nature of some people in Ghana calls for stiffer punishment as done in other developed countries like Canada and Germany if this menace will be abated.

I am of the view that when the case pending before the Supreme Court between the national media commission (NMC) and Ghana independent broadcaster's association (GIBA) on the media legislative instrument (LI) on content standards regulations 2015⁸⁰ is fully functional, will cure some of the ills in the Ghana media landscape which the Montie trio case seeks to achieve.

In effect Ghanaians should be reminded that just as rights goes with responsibilities freedom of speech as a right is guaranteed by the constitution but it must be exercised with responsibility

Reasons and lessons behind the verdict

According to the Supreme Court verdict it had observed with keen interest the recent reckless attacks on judges of the court in particular and the judiciary in general and had come to the conclusion that it is escalating in outrageousness and temerity and therefore, the need to make such behavior universally unattractive for any person who wants to indulge in such conducts

⁸⁰www.africanelection.org, *Contempt Case and it's implication on Ghana's Democracy, August 1, 2016*. Date Assessed: 10th August 2019

“The court had taken notice of the resurgence of conterminous statements made that have the tendency to bring the administration of justice into disrepute”

The fact that four persons were punished for contempt by the Supreme Court during the election petition hearings in 2013 had not deterred these respondents from making these pronouncements only speak about the recalcitrant nature and position they take in national discourse. It is only a stiffer and harsher sentence that will bring them back to consciousness that they are on planet earth in a country called Ghana with laws regulations and customary rules.

Their actions were of contemptuous conduct which has the effect of undermining the confidence of the people in the ability of the court to deliver independent and fair justice according to art. 127 of the constitution which is the very foundation of the judiciary.

There is the need for those fortunate members of the public to whom frequency has been granted to own it a duty and responsibility to the people of Ghana that such valuable national resource is not wantonly dissipated, used to hurt others or jeopardize the public interest in the justice system. National resources should be used for the good of the people from whom sovereignty of Ghana resides. Article 1(1)⁸¹

5.2 Discussions of Results Two (Field)

Under the socio demographic background of respondents, it was revealed that, 28 respondents were the majority respondents representing 70% who were the Media House Personnel, followed by 12 representing 30% who were Organized Media Bodies. This indicated that the present of media house personnel at the time of the study dominated the others. Table 2, revealed that, out of 40 respondents, 24 of them were

⁸¹ Extract from Supreme Court of Justice Accra Judgement, AD 2016

male representing 60%, while, 16 of them were female corresponding to 40%. This indicates that, male unveil themselves for the study as compare to the female students. Table 3 statistically display the nationality of respondents. out of the total of 40 respondents, majority of 38 were Ghanaian representing 95%, while, 2 of them were non-Ghanaian corresponding to 5%. This was because the study was conducted in Ghana. Hence, the indigenous dominated the study. The summarized result in table 4 above revealed that, Kencity media was the least among the respondents with 22.5% followed by Kessben media and Despite media with equal corresponding percentage (25%). However, OTEC had the majority respondents of 11 equivalent to 27.5%. This indicated that majority of respondents at OTEC were present at the time of the study and availed themselves respectively. All the available participants for the study indicated that they are literates. The statistical distribution revealed that majority of the respondents resides in the city and therefore respondents were asked if they do listen to the media or pay some particular attention to the media. The result is presented in table 7 as shown that all the respondents listen to the media at some times or they pay particular attention to the media within their localities. However, when their views were tested on the “Montie Three” saga, majority representing 17 (42.5%) indicated that they do not know anything about the “Montie Three” saga, followed by 9 (22.5%) indicated that they know something about the “Montie Three” saga. 8 (20%) indicated that they know something to some extent about the “Montie Three” saga, while 6 (15%) indicated that they have fair view about the “Montie Three”. It is a matter of degree of knowledge of the case. Furthermore, respondents’ knowledge about the verdict was revealed. Although, most of the respondents indicated they know nothing about the “Montie three” saga, majority of them representing 17 (42.5%) indicated that the verdict was proportionate to the offence, followed by 9 (22.5%) indicated that the

verdict could have been lenient. 8 (20%) indicated that they do not know much about the verdict, while 6 (15%) indicated that the verdict was too harsh. This gave an opposite stand but may also indicate that they think that mostly verdicts are proportionate to offences.

