

Arts and the Law: Regulating Graffiti Writing in the Digital Era in Nigeria to Stem Abuses

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Abstract

This paper examined the relationship between graffiti writing and the law in Nigeria, with specific focus on the regulatory regimes available to graffiti arts and artists. Qualitative research design and methods were used, with oral interview and documentary study preferred for empirical investigations. Four respondents were orally interviewed. Some online documents – legal materials, newspaper reports, and academic writings – were also studied. Findings revealed that graffiti were now accepted as legitimate arts in Nigeria. In regulating the disturbing aspects of graffiti, the same sets of rules used for the mainstream arts were being applied. The available rules were, however, considered as inadequate for the effective governance of the online documented graffiti to control abuses. But where the existing rules were properly enforced and obeyed, there would be the rightful recognition of the artists, the appreciation of their style of art, and improved income for the artists and the country at large, among other benefits. For a better regulation and graffiti writing in Nigeria, artists should collectively work to ensure timely and broad distributions of knowledge about the ethics of the practice for new entrants; there should be increased allocations of writing spaces for graffiti artists across the States to encourage the practice, promote the aesthetics of local communities, provide alternative therapeutic avenues for disenfranchised youths, and reduce the chances of malicious damage to public property. The Nigerian governments should also establish a visionary, credible and viable council to best manage the alternative art sector.

Keywords: Graffiti • Arts • Law • Regulation • Policy • Digital era • Nigeria

Introduction

A few intriguing things about graffiti in Nigeria are the unpopular nature of the art and the contradiction inherent in the conception of the legality of the practice. Thus, everywhere in the world, this contradiction between graffiti as a legitimate and 'forbidden' art remains constant.

At Obalende in Lagos, for instance, graffiti posters filled the city walls, at a time. But, today, only a few places in the locality still have sprayed images on their walls [1]. What exactly happened to the rest? Who removed or cleaned them off? The artists? The Lagos State environmental agencies? Or the Police? This is hard to explain, because no matter how long one searches for an answer, the search will reveal only one thing at best, that Nigeria itself is a graffiti art of some sort – full of multidimensional social, political and environmental scenarios: some very disturbing and others looking quite normal. Nigeria is like a rugged spray can painting on canvasses, full of different colours, lines and shapes. She is such a beautiful work of art; but it is not still clear whether she is the 'safe' or 'fine' kind of art [1].

This allegory, apparently signals, not just the contradictory perception about Nigeria as a rough and rugged place, but of the contradiction inherent in the perception of graffiti art practice itself. Essentially, it raises the questions: Is graffiti writing a legitimate practice and requiring public appreciation and protection? Or, is it an illegal practice and a crime that requires to be controlled and regulated? If it is an art and legitimate, then what makes it legal and

preservable? If it is illegal and a crime, then what constitutes its very criminal nature? With the increasing integration of graffiti art with new media, how can illegal graffiti writing be best detected and regulated? What are the challenges in relation to the regulation of Internet-based graffiti arts? These and many more questions would need to be addressed in this paper.

In a number of societies, attempts have been made to address, particularly, the disturbing (and sometimes illegal) perspective of the artistic practice, through regulations and other anti-graffiti control measures. While in some places in Melbourne-Australia, Paris-France, Warsaw-Poland and a few other countries graffiti writing is considered as a legitimate and tolerated for a number of reasons [2], in a number of areas in Australia, Singapore and Pyongyang, for example, it is still seen as vandalistic and offensive. Singapore is known to have one of the strictest anti-graffiti laws, where an offender could be publicly flogged and worst more. Writing the wrong thing in public in Pyongyang could attract torture and even a death penalty (www.quora.com). In some areas of Australia, criminal trespass by artists, including graffiti artists, is seriously regulated by a number of substantive statutory rulings. But in Taiwan, local police officers do not get involved unless there is a complaint of a property damage from an owner [2]. With the surge of interest in the politics of Internet governance in the most recent times, a mixture of regulations that apply to various aspects of the cyber-realm and/or are embedded within the architecture of the Internet-based software applications themselves are also now in vogue, as ways of regulating and managing graffiti writing with possible negative consequences [3].

Snippets from scholarship, however, show that graffiti writing is generally appreciated and tolerated for its expressive, cultural and aesthetic values. Graffiti writing can also be considered legitimate if carried out with the permission of the property owners. But where graffiti writing damages public or private property, spreads hate speech, creates a safety hazard, and contributes to a negative community's image, it is generally considered as illegitimate, vandalistic, criminal, regulatable and preventable [4,5]. Generally, the criminal consequences are varied across societies, ranging from the payment of stipulated fines, to community services, probation, public caning, cleaning off of the offensive images from surfaces, and even imprisonment for misdemeanors or felony under which illegal graffiti writings are often considered in law, etc. [6]. The sentence is based on the size and context of the crime, as well as on

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the damage to and the value of the property in view. The punishment could be harsher for repeat offenses [7].

The main problems with illegal graffiti writings, then, are the detrimental effects they have on the image of localities, the malicious destruction or defacement of private or public properties, the cost involved in the repair of damaged properties, as well as the background they provide for the thriving of "a hive of criminal activity in an urban area and cities" [8]. It may also be because the graffiti image displays violence, vulgarity, or words that can become highly offensive to a group of people and a lot more.

This paper, however, explores how the illegal and criminal aspects of graffiti writing is being regulated and controlled in Nigeria, through existing social norms, regulatory policy frameworks and other measures. It also examines the state, opportunities, and challenges of graffiti-based regulation in the digital era where there is now an increasing interface between graffiti writing and new media appropriation, particularly the use of personalized blogs and New Media Arts to advance the practice. The paper also attempts to answer the same disturbing questions raised earlier and that seek to explain what makes graffiti writing illegitimate and a crime, particularly in the digital era in Nigeria.

The assumptions of the study, therefore, are: Firstly, while the ruggedness and roughness of the alternative art practice are self-evident anywhere in Nigeria where this art form is displayed, graffiti writing is a legitimate practice in the country. Secondly, there are elements of the practice that, when considered from the social order and legal point of views, substantially make the practice criminal and regulatable in the country. Thirdly, in regulating graffiti writing in Nigeria, it is the same sets of rules meant for the mainstream art industry that are still being used. Fourthly, the available rules, though significant, do not adequately cater for the control of graffiti arts documented and posted online. Fifthly, the regulation of graffiti writing, though challenging in a number circumstances, bears tremendous opportunities for success for the practitioners and the public in general.

But in order to validate these assumptions, the following specific research objectives were drawn out and pursued:

- To identify the regulatory policies and other control measures on graffiti writing available in Nigeria.
- To specify the core contents and demands of the available regulatory policies and control measures.
- To explore the extent of adherence to the available regulatory policies and control measures.
- To identify the challenges and prospects in relation to the regulations of graffiti writings in Nigeria.
- To determine the opportunities that the available regulatory policies and control measures provide for the practitioners.

Materials and Methods

This subunit provides the theoretical framework, literature review and the research methods that ground the study.