The researcher seeks to find out why people abuse the freedom of speech in spite of the limitations as provided in the 1992 constitution article 164 to the extent that hate speech keeps ascending. According to one of the respondents, *“it is the freedom of speech which is not checked by the regulations” that lead to the abuse*. Another also responded that *“proliferation of radio stations without the necessary checks on their programme contents”* is the cause of the abuse. The 7th respondent precisely stated that *“Institutional failure is liable”*. Accordingly, one other respondent observed that, *“I think the National Media Commission is not doing enough to sanitize the airwaves. If punitive measures are put in place and enforced, some of these things would not happen”* (3rd respondent)

The 4th respondent is of the view that, freedom of speech is under threat censorship. Because, it has been a repetitive normative for centuries. Freedom of speech has been stoked up by the very people who are supposed to protect this principle: democratically elected politician, cartoonists and bloggers. The 6th respondent also believes many people have mistaken belief that the freedom of expression as guaranteed by the Constitution is not absolute one. It is not absolute. The opening article under chapter 5, article 12(2) states that the enjoyment of one's rights is subject to the protection of others' rights and public interest. This is the reason why one cannot freely make expressions to the extent of defaming another person because the same constitution that provides for freedom of speech also provides for right of dignity (article 15). Being

privity to our law on rights and freedoms will guide one to be circumspect in his expressions. It seems the problem is attributable to the authorities placed in charge of regulating the activities of the media landscape. It was also attested that 72.5% of the respondents indicated that often the media abuse it mandates. Moreover, the media plays a very crucial role in influencing others. This was also revealed in table 16 that majority of 36 representing 90% indicated that the media plays a role in influencing them.

Table 10 also revealed respondents' perceptions of abuse of freedom. Majority of them indicated that the abuse of freedom of speech in that case was seen as expression of constitutional right, followed by those who indicated that the host should moderate their panelists. Some also indicated that it is an epitome of hate speech., while the rest indicated that it is an effect of liberal airwaves.

The respondents proposed some possible solution that, there should be limitation and disciplinary actions in order not to use your freedom to abuse others. Another respondent also said that, *“when a person makes expressions to the extent of infringing on others' rights, the aggrieved persons must seek redress in court. He believes this will deter others from doing same...”* He Also, added, *“that the NCCE must be tasked to conscientize the citizenry that free speech does not necessarily mean you are free to say anything. As indicated earlier, our Constitution, 1992, does not make the freedom of expression and other rights absolute. They are subject to the enjoyment of others' and public interest”*. The last respondents concluded by indicating that the Social Studies syllabi should have this knowledge right from basic schools and also emphasize on it. So that the awareness can be created and attitudes can be changed. The 8th respondent informed the researcher during the interview that, the National Media

Commission (NMC) also exists to ensure that high journalistic standards are preserved. That's why a journalist acts in an unethical manner, the Complaints Settlement Committee of the NMC is competent to deal with such journalists and their employers. The media must also not operate under the false thought that they are free to say anything on air. The researcher also seeks to find out respondents' knowledge of the law. According to the findings in table 24 and 26, majority of the respondents who indicated that they have a fair view of the law correspondently, they indicated that the existing laws needed a review or amendment

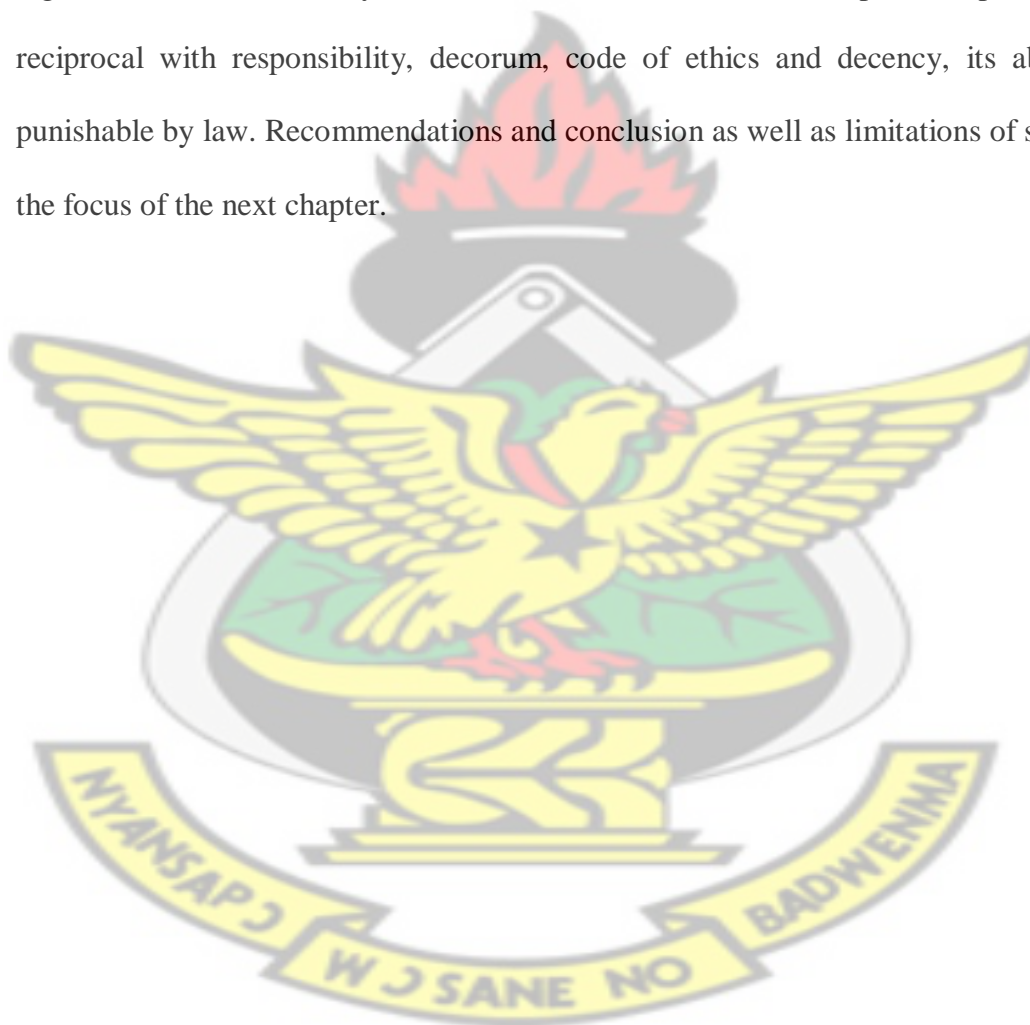
On the issue of the Afrobarometer Dispatch no. 250 survey conducted by CDD Ghana,⁸² whose report revealed that Ghana's support for full media freedom has dropped from 55% in 2014 to 36% in 2018. Thus, majority of Ghanaians about 57% are calling for government intervention to prevent publication that it deems harmful to society. The reason given was that generally the media is corrupt. This damning report on freedom of the media is against article 162(4) of the constitution. Upon further research of this matter it was revealed in table 24 of this study that 22 (55%) out of 40 respondents think that the media should have the right to publish any news or information without government control. Only 3 respondents representing 7.5% say otherwise contradicting the CDD report. Further interrogation through this study revealed that most respondents think the media does not know it all and should not assume they do. Some are very ignorant of the issues at stake but are not humble enough to accept. Some are influenced by politicians who pay them money to do their biddings hence the impunity with which they operate. It is these elements within the media fraternity that has caused it to loose public sympathy and calling for government intervention. It's therefore incumbent on

⁸² Thomas Isbell, Josephine Appiah Nyamekye (CDD Afrobarometer Dispatch No. 250 <http://www.afrobarometer.org>) 6th Nov. 2018. Accessed date: 8th Nov. 2019

the GJA and media houses to redeem itself of this corruption tag to regain its rightful place among the citizens of Ghana.

5.3 Conclusion

This research has taken a comprehensive look at the various reasons of abuse of free speech/ expression and the consequences thereof. The perception of individual and groups of abuse has come up for discussion. The bottom line is that there are laws and regulations in this country that controls abuse. Freedom of speech/Expression is reciprocal with responsibility, decorum, code of ethics and decency, its abuse is punishable by law. Recommendations and conclusion as well as limitations of study is the focus of the next chapter.



CHAPTER SIX

RECOMMENDATIONS AND CONCLUSIONS

6.0 Introduction

This chapter consists of a summary of the research objectives and questions, the key findings of the study and recommendations to control the canker before conclusion. These recommendations and conclusion are based on the findings of the study.