Theoretical framework

The 'broken window' theory of crime and urban decline is chosen to give the conceptual directions for addressing the given objectives of this paper. First propounded by Wilson and Kelling, the assumptions of the theory grew out of a psychological experiment earlier carried out by Philip Zimbardo [9,10]. The theory asserts that "visible indicators of disorder, such as vandalism, loitering, and broken windows, invite criminal activity and should be prosecuted" [11]. In other words, visible signs of disorder and neglect, as often seen in broken windows or graffiti writing, can encourage further crime and anti-social behaviour in a community if not properly checked, as they signal a lack of effective law enforcement and social control within the community. It is, therefore, a theory whereby graffiti vandalism, for example, could be seen as a contributive force towards an increase in smaller-scale urban disorders, which

could also provide pathways for bigger crimes, unethical behaviours and anti-graffiti measures.

Though criticized for its inability to empirically establish a clear causal connection between lack of order and crime, as well as for its creation of a background for the reinforcements of racial and class biases and possible harassments of innocent citizens across societies [12], the theory is still of value for this paper on the following grounds: Firstly, it provides a theoretical framework for understanding and appreciating the need to put in check smaller civil disorders in the form of artistic vandalism so as to prevent the implosion of bigger disorderly behaviours and events into local communities. Secondly, it promotes an ethical culture and serves to prevent lack of restrictive attentions from local authorities to small-scale unethical infractions that would in the long run create rooms for increase in disorderly behaviours within communities. Thirdly, the theory does provide strategies for ensuring the safety of all citizens and aesthetically conducive environments within communities, such as the constitution of applicable social norms, substantive laws, routine monitoring, effective community policing and the regulation of low-level crimes through legislative policies, among others.

Where disorders go untreated through regulations, the safety of the community members are never totally guaranteed, as the level of criminality within the communities is likely to become higher. But where anti-crime measures are effective, individuals planning to engage in any act of vandalism, civic disturbance, or disregard for law are likely to become more careful to avoid being caught for violating those norms and being punished accordingly.

Graffiti writing and arts

Graffiti refer to the art of writing with lines, shapes, colours and images on surfaces. Graffiti, which have existed over the years from the ancient periods in Egypt, Rome and Greece, are gradually gaining more and more popularity in contemporary societies. As argued by Manco [13], "graffiti art, as an idea, has always existed alongside other artistic endeavors, the difference being that it is a mode of self-expression using methods that are seen as...outside the conventional art" (p. 5).

It is the rise in hip-hop culture in New York and Philadelphia that played a key role in the propagation of graffiti and its integration within the mainstream. The surge in sophisticated technology has also projected graffiti to the limelight, especially, among the youths who take pleasure in written and painted images to advance their artistic thinking and learning [14].

All over the world, especially in the modern era, graffiti have continued to be utilized as instruments of expression, vis-à-vis communication in the transmission of social, economic, political and cultural messages to the people. Graffiti, no doubt, are deeply rooted in cultural expressions and storytelling, especially moonlight tales of the ancient time. In Igbo cosmology in the ancient periods, most of the write-ups were done on walls of mud buildings; at other times, on the frame of wooden doors and windows - what was referred to as 'Mgbidi'. The advancement in technology, no doubt, has affected all spectra of the society including graffiti writings, making them more sophisticated and widespread than ever before, to the general admiration of the lovers of the artworks; and, at the same time, making it more challenging to manage and regulate abuses in the online graffiti subculture.

Maye avers that, graffiti on walls in ancient times were also etched with sharp objects or coloured pigments to convey some important messages [15]. Chandni also agrees that, this extraordinary expression of art in the public sphere attracted immediate attention and appreciation from everyday passersby and art critics alike in the 1980s [16]. It was a time when young people used creativity as a means of adapting to their socio-political environment and bringing the fight for meaning into their own hands.

Thus, graffiti writings have been adopted at different fora and situations as superlative vehicles for conveying messages of peace, unity, love, charity and patience. They have equally influenced the political systems. For instance, the adornment of strategic locations in Abakaliki, the Ebonyi State capital, with graffiti artworks on the former Governor of the State, David Umahi, and his predecessor, Governor Francis Ogbanna Nwifuru, by sycophantic followers

tells much on the use of graffiti for political reasons. On health, graffiti were ready tools in passing messages on Covid-19 pandemic in 2020, as they did in conveying messages on crime and during political revolutions in Africa. The artistic practice has remained a strong voice for the voiceless.

These different social benefits of graffiti paintings, therefore, inform the need to utilize the potentialities inherent in graffiti to fight social ills, unethical and criminal activities. Where graffiti's potentials are not fully utilized, Ndakaitei observes that, "for communities, this has devastating effects such as increased violence, robberies, unemployment and the need for more rehabilitation centres" [17]. If graffiti are potent instruments in the fight against unethical behaviours and criminal energies across the world, the government needs to play greater roles in complementing the messages of the artworks for greater efficiency. Ndakaitei confirms that, "the government needs to play a bigger role than it is doing now" [17].

As the government at all levels of governance strive to live up to expectation in the use of the potential in graffiti arts to advance the course of governance and solve some daunting and threatening societal challenges, major security agencies across societies - the Police, the Military and the Justice Ministry - should also be abreast of what graffiti arts could offer in checking crime and criminal elements. The walls of the security outfits could be adorned with pictorial images, engraved pictures, writings and colourations that expose the dangers of engaging in crime, should radio jingles, newspaper advertorials and television programmes on crime fail.

Moreso, as visual forms of communication, graffiti strive to communicate through vivid and visually striking imagery which transcends language barriers, making it more accessible to diverse audiences. In this way, graffiti serve as mirrors for reflecting societal issues and concerns. They provide voices and platforms to marginalized groups to address topical issues like bad governance, health challenges, inequality, injustice, corruption, regional agitations and discriminations [18]. This way, graffiti have become acceptable tools for advocating social, political, cultural and economic changes, as well as for expressing and reflecting on the culture of a people, particularly their identity. Like their global partners, Nigerian graffiti artists also use their artworks to convey social and political messages [14].

However, in spite of the communicative and advocacy roles of graffiti, they are seen in other quarters as agents of crime. Many graffiti writers do not see their artworks as engaging in vandalism; instead, they view their works as gaining politically through subtle deviant conducts against authorities. Chanwood reveals that, as a result of their negative past, numerous jurisdictions still classify graffiti writing as a criminal act, placing it under the umbrella of vandalism or property damage laws [19]. The author argues that graffiti impose detrimental impacts by defacing public and private property, causing the owner(s) of the property to incur substantial clean up expenses and fostering an environment of disorder [20,8].

Previous studies have x-rayed the major link between graffiti art and crime in various contexts[21-23]. Brady, for instance, argues that, graffiti artists are often not involved in more serious criminal activities [22]. Smith, however, notes that, these conflicting findings highlight the need for a more careful and nuanced examination of the relationship between graffiti art and crime [23]. But, more demanding now, is the need for a thorough exploration and understanding of how Internet architectures and new media technologies are increasingly making it difficult to differentiate between what is 'real' and 'fake' across digitalized graffiti forms [21].

Regulating graffiti writing

By their very existence either in the form of language use or on account of their actual visual expressions, graffiti are sometimes seen as vandalistic, illegal and, therefore, regulatable. While most times, these artworks are legitimately done, a number of societies still engage in monitoring, controlling and regulating the practice to minimize abuses across their local graffiti arts communities [9]. Sometimes, too, some of the artworks are regarded as illegal merely by virtue of the fact that they were done without prior approval from the owners of the surfaces where they were displayed. This makes it necessary for graffiti artists across the world to be mindful of the legal consequences of

their artistic practices, which could include criminal charges [24]. Some of the legal consequences could be very harsh; others could be liberal/moderate, but still nontolerant of the crime, depending on the kind of government in place.

From the authoritarian perspective, the Democratic People's Republic of Korea (otherwise known as North Korea), with its repressive leadership, for example, does not tolerate pluralism. Independent and alternative media are generally banned [25]. Freedom of expression and dissent are limited for fear of punishment. As a result, arts available are those used primarily for didactic purposes; and, cultural expression serves only to propagate Juche ideology and/or continue the struggles for revolution and reunification of the Korean Peninsula [26]. The criticism of the government through artistic writings or any other media (digital or nondigital) is strictly forbidden; and, those found wanting in this regard, could face long sentences at forced labour camps and even enforced disappearances or death, in some very serious cases [27].

On the 22nd of December 2020, for example, Kim Jong Un ordered a test on handwriting samples from thousands of his citizens in Pyongyang after a graffiti appeared on the walls of an apartment with the writing "Kim Jong Un, you son of a b****. The people are starving to death because of you" [28]. This offensive graffiti scrawl came amidst severe famine, exacerbated by floods and the Covid-19 pandemic, and when a high-powered meeting of the ruling Workers' Party of Korea was taking place in the capital. The offensive graffiti was immediately scrubbed off the walls by the local authorities and the Police was mandated to track down the perpetrator(s). The Police went from door-to-door to seek handwriting samples and questioned residents about their whereabouts on the day the message was written. Even the use of CCTV cameras installed around the city was not ruled out [27]. This is a good illustration of how illegal and offensive street arts are treated in North Korea.

From a liberal perspective, a number of democratic countries across the world also have their own rules and regulatory policies guiding both digital and nondigital graffiti writings. This is in addition to the social norms available to their different local communities and institutions. In the United Kingdom (UK), for instance, while street art festivals, such as the London's Street Art and Graffiti Tour and the Upfest in Bristol, have provided a platform for graffiti artists to showcase their works, its regulatory frameworks for street arts present a complex interplay of legal, ethical and social considerations [29]. Graffiti legality, however, remains a complex issue in the UK. While some see graffiti as vandalism and punishable, others argue for their recognition as legitimate art forms [30]. Again, conflicts between graffiti artists and property owners, led the debates on property rights versus artistic freedom [13].

While some local governments have initiated projects such as "Free Walls" or "Legal Walls" at designated areas to encourage graffiti writers to freely display their skills and foster communities' engagements with their art forms [23,31], cleanup costs on graffiti arts placed on illegal public spaces has, for a long time, posed financial burdens on local authorities, raising the need for more innovative ways of regulating the practice [20]. As a result, legislations, such as the Criminal Damage Act 1971 and the Anti-Social Behaviour, 2014 were also put in place to shape the legal landscape and check against abuses in both the non-digital and digital graffiti fields. While the former broadly criminalizes the act of defacing property without consent, the latter provides for more effective strategies and 'powers' to tackle nuisance and anti-social behaviour (including vandalism) and to better protect the quality of life in communities and the rights of property owners [32].

Australia, another democratic society, has various and vibrant statutory laws and legislative policies for nondigital arts and displays across its states and territories. Some of these laws and policies prohibit the use of someone's property without permission for artistic writing. Where there is a breach of the requirement for permission, the offender could be arrested by the Police and charged with a criminal trespass. The land owner, too, could take a civil action against the offender.

In fact, most states and territorial legislations that regulate graffiti and other artistic activities in Australia, generally, show no distinction between a hastily scrawled tag and an elaborate street art mural [33]. The Graffiti Prevention Act 2007 (Act Number 59 of 2007), for instance, makes it an offence for anyone to

make publicly visible offensive graffiti on private property without the owners' consent; to possess, without lawful excuse, a spray-paint can while on public transport; to possess a graffiti implement with the intention of marking graffiti; and to sell a spray-paint can to a minor other than in circumstances where the person can demonstrate that he needs the paint for employment purposes. This law operates alongside a number of other legislative acts and statutory laws of the Australian State, especially The Transport (Conduct) Regulations of 2005 that curtails the writing of graffiti on public transport vehicles or their premises.

The penalties for each graffiti-based crimes in Australia range from huge fines, to community service order, removal or cleanup of the graffiti paintings, imprisonment and even restrictions on the offender's right to hold a driver's license or learner's permit. Also, through its Criminal Justice Diversion Programme, as enshrined in the Criminal Procedure Act 2009, Australia adopts an approach that enables first-time offenders to avoid a criminal record. By the regulatory provision, the offender is allowed to receive an appropriate assistance through rehabilitation and counselling as well as unpaid community services and/or engagements with a number of charities to serve the needs of others. Here, only offences considered by the courts as minor or which can be tried summarily can qualify to be under the Diversion Programme.

In the United States of America (U.S.A), creating potentially offensive or politically sensitive artworks could bring about a legal liability. While art and artistic expressions are generally considered as 'speech' and protected by the First Amendment, particularly the principle on the freedom of speech and expression, certain types of speech either receive only limited protection or no protection at all in the First Amendment [34]. For instance, artworks that are considered as obscene or offending community standards or have excessive or morbid interests in sexual matters or depict situations in a patently offensive way or even lack artistic, literary, political or scientific value are not protected by the First Amendment. Again, using someone's likeness or name in artistic works without permission, incurs legal liability and could generate a number of other negative consequences for the artist if found culpable [34]. As is the case, graffiti artists in the U.S.A would be able to create potentially offensive or politically sensitive artworks that push the boundaries without liability only if they avoid the pitfalls mentioned above or any expressions that diminish their First Amendment protections.

The limits of copyright protection around street arts (including graffiti) are still a matter of open debate across different societies. The doubt as to whether graffiti artworks are protected under national copyright laws still subsists. A review of the copyright laws across a number of countries, however, shows the nuances in perspectives.

In South Africa, graffiti writings are protected by the South African copyright law (The Copyright Act 98 of 1978 and its amendments) and the regulations concerning the commercial use of artists' works [35]. An artist does not have to register copyright on his or her work for it to be protected, except for cinematograph films (www.svw.co.za). All that are needed for an artwork to qualify for copyright protection are that, the work must be original and reduced to material form.

Barnett argues that to photograph or video visual arts (including graffiti arts) displayed in public spaces in South Africa with the purpose of using them in other publications without prior permission from the creator of such artworks, would constitute an infringement on the exclusive rights of the creator [36]. The only exception to this rule is where the law itself contains some exclusion clauses meant to safeguard against copyright infringements, such as fair dealing, freedom of panorama and so on. Again, Section 15(1) of the Act provides a general exception and states that the copyright in an artistic work will not be infringed by its inclusion in a cinematograph film or television broadcast provided the inclusion is merely by way of background, or is incidental to the principal matters represented in the film or broadcast.