6.1 Summary of key findings

Per the objectives of this study, the researcher sought to find out people's perception about abuse of freedom of speech/expression through the analysis of the Montie three judgement and field data as well as how it can be controlled. The research questions are in pursuant to the objectives of the study: what are the causes of the abuse? Is the electronic media being notorious? How about knowledge of the law by stakeholders?

As indicated in table 10, 16(40%) out of the 40 respondents being in the majority, said the Montie panelists were expressing their constitutional rights. This means their views about abuse of freedom of speech is an expression of one's constitutional right. People see freedom of speech as a tool to express whatever they like. But from the judgement of the case and the survey, it is clear that although freedom of speech is a constitutional right, it has limitations and no one can take the law for grant. The judgment of the court was clear on the following grounds:

- That the respondents had scandalized the court
- They had defied and lowered the authority of the court
- Bringing the authority of the court into disrepute

In defense, the defend counsel pleaded that it was the respondents who lost their heads in excitement over the liberal nature of the use of the airwaves. The BNI had reported earlier on after their investigation that the respondents had no capacity to carry out the threats but it was only a show of needless “bravado”.

Similar point of view shared in the findings in the field survey was that the laws on freedom of speech and its limitation are known to most stakeholders but they abuse because their understanding of freedom knows no limit. They tend to lose their heads with excitement due to the liberal nature of the airwaves or think they are enjoying their constitutional right

On the knowledge of the law that guides media practice, table 24 had majority of the respondents 18(45%) out of 40, say that they have a fair view of the law. Followed by 16(40%) respondents who indicated that the laws are not biting enough

On a follow up question on whether there should be a consideration for amendments, Table 29 shows that 15(37.5%) respondents out of the 40 advocated for amendments while another 15(37.5%) also advocated for review of the parent law.

Putting all these viewpoints together suggests that, many of the respondents know the law but to them it is lenient on offenders and should be amended or reviewed to strengthen it. Many of the respondents interviewed also advocate for stiffer punishment for offenders to deter others from doing so.

The Supreme Court embark on this course to make abuse of free speech and expression unattractive by showing direction with the Montie three case.

On the question of controlling vitriolic speeches on media platforms. Table 18 indicate that 25(62.5%) respondents out of 40 hang up on them while 5(12.5%) also use delayed apparatus. Both design help in controlling anger, hate speeches and other abuses during live broadcast

On the question of hate speech in defense of freedom of speech Table 22 shows 21(52.5%) respondents out of 40 said there is no relationship between the two. That is hate speech is not free speech and the two should not be equated. People with such mindset should disabused their minds of it.

In the field survey, when the question of whether there should be absolute freedom of speech or limitations, table 23 indicated that 16(40%) respondents out of the 40 stated that there should be a limit to freedom of speech/expression. From the GJA's perspective, media practitioners were cautioned that there is no absolute freedom because rights come with responsibilities. The NMC's perspective was that, despite the provisions of Article 162 and Article 12(2) of the 1992 constitution which provides assurances of freedom in itself also provides guidelines for observance of other people right and public interest.

6.2 Recommendations

Having pursue this study to this far, I have come to the realization that electronic media houses across Ghana have a lot to do to help curb abuses. It is a common knowledge that majority of Ghanaians rely so much on the electronic media for their update of news, information, education in every fabric of their social life, hence a proper positioning of the media will go a long way in shaping freedom of speech and expression as mandated by law. Since the media serve as the frontline when it comes to interacting with the people, a lot of work therefore has to be done by media owners

to ensure that media houses play their responsible roles as stated by law to affect society. The following are some recommendations to help control the problem:

- The media regulatory bodies should not fail to sanction persons of their own who blatantly flout the law and do not work with their code of ethics or regulations which is their operational manual. These regulatory bodies should not just protect their own. It's about people's reputation being tarnished and plunging the nation into wars and civil disobedience.
- Unnecessary "politicking" "needless bravado" exhibited by mostly politicians which has colored every issue of national interest should be waived so that professionalism will be pursued in media practice. Politicians should not be allowed to own the electronic media to pursue their own selfish ambition. Business considerations should override all other considerations
- Education also has a very important role to play in helping people to discover new and imaginative ways of expressing themselves like through their cultural identity. Every society has its own culture that is respected by its people. If people are educated to imbibe their culture into their way of life, many of these attitudes alien to their culture will be relegated to the background for decent cultural practices to take effect.
- Regulatory body like the NMC should be part of the frequency modulation issuance committee to be able to control and manage content of the media houses. They should be mandated to arrest offenders in their backyard to ensure discipline in addition to their core mandate. This will give the NMC the teeth to bite and erase the perception that it is toothless.
- The GJA should endeavor to bring all the mushroom journalism schools under one umbrella to ensure a quality standard for all schools in terms of learning

and regulations. Different entities without a coordinating body will produce uncoordinated substandard products for the market which will affect the industry performance now and the future.