The Indian Copyright Act of 1957 is another example. The Act, for instance, acknowledges that the originality of the expression of an idea in any artistic forms is covered by the copyright law of India [37]. The coverage is not only limited to the traditional permanent modes of artistic production, distribution and/or reproduction. It also covers newly evolved ephemeral art forms, such

as the sand arts, ice carvings, fashion, hairdressing and perfumery that are unique, as well as body art, performance art, installation art, conceptual art, graffiti or even architecture. As argued by Banerjee and Sinha (2022), the newly evolved class of artworks is essentially defined by their transitory, perishable or impermanent nature or the fact that they are created to be representative of the moment of their ideation or creation.

The definition of artistic work in Section 2(c) of the Indian Copyright Law is, therefore, very expansive. It can, therefore, be inferred from the definition that impermanent arts, such as graffiti, are also considered as tangible works and are copyrightable, with respect to licensing, assignment and permission to use impermanent art. The only limit to impermanent arts being given copyright protection, Banerjee and Sinha argue, is subject only to the recognition and granting of the copyright protection thereto by the legislators [37].

Outside Copyright laws, there are a number of other rulings that have proven useful in curtailing abuses in the visual arts industries across societies. Articles 8 to 14 of the Italian Minniti Decree of 20 February 2017, for instance, provide administrative measures to protect the urban decorum [38]. Article 8 vests the Mayors of City Councils with the power to adopt temporary and urgent orders to prohibit situations that could cause detriment to urban decorum. The Italian Case Law, however, offers a different principle which is yet to be widely applied. This principle, according to Reguzzoni, emerged from the decision of the Court of Cassation in respect of *Manu Invisible* case (art. 16371) of April 2016 [38]. *Manu Invisible* was a street artist who painted on a wall which had already been defaced. The court held that "the person who paints a graffiti with an artistic value on a dirty and/or damaged wall commits a crime but he cannot be punished, since this conduct cause no damage. "In a nutshell, a creative street artwork is better than a dirty wall"[38].

While there are now a number of measures for controlling and regulating abuses with regard to non-digital graffiti writings and other street arts across societies, Paré's tripartite policy approaches suggest the possible ways by which both digitalized and non-digitalized graffiti writing could be regulated [3]. This tripartite governance and regulatory structure cover both the technical and non-technical elements of the Internet.

Firstly, there is the top-bottom governance frameworks which consider the Internet and the associated digital systems as 'a holistic whole' whose implementations can ensure the well-being of both the technical and non-technical elements of the Internet and its associated applications. These frameworks often come by way of official substantive statutory laws and legislative rulings, as well as institutional practice guidelines and operational philosophies. This approach is purely a political governance process of nation-states and/or regional political authorities.

Secondly, there is the *laissez-faire* policy proposals, whereby the Internet and its associated applications are seen as lacking a recognizable 'holistic whole' which makes it difficult to develop a dynamic relationship between the technical characteristics of the Internet networks and the needed regulatory changes and enforcements. Where relatively little regulatory insights are available, it is argued by the proponents of the *laissez-faire* policy approach that it may sometimes be difficult to account for all the changing structures required by the Internet-addressing systems which could enable regulators to easily locate defaulters or artists' abusers.

Thirdly, there is the process-oriented governance approach, whereby the focus is on the procedures that give rise to the various outcomes in the cyber realm. According to Paré, the approach recognizes the governance of the Internet's workings and addressing systems through emergent laws where privately produced default rules, fashioned through decentralized collective actions, provide the common standards for a better mutual coordination of the Internet and its applications [3]. These default rules define possible behaviours and the values that should be upheld within the cyber realm. It establishes the conditions of entry into the architecture of the cyber environment and participation within the physical cyber domains, as well as "reflect a distinct philosophy of social ordering" (2007: 135) within the cyber domain. A case in point is Mark Zuckerberg's decentralized and changing regulations and governance of Facebook, WhatsApp and other social media platforms under

his corporate digital realm. Mendelson-Shwartz, et al. have recently proposed another dimension of this approach through their "Street Art-NFT-System (SA-NFT)" for the governance of internet-based artworks [39].

As argued by Paré, this third approach, based mostly on libertarian principles and its implementation, "might lead to a redefinition of notions of civic virtue within online environments" (2007:134). Again, the imposition of a set of default rules on communication networks or on the deployments of the hardware and software that constitute the virtual realm of the digital media, could provide an alternative to digital governance under the process-oriented governance approach, which is far better than the political governance processes of governments. The author admits that under this regulatory approach, the primary sources of default rules are the technology developer(s) and the social processes through which the customary uses of the technology evolved [3].

But, for the success of any of the three approaches, the author, however, suggests the adoption and design of two basic procedural principles of governance and regulatory arrangements, whose proposals are also adopted into this paper: Firstly, the rules of participation should be such that both government and private sector can encroach into the virtual realm to embed their distinctive values within the architectural codes. Additionally, the architectures of cyberspace should be designed to protect such basic values as "liberty, free speech, privacy, and access" [3].

Secondly, serious attention should be given to the social dynamics of governance and regulatory processes. This is a political process of interaction that allows for multifaceted power relations and a collective allocation of values, features and boundaries to conventional or cyberspace policy decisions and directions within nation-states or organizations. This social dynamic is, therefore, essentially important for the success of the regulatory and governance processes [40]. It is through the social processes that "regulatory initiatives establish social, political, and cognitive legitimacy within cyberspace" [3].

For Paré, the catalysts for regulatory successes and changes are often embedded in the techniques and tactics employed by social actors to develop and administer the complex and diversified regulatory ideas, negotiate across ideas, resolve conflicts of interests, and reach consensus in the handling and framing of understanding for innovations in regulatory and implementation frameworks, as well as the legitimacy of the process itself. Based then on the author's insights, it could be argued that it is the openness of the social process to different interested parties and regulatory regimes that would define, not only the legitimacy of applicable governance rules, but also the kind of checks and balances needed to effectively build the kind of cyber architectural environments needed for a healthier regulations of digitalized graffiti writings and artworks.

Methods of the study

The study drew on the strengths of qualitative research design and methods, with oral interview and documentary study serving as the preferred methods of empirical investigations. While oral interview was the dominant method of study to enable the authors connect intimately with respondents, documentary method served only to provide data to fill up gaps in information generated through oral interview. While interviewees' responses were theoretically organized to address the objectives of the study, the method of data analysis was explanation building, to enable the authors to draw out general conclusions for the study. The respondents were purposively selected. Two graffiti artists - Chima James (otherwise known as "Maxy") of Maxy Signature Limited and David Samuel Ainzet, a multidisciplinary visual artist, an architect and director of Ainzet Artistry - were orally interviewed. Also interviewed were Barrister (Dr.) Anthony Ekpoudu from the Department of Commercial and Industrial Law of the University of Calabar and Obadan Christian, an Assistant Director at the National Gallery of Arts (NGA), Abuja. A set of prearranged interview questions were forwarded to them and their recorded responses on WhatsApp Voice Chats were transcribed and used. Physical contacts with the respondents were made difficult by the enduring security challenges in the country. The interviews were conducted between August and October 2023.

Results and Discussion

The arrangement and discussion on empirical findings were meant to respond to the objectives of the study, as well as connect empirical data with the theoretical aspects of the study as raised under the literature review. The arrangement, therefore, begins with the first objective, followed by the others.

Objective one

Graffiti writings (or aerosol arts) were now seen as a legitimate art form in Nigeria. Being one of the ways by which artists express their views and showcase their creativity, the 'writings' are tolerated across all the States of the Federation. The perception of graffiti writing, however, could differ greatly, depending on the context. Ainzet and Ekpoudu (Interviews, 2023) were in agreement that if graffiti writings were done without permission, they could be seen as vandalistic and rebellious, since they involved the defacing of someone's property. In this case, many people would tag them as gang activities. Graffiti might also be considered as rebellious where they contained obscene and vulgar drawings/letterings which were totally at variance with the mores of the Nigerian society.

They added, where graffiti writings were done on approved surfaces and helped artists to make statements and express opinions, they would be seen as legitimate artworks in Nigeria. James, however, argued that the legitimacy of the artworks in Nigeria also depended on who the owner of the property was – government or a private individual – and the kind of permission needed. If it was government's property, most often a written permission was required. But in some instances where the owner was a private citizen, a simple verbal permission might suffice. Again, he tied the legitimacy question to the fact that majority of graffiti writings seen in public spaces were 'commissioned' murals or writings meant for community services. For him, the fact that the majority were 'commissioned' or 'community service-oriented' artworks, meant that they were accepted as genuine, legal, and meant for the common good. Respondents generally admitted that there was now a growing recognition of the artistic values of graffiti in the country, as street artists were increasingly gaining worldwide recognition.

But, in attempting to explain whether graffiti should be protected by law or not, respondents explored a number of issues, including the aesthetical, entrepreneurial and commercial values of the arts, property rights, ownership of graffiti copied from online by another person, and "the relationship between the arts and gentrification" [41]. Respondents argued, on the one hand, that graffiti should not be protected by law by reason of the damage they cause to public and private property, derogatory languages they help to circulate, their contribution to a negative image of communities and the creation of safety hazards across some urban areas [9]. On the other hand, protecting graffiti would encourage freedom of expression that ordinarily would not be available to certain individuals in the mainstream, allow for the representation of opinions and sociopolitical messages, ginger social education and learning, and provide incentives for graffiti artists to create more legal works, among others [24].

That notwithstanding, findings revealed that there were a number of substantive statutory and legislative rulings in place meant to guard against practice abuses. These rulings were not just graffiti-specific, but were meant to regulate the creative arts industries as a whole. These rulings included the Constitution of the Federal Republic of Nigeria (1999, as amended), the Criminal Code Act 1916 (Laws of the Federation of Nigeria, Vol V, Cap 77), the Penal Code Act (Northern States) of Nigeria, and the Copyright Act (Cap C 28, Laws of the Federation of Nigeria 2022, just to name a few.

Equally available were a number of legislations for environmental protections and preventions of environmental pollutions. These environmental regulations sought responsible attitudes and behaviours towards the human environments in Nigeria. One of such legislations was the National Environmental (Sanitation and Waste Control) Regulations of 2009. This law, among other things, makes provisions for environmental sanitation and waste disposal control, including penalties in cases of malfeasances. Each State of the Federation also has its own legislated environmental policies and administrative agencies meant

to control especially the discharge of solid wastes, such as used spray-paint cans and others. While the Abuja Environmental Protection Board, for example, is the agency for the enforcement of all environmental legislations meant to checkmate all forms of degradation and nuisance in the Federal Capital territory of Nigeria, the Lagos State Environmental Management and Protection Law of 2017 consolidates all laws relating to the management, protection and sustainable development of the environment in Lagos State.

Ekpoudo and Ainzet (Interviews, 2023), additionally, agreed and noted that there were also “many traditional and cultural rules affecting the use of graffiti in certain places, such as worship centres, shrines, open squares, and so forth” (Ainzet, Interview, 2023).

Objective two

Sections 12, 20, 33 and 34 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) directly or indirectly recognize the importance of improving and protecting the Nigerian environment. The Constitution also makes it mandatory for the federating States in Nigeria (including the FCT-Abuja) to regulate human behaviours within their environments as pathways to effectively guaranteeing human dignity and the realization of other fundamental human rights as enshrined in the Constitution.

Section 451 of the Criminal Code Act (1916) views malicious injuries to any property (public or private) as unlawful and constituting a misdemeanor or felony, depending on the type and degree of damage [42]. Section 440 of the Act provides that an act which causes injury to a property is unlawful if it is done without prior consent or excused by law. The term ‘injury’ or ‘damage’ “is construed in terms of writing or inscription, and includes obliterating and rendering illegible, either in whole or in part” (Section 442 Cc). The offender, if found culpable, is liable to a term of imprisonment, whose punishment could range from a maximum of one to two years; and, between two to five years for repeat offences. Also, Section 233 (d) of the Act prohibits the publication of obscene matter, while Sections 245-248 deal with offences ranging from water fouling, to the use of noxious substances in public with harmful consequences. The Act contains a number of other provisions for the prevention of public health hazards and general environmental protection.

While the Criminal Code Act was meant to regulate and punish criminal activities committed within territories in the Southern region of the country, criminal activities in the Northern states were regulated through the Penal Code (Northern States) of Nigeria that was meant to reflect diverse values in penal legislations. Section 351 of the Penal Code, in particular, prohibits any deliberate defacing of a public or private property. The provision imposes a penalty of a fine or one year imprisonment on anyone found culpable of damaging, destroying, rendering useless or spoiling an object which wholly or partially belongs to someone else.

Also, the laws of defamation may be enforced against someone who uses graffiti to malign another person’s character. Section 375 of the Criminal Code Act, for instance, provides for defamatory matters. According to the law, “any person who publishes any defamatory matter is guilty of a misdemeanor and is liable to imprisonment for one year”. It also adds that “any person who publishes any defamatory matter knowing it to be false is liable to imprisonment for two years” (Criminal Code Act, pp.3143-3306). As explained by Ekpoudo, “graffiti in Nigeria is an issue that the courts may have to deal with. Where it is used to negatively depict a person or damage his reputation, then the artist may be sued for defamation” (Interview, 2023).

The purpose of the law of defamation is to protect the good reputation of a person from being damaged by another person. For Ekpoudo, any defamation carried out through graffiti would be considered as ‘libel’ (that is, a damaging statement in visible or permanent form) as opposed to ‘slander’ which is a defamatory statement “made in a transitory form or word of mouth” (Interview, 2023). The interviewee further explained that “where the graffiti art is a caricature or painting of a person or group and is aimed at lowering a person’s reputation, then it is actionable ‘libel’ and the artist will be liable [See *Monso v. Madam Tussands Ltd* and *Bakare v. Olumide*]. Also, where the graffiti imputes the unchastity or adultery of a person or group especially females, the artwork is clearly defamatory and actionable. Unchastity has been held to include lesbianism [See *Kerr v. Kennedy*”] (Ekpoudo, Interview, 2023).

Ekpoudo, additionally, noted that sometimes a graffiti artwork may be an innuendo, which means ‘to hint’. Defamation by innuendo, he said, “is a special and indirect form of defamation. It is a defamation by use of words or even signs which are not defamatory in themselves, but are defamatory because of a special or secondary meaning, surrounding facts or circumstances which are known to those to which it is directed... It is the words and their meanings within the hidden words, letters and signs that are defamatory” (Ekpoudo, Interview, 2023). The respondent further indicated that where a graffiti artist used innuendo hidden in graffiti arts to pass a derogatory information to special class of persons about a person, then he or she would be liable for defamation [See *Cassidy v. Daily Mirror Newspapers Ltd*; *Akintola v. Anyiam*].