- There should be guidelines in interpreting freedom of speech and the boundaries that exist within the laws of Ghana covering contempt of court. The judiciary and parliament should clearly define what constitute contempt since its wrongful application or haphazard use by the two arms of government to sanction will be capricious. For the purposes of the nation development bearing in mind the population of those who are unschooled most of the education should be done in the local language.
- The electronic media is not without problems. The government must help the media in their operations. Failure of governments to investigate attacks and murders, mistreatment of journalists, police brutalities, flawed judicial systems, lack of political will to enforce the law and the fear of reprisal will contribute to impunity which still remains one of the most serious threats of abuse to freedom of speech and expression.

6.3 Conclusion

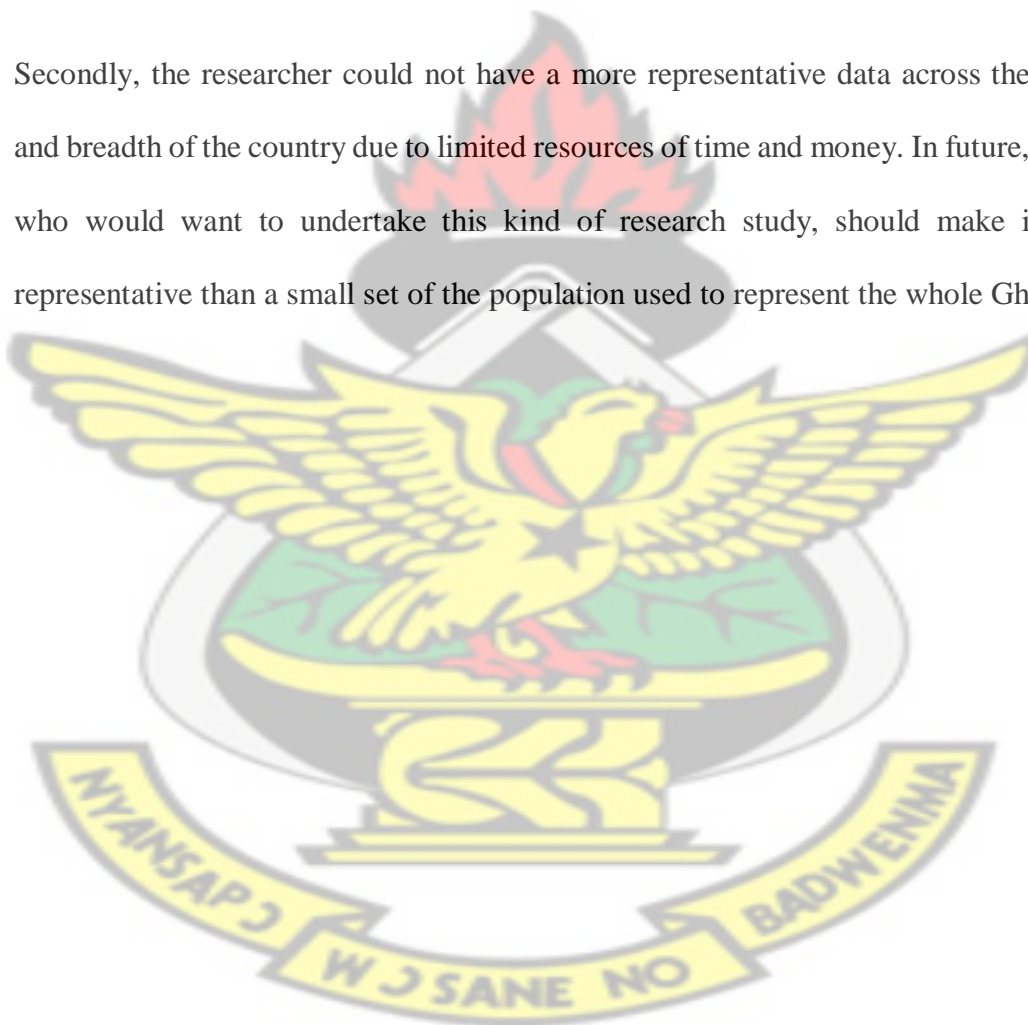
In conclusion, freedom of speech which is an expression of constitutional right is not an absolute right. Therefore, there is the need to consider other constitutional rights when exercising your freedom of speech and not to infringe upon others rights. Defense of free speech is enhanced by concerns for victims of its abuse.

6.4 Limitations Of The Study

Like any other research, there are limitations that need to be acknowledged and if possible addressed by future researchers.

Firstly, some media houses and their personnel were reluctant to accept the questionnaire and share their knowledge with the researcher. Some even went to the extent of speaking rudely as if they had an axe to grind with the researcher for undertaking a study into their area of operations

Secondly, the researcher could not have a more representative data across the length and breadth of the country due to limited resources of time and money. In future, people who would want to undertake this kind of research study, should make it more representative than a small set of the population used to represent the whole Ghana.



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KNUST



APPENDICES

APPENDIX - A

Kwame Nkrumah University of Science and Technology

Faculty of Law

Master of Law

**Title of Thesis: ABUSE OF FREEDOM OF SPEECH/EXPRESSION
THROUGH THE MEDIA; A CASE STUDY OF MONTIE THREE**

QUESTIONNAIRE

I am a postgraduate student pursuing masters in Law programme at KNUST. I am undertaking this project in partial fulfillment for the award.

I am therefore soliciting your help to answer the questionnaire/interview to the best of your ability. You may tick where appropriate or express your views and thoughts in the space provided within a few minutes of your time.

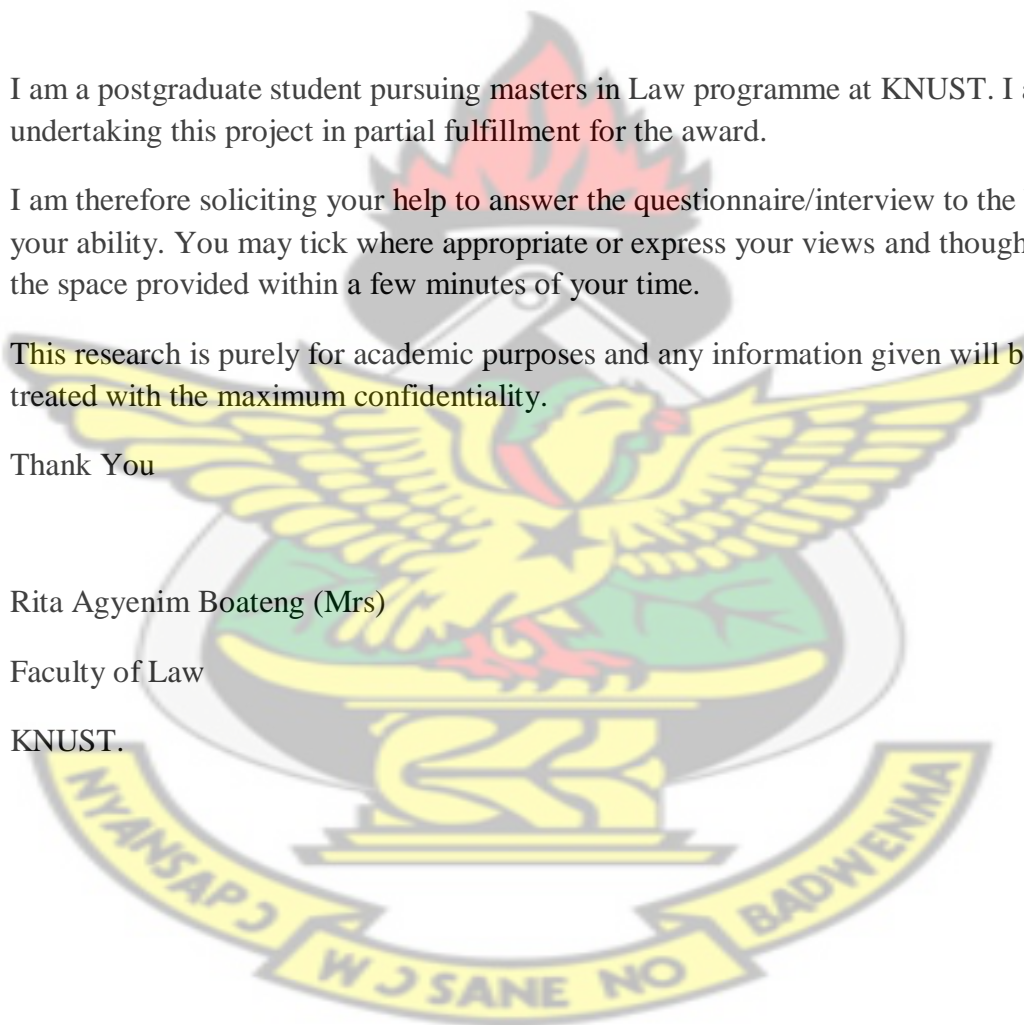
This research is purely for academic purposes and any information given will be treated with the maximum confidentiality.