The Copyright Act of Nigeria also grants protective cover to graffiti and other street arts in the country. Section 1(i) of the Act lists some works which are eligible for copyright protection. According to Ekpoudo, graffiti could be considered under the general definition of ‘artistic works’ in the Act. The basic requirements for eligibility are that the artwork must have an original character and be fixed in a definite form of expression, now known or later to be developed, reproduced or otherwise communicated either directly or with the aid of any machine or device. The implications here, according to Ekpoudo, are: (i) where the graffiti were original works fixed on definite forms from which they could be further developed and reproduced, then they would enjoy copyright protection; and (ii) where the graffiti were documented online, reproduced or communicated digitally, they would also enjoy copyright protection. The respondent was of the view that “any infringement will attract damages and an injunction”. According to Section 1(3) of the Copyright Act, the artworks might not, however, be eligible for copyright if at the time of their making, they were intended by their makers to be used as a model or pattern to be multiplied later by any industrial process (Ekpoudo, Interview, 2023).

Some of the respondents also admitted, in varying ways, being aware of the existence of the criminal laws that regulate against vandalism and malicious damage of property, as well as the environmental laws meant to maintain the cleanliness and preservation of the urban decorum and rural environments. Ainzet, for example, admitted being aware of the environmental laws of Kaduna State. The urban decorum laws in Kaduna State, he argued, granted powers to local authorities to give approval for the use of public spaces for the display of mural and other art forms to ensure that such arts aligned with the city’s aesthetic plans. He maintained that there were also other legal measures and social norms in Kaduna State that promoted respect for public spaces.

Christian, however, claimed that, apart from the Copyright Act, he was not aware of any other law that regulated graffiti writing in the country. Just like Christian (and unlike Ainzet), Chima did not know about any of the laws regulating graffiti practice in Nigeria. He was, however, aware that it was wrong “to mark arts on a space or on a property without permission from the appropriate authority” (Chima, Interview, 2023). He expressed interest in reading and reviewing such laws if copies were made available to him. For him, engaging in graffiti installations for government parastatals, businesses, or educational sectors as ‘commissioned’ works, was “more like a form of advertisement for us here, rather than a practice of vandalism” (Chima, Interview, 2023). Critically, Chima failed to recognize that even in public adverts, there were also rules requiring particular forms of professional behaviours rather than the others.

Objective three

Respondents did not engage extensively with this subject area, for unknown reasons. Two respondents, however, offered divergent views. Christian expressed a deep sense of dissatisfaction with the level of implementation and compliance to the existing regulatory laws on graffiti arts in the country. For him, it is the low level of implementation that generally made it difficult for the government (Federal or State) to succeed in managing abuses in the creative arts industries, generally. Ainzet, in contrast, said he was satisfied with the level of implementation and compliance. While acknowledging the fact that a lot of graffiti artists in the country had been practising professionally without being arrested for breaches of regulatory rules, Ainzet admitted also that graffiti writers specifically in Kaduna State “have really played a great role by keeping to the available regulatory standards and laws on graffiti writings in the State”

(Ainzet, Interview, 2023). He affirmed that most of the graffiti artists he knew – Jessy Josh, Osa Seven, Chima Eke, etc. – really understood these legal standards/ethics and abided by them to maintain professionalism.

He noted, additionally, that there were still a few issues bordering on practice standards that graffiti writers in Nigeria needed to give attention to: First, respect for private property must be pursued as an essential ingredient of the practice to avoid issues with individuals, the police, or local authorities. Second, the use of offensive contents (e.g., inappropriate language, symbols, images, etc.) in graffiti expressions in the country should be avoided at all costs. This would help to maintain social harmony and prevent potential backlash. Third, graffiti artists in the country should consider using environmentally-friendly materials and techniques to avoid harm to the natural surroundings or the public infrastructure around them. Fourth, graffiti artists should collaborate fully and constantly with local authorities, local communities and other stakeholders to foster good practice relationships and, thus, create sanction-free atmospheres for their projects. Such collaboration, he argued, would “help graffiti artists to contribute to beautifying public spaces in their areas of domicile while adhering to regulatory guidelines” (Ainzet, Interview, 2023).

Respondents, generally, favoured a proactive implementation and enforcement of the practice rules. While the enforcement would vary from state to state or region to region, Ainzet was, however, of the view that, in essence, conscientious enforcement would ensure good practice and civility among graffiti artists across all the States.

Objective four

One of the challenges to a proper and more effective regulatory management of graffiti writing in the country was the resolving of the legal ambiguity surrounding the graffiti arts themselves. Even though graffiti were largely seen as a form of artistic expression, they were still being regarded in certain quarters as an act of rebellion against authorities. Respondents noted that unless this ambiguity was properly addressed in law and practice, it would remain a challenge to the establishment of clearer regulatory guidelines for the alternative art industry in Nigeria.

Again, the art industry was viewed as “a free-for-all business in Nigeria” (Ekpoudo, Interview, 2023). While this conception was not entirely bad in itself in view of the fact that people should be free to develop/use their skills and feel protected by the laws of freedom of thought, respondents, however, argued that because abuses were increasingly becoming evident in the practice in the country, it was necessary that the display of artworks be regulated and/or re-regulated to ensure respect for private spaces. Ekpoudo (Interview, 2023), in particular, insisted that regulatory agencies of governments should ensure that obscene and vulgar arts were not displayed anyhow. They could be displayed in galleries where their audiences could be better screened; while abusive and over-rebellious graffiti should not be allowed to see the light of the day. Alternatively, he noted, the creators of these oversensitive arts could be made to modify the unwanted part(s) before they were allowed for displays at public spaces.

The negative perception of some local communities about the worth or value of graffiti was another challenge. Ainzet was of the view that community's perception was often coloured by religion or socio-cultural factors. In Northern Nigeria, for example, Islamic religion affects the ‘reading’ of virtually everything in the region and this has gone a long way in limiting the level of freedom of expression of artists, generally. While religion provides the social norm necessary for curtailing abuses in artistic practices in the region, it has failed in enabling a proper balancing between the interests of the artists and that of the local communities. For Ainzet, religion was a very challenging perspective for artists as well as for regulatory practices particularly in the northern part of Nigeria. Proper management of the situation, therefore, “called for the need to evolve a collaborative synergy among artists, communities, law enforcement agencies and all local authorities in order to find a balance between promoting legitimate forms of graffiti and mitigating the negative impact of illegal graffiti in our society” (Ainzet, Interview, 2023).

Ainzet's view on the need for cross-sectorial synergy and collaboration, however, found agreement with Paré and Okon's earlier recommendations

of workable social dynamics, with clearly defined rules of participation, for successful constitution of the necessary procedures for media regulatory governance across any given society [3,40]. Thus, for communities to be able to move forward in the face of the existing sociocultural challenge, it was necessary to first of all assess the true nature of the specific challenges and thereafter follow up with solutions, using such approaches as problem-solving visions, collaborations and adaptiveness (Ainzet, Interview, 2023). Graffiti artists could also leverage on new technologies that would aid them to remain resilient, stay informed about specific legal requirements, seek connectivity and continuity, as well as learn and improve their creative minds [14].