Thank You

Rita Agyenim Boateng (Mrs)

Faculty of Law

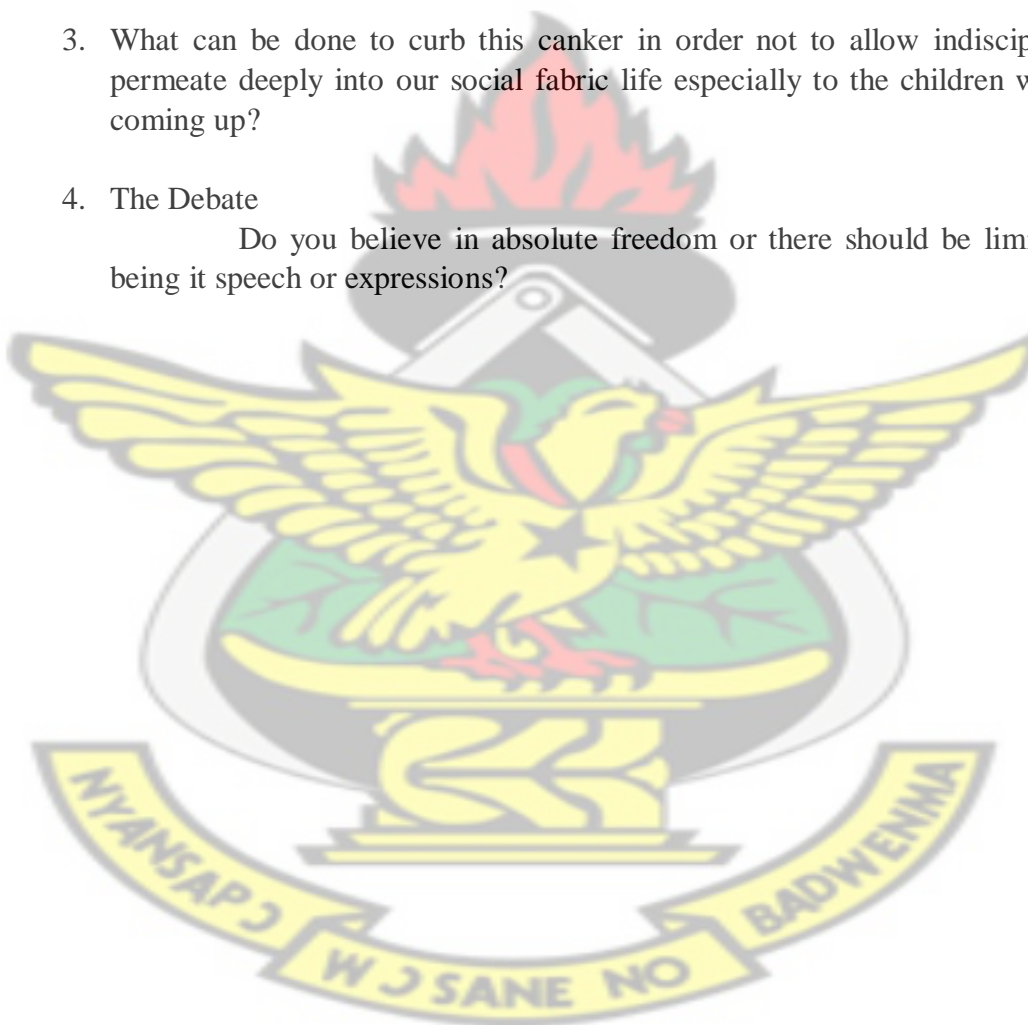
KNUST.



APPENDIX – B

Interview Questions

1. The abuse of Freedom of Speech and expression is on the ascendancy in recent times both in Ghana and outside. We have problems with language on our radio, television, social media and the internet. What do you think accounts for this?
2. From our National discourse, it is realized that journalists and their affiliate bodies are only interested in the protection of journalists or media personnel and not the abuse/Hate emanating from the airwaves even when it comes from a journalist who should know better. Why this trend from the media and its affiliate bodies?
3. What can be done to curb this canker in order not to allow indiscipline to permeate deeply into our social fabric life especially to the children who are coming up?
4. The Debate
Do you believe in absolute freedom or there should be limitations being it speech or expressions?



APPENDIX - C

Sect A

Personal Data (Tick where applicable)

1. Personality Description
 - a. Media House Personnel
 - b. General Public
 - c. Organized Media Bodies
2. Gender a. Male b. Female
3. Nationality a. Ghanaian b. Non-Ghanaian
4. Name of Media house or body
5. Educational Background
 - a. Illiterate
 - b. Semi Illiterate
 - c. Literate
6. Place of Residence
 - a. City
 - b. Town
 - c. Community
7. Do you like listening to the media? a. Yes b. No
8. How do you assess their performance?
 - a. Good
 - b. Very Good
 - c. Bad
 - d. Cannot rate
9. What language do you use to communicate?
 - a. English
 - b. Akan (Twi)
 - c. Others
10. What has been the impact of the media to the country?
Explain in two lines
.....
.....
11. Do you throw hate speeches about during media interaction
 - a. Yes
 - b. No Whether Yes/No, state reasons
.....
.....

Section B

This section is to be answered by media personnel and bodies. Tick where appropriate

12. Is the media playing its watchdog role critically?
a. The media is too aggressive
b. The media is carrying out its responsibility very well
c. The media is bias
d. The media is making strides
13. At what time is the media heavily patronized?
a. Morning b. Afternoon c. Evening d. Night
Programmes
14. Do you engage in phone-in segments? a. Yes b. No
15. What is the level of hate exhibited in response by listeners to these programs
a. Very angry b. Not really angry c. unbelievable d. depends on the
programme
16. How does your outfit control people with vitriolic speech or attitude?
.....
.....
17. Is the media influence by politics? a. Yes b. No
18. How has press freedom helped to develop society in Ghana?
.....
.....
19. Has the media contributed to the upsurge of abuse of free expression?
a. I believe very strongly
b. I don't really believe
c. Rightly so
d. Not quiet
20. What is your perception about hate speeches in defend of freedom of speech?
.....
.....

21. Do you advocate for absolute freedom of Expression or some limits to its operations
- Yes, absolute freedom
 - There should be some limitations
 - Wider operating space
 - Checks and balances to prevent abuse

Section C. (To the general public at random)

22. Should the media have the right to publish any news without government control? Give reasons.
- The media should have the right to publish
 - Government should prevent the media from publishing
 - The people's interest should be considered
 - International communities should place limitations
23. Who should set the agenda for the nation?
- The media
 - Citizens
 - Government
 - No one
24. How often has the media abused its mandated freedom by printing or saying things they know not to be true?
- Often
 - Always
 - Never happens
 - Media is always right

Rules, Regulations and Ethics of the media

25. What do you know about the laws that govern free expression, hate or abuse?
- I don't know any
 - The laws are not available
 - The law is not biting enough
 - Have a fair view of the law.
26. Is the media operating ethically?
- Yes
 - Not exactly
 - Much is desired
 - The media needs guidance
 - The media is doing well
27. Any amendment to the parent law for consideration
- Yes
 - No
 - Review
 - No education is needed

Views on Montie Three Saga

28. Do you know about anything about the “Montie Three” saga?
- a. Yes, I do
 - b. Not really
 - c. No I don't
 - d. I have a fair view
29. What do you make out of the case in terms of abuse of freedom of speech?
- a. It is an expression of constitutional rights
 - b. It is an epitome of hate speech
 - c. It is an effect of liberal airwaves
 - d. Hosts should moderate their panelists
30. What do you think about the verdict?
- a. It is too harsh
 - b. It is proportionate to the offence
 - c. It could have been lenient
 - d. I don't know much about it