On regulating digitized graffiti, respondents acknowledged that governing online graffiti particularly in Nigeria could be a very complex task. Christian, for instance, was of the view that Nigeria currently lacked the capacity to regulate digitalized graffiti. Other respondents agreed that, in spite of this difficulty, there were still potential approaches that could be used to minimize ‘fakeness’ and ‘abuses’ in the online graffiti spaces. Ekpoudo, for instance, argued that because legislations and case laws specifically targeting digitalized graffiti were scanty in Nigeria, it was necessary for an administrative agency of government to be established to oversee the matter. Ainzet and Christian shared a similar perspective. For Christian, the use of abusive and derogatory language through online arts, among others, was a common occurrence. One of the challenges in curtailing it was the lack of a regulatory council for effective management of the visual art sector, generally. He averred, “We need a regulatory council for the registration of all artists and for the standardization of professionalism in the field. Establishing such a council was the best way forward in bypassing some of the existing regulatory challenges in relation to graffiti writing” (Christian, Interview, 2023). For Ainzet, such a body was necessary to reduce the wanton defacing of public property, enable the creation of an ambience for public space aesthetics, as well as the use of vibrant colours to brighten business premises, or for providing psychological therapy for disenfranchised youths through arts.

Though Ekpoudo and Christian's views were valid, critically, the country is not entirely devoid of professional and management bodies. The Professional Art Association of Nigeria (PAAN), the National Council for Arts and Culture (NCAC), and the National Gallery of Arts (NGA), for instance, ordinarily should play crucial roles in promoting and self-regulating the Nigerian arts industries. But the viability of these agencies has always been in question. Again, the agencies have been criticized for not maximizing their full potentials which, in part, accounted for NGA's 2010 push for the amendment of its 2004 establishment Act to make it more service-oriented and revenue-driven [43].

As affirmed by Adora, these controlling and management agencies were today generally underperforming, making it seem like there were no controlling or regulatory bodies in existence or with recognized legislative functions [44]. In consequence, most visual artists and other practitioners in the creative industries were left to register only with revenue-driven voluntary associations with lesser regulatory and management powers than the controlling bodies of governments.

Arguably, while the quest for governmental regulatory agencies was germane, the existence of high performing agencies of governments (Federal and State) for visual artists in the country would be preferred, which would work to help lower the chances of disrespect for public decorum across the States and assure a higher recognition of the ethical/legal processes necessary for the increasing professionalization of the visual arts practices across the country.

Respondents, however, highlighted a few more governance and regulatory approaches needed (Figure 1). These strategies could also be stretched to the regulatory needs of the Sub-Saharan regional bodies for visual industries [45-47]. These included:

- **Implementation of verification systems for genuine graffiti artists:** This approach could be done by way of creating platforms where graffiti artists register their works and provide evidence for their authenticity by showing the processes employed to achieve the masterpiece. That is to say, an artist would need to show how he or she drafted out the idea of the artwork, how he or she took



Figure 1. Proposed approaches for effective governance of offline/online graffiti in Nigeria.

the dimension of the original wall upon which to fit in the work when originally completed, and how he or she brought about the graphic illustrations before installing the work professionally on the wall, etc. When such a procedure was uploaded on the platforms alongside the artworks, the authenticity of the artworks and the right of authorship of every graffiti artwork would be clearly shown. This proposal has found some degree of contact with Mendelson-Shwartz, et al [39] "Street Art-NFT-System (SA-NFT)" (p. 1). NFT-based system is both a documentation and verification method that could offer a useful technical model for developing the kind of verification system envisioned by the respondents. Interviewees were, however, not specific with regard to the agency of government that should be entrusted with the registration and documentation responsibility.

- **Community moderation:** This approach entails the building of a strong community of graffiti artists from far and near the country. It also requires a strong connection between the already established professional graffiti artists and those who are new to the terrain, to broaden and deepen their social and professional relationships. Such connections could help in moderating the practice of people spreading rumours of artworks they had never done. Such community of graffiti artists, additionally, would create access for new entrants to be educated about the processes they should follow in the course of executing their graffiti projects; as well as offer insights on how the graffiti art market works. Such an educational venture could also help reduce ignorance regarding applicable practice rules and regulations.
- **Structures of accountability:** The creation of structures that would encourage transparency and accountability by government agencies responsible for regulatory and administrative activities within the creative industries, particularly in the areas of promoting financial disclosures, fair contracts, or the reporting of any form of unethical practices within the creative industries was also mentioned. This approach would ensure trust and confidence that would also encourage the fidelity of artists to practice rules and procedures.
- **Support mechanisms:** This entails the establishment of support mechanisms (grants, funding and mentorship) by governments to help independent and upcoming artists find their footings and grow legitimate creative businesses. The understanding was that such mechanisms could help to reduce power imbalance between the creators of artworks on larger entities and new entrants, as well as

minimize the potential for the exploitation of upcoming graffiti artists by the older ones.

- **Education of artists about their rights and expectations:** Investments by the relevant agencies of governments in the creation of awareness and education of practitioners about their rights and ethical responsibilities was another measure mentioned. The importance of seminars, workshops and regularly updated online resources for artists to have access to knowledge about their rights and expectations as well as the standard industrial codes and to be able to educate many others, was stressed. This educational process was to be spearheaded by appropriate agencies of governments. Christian, in particular, stressed the importance of reviewing the curriculum for art schools to enable students, not only to know the business of art making, but also the discipline and the art of branding required for the visual arts sector.
- **Cross-border partnerships:** Respondents also recognized the need to strengthen existing cross-border collaborations and regulatory partnerships with international stakeholders, designers of new media applications for displays of artworks and professional associations or the establishment of new ones necessary to address any potential lapses in applicable laws particularly about online graffiti writings in the country. This would include sharing the rules for online best practices and effective procedures for online uploads of digitalized graffiti contents, harmonizing regulations and jointly enforcing global ethical standards agreements.
- **Provision of legitimate writing sites:** Public authorities across the different States of the Federation should allocate public spaces for graffiti artists to practise their artworks. For them, this approach would fit with international best practices and help to reduce the possible breaches of the mandatory requirement for graffiti artists to secure permission before creating their graffiti arts in public spaces: "When such areas are allocated and walls given to the artists to design and install their artworks, it would also help to beautify the community" (Chima, Interview, 2023).
- **Use of a holistic regulatory approach:** Respondents, however, noted that, for the purpose of more inclusive and holistic regulation of the sector, the adoption of a combination of the aforementioned strategies and control measures would be the best way forward in minimizing practice abuses and promoting a more ethical/professional graffiti writing environment in Nigeria.

Chima, however, rejected any form of strict regulation for digitized artworks generally, except in cases of hackings that make what was original look fake: "I don't think there should be a form of regulation for digitized artworks because in my own reasoning, people should be free to upload whatever they want. Regulation, however, could become necessary to guard against hackers whose acts can make original artworks seem false" (Chima, Interview, 2023).

Chima's view, apparently, connects well with the laissez-faire regulatory proposals discussed earlier by Paré, whereby the Internet is seen as lacking a 'holistic whole'; thus, making the enforcement of regulatory decisions and the tracking of defaulters sometimes difficult (if not unnecessary) [3]. But, with regard to the regulation of non-digitalized graffiti arts, Chima argued that vandalization of property through artistic 'writings' was not something very common in Nigeria. For him, majority of artists in the country saw their practice as their major source of livelihood; and, given the range of materials the artists used in creating their artworks vis-à-vis the cost of those materials, not many artists would think of engaging in wanton vandalism of public surfaces or another person's property. For him, engaging in such illegal practice would make any graffiti artist unable to "realize their primary goal of making a living from the practice" (Chima, Interview, 2023).

Chima was also emphatic that graffiti artists do not need permission to draw and/or display. He maintained that online graffiti were rarely faked, once the artists were consistent in the practice and well known. He reasoned that "being well-known" was a useful way of differentiating between the 'authentic'

and the 'fake' graffiti arts (Chima, Interview, 2023). For him, it was impossible to vandalize any online publishing space, as such, graffiti artists should be free to document their artworks online without fear of backlashes. But where graffiti arts, uploaded online, were subsequently installed on a property offline by another person, then permission was required not only from the property owner but also from the original author of the artwork, both as a matter of civility and fidelity to the rules of the laws guiding the alternative visual arts industry.

Objective five

Respondents were divided on whether fidelity to the available control measures would hold any opportunities for the artists. Chima, for example, noted that rather than open up opportunities for growth for graffiti artists, some of the regulatory policies in the country would have limiting effects on them. He argued that the fully-implemented rules would, for instance, reduce the freedom of expression of upcoming graffiti artists. While the fully-established graffiti artists would find it easier to get approvals to use public spaces to practice, the upcoming ones would, perhaps, not find it that easy, because they were not well known and would be viewed by property owners with suspicions. Thus, some of the existing laws, Chima reasoned, would work better for the already established graffiti artists.

Ainzet, on the other hand, was of the view that if properly and effectively implemented, the available regulations would provide graffiti artists and their associates with enormous opportunities for the promotion and sustainability of their artistic practices. These benefits would include the ability of graffiti writers to showcase their skills legally and gain legal recognition in the society. The legal recognition, resulting from their legitimate form of artistic expression, would also help reshape the conceptualization of graffiti as vandalism, leading to increase acceptability of the arts in local communities. Again, government would be encouraged to designate specific public spaces for graffiti artists in the country to create their walls, with the consequence of a remarkable reduction in the likelihood of illegal graffiti being circulated online. Fidelity to the rules would also help to grow a sense of community and foster mentorship programmes, which could further strengthen creativity within the local graffiti art community. Also, it would throw doors open for economic opportunities through 'commissioned' murals in public places, whereby graffiti artists would be allowed to monetize their talents and contribute to the national economy.

Corroborating the economic perspective, Ekpoudo added that local regulatory policies would benefit the citizens if they could prohibit the use of foreign graffiti arts in animation or even advertising products in the country. For him, because most of the graffiti used in advertising or animated movies were foreign, they had detrimental effects in promoting local cultures and skills. This situation, he observed, needed to be addressed through proper implementation and fidelity to the rules. Ekpoudo was emphatic that while regulation would bring wealth to the artists who were 'commissioned', it would also bring order and discipline into the visual art industry. Besides, it would broaden the spaces for cooperation in the development of graffiti as a means of communication and national development and respect for "the originality of people's artworks" (Ekpoudo, Interview, 2023). Fakeness in online or offline graffiti, he argued, would be reduced and only information that promote community and natural values would form the basis for authentic graffiti writings in the country [48,49].

Conclusion

The study set out to investigate the regulatory trajectories available to graffiti writers in Nigeria, guided by the chosen objectives of the study. It highlighted, among others, the core contents and demands of the available practice rules, the level of implementation and adherence to the rules, the challenges and prospects in relation to the regulations of graffiti writing, as well as the opportunities that would follow in keeping to the rules of the practice.

Depending on the context of production and place of display, graffiti writings were now accepted as legitimate arts practices in Nigeria. There were, however, some issues that should inform their protection through regulation; as well as issues that should necessitate their control to stem abuses. These

bordered on the aesthetics, expressive, decorative, entrepreneurship and commercial values of the arts, among others. It is undeniable that graffiti have become a means of aesthetically improving the cities with other 'non-traditional' art forms. Some social actors and local authorities have also acknowledged this social function and dedicated spaces where street artists, generally, could express their creativity. While a number of artworks displayed either offline or online, were 'good' and could be considered as 'fine' arts, there were elements, such as the display of artworks on surfaces without prior permission, the use of certain cultural images or sensitive languages and other defamatory statements, that would substantially make the practice criminal; and, thus, regulatable.

In regulating the disturbing aspects of graffiti, evidence shows that it was the same sets of rules used by governments for the mainstream arts that were also applied to the graffiti arts industry. Again, while a wide range of regulatory standards were currently being applied, ranging from the demands of the different environmental laws of the federating States, to the different social and religious norms meant to ensure respect for public and religious spaces, the most dominant principles were those contained in the 1999 Constitution of Nigeria (as amended), the Criminal Code Act, the Penal Code Act, and the Copyright law, to which graffiti artists in the country were expected to subscribe, in order to avoid unpleasant legal consequences.

Both the Criminal Code Act and the Penal Code Act considered malicious injuries to property as an offence, with sanctions imposed on defaulters. Graffiti artists in Nigeria should, therefore, remain conscious of the fact that they were not privileged in law to prove that their graffiti writings were simply creative skills or 'good' arts. Such perception must be seen simply as subjective since some other persons still considered graffiti writing as constituting vandalism. What this means is that permission is needed from owners of surfaces used for graffiti writing to become legal in Nigeria. Whether it was in the case of a 'commissioned' or 'community service-oriented' artwork, a written agreement was necessary to authenticate it. Also, under the general principles of the Nigerian Copyright Act, other legal provisions notwithstanding, the author of a graffiti art should hold the copyright over the work, whether it is published online or offline.

The available rules have, however, been judged as inadequate to cater for the effective governance of the digitalized alternative art sector, by virtue of some regulatory lapses, low performances of those agencies of governments charged with the responsibility of enforcing them, and the contradictions inherent in the public perception of the graffiti arts themselves. Also, with the increasing integration of graffiti into new media, it is argued, the legal systems regulating them have been opened up to new legal dilemmas and challenges and would require some level of amendments to make them more relevant and effective. But where the existing rules were religiously enforced and followed, it was discovered that a number of benefits would accrue to both the artists and the national economy, including the rightful recognition of the artists, the understanding and appreciation of their style of art, and improved income for the artists and the country at large, just to mention a few.

However, for a better regulatory and practice environments, the following recommendations are made:

- (i) Graffiti artists in the country should collectively and assiduously work to ensure timely and broad distributions of knowledge about the ethics of the practice, particularly to the upcoming artists to help professionalize them.
- (ii) There should be increased allocations of offline writing spaces for graffiti artists across the States in Nigeria to encourage growth in the skills of graffiti writing, promote the aesthetics of local communities, provide alternative therapeutic channels for disenfranchised youths, and reduce claims of malicious injuries to private surfaces.
- (iii) The Nigerian governments would need to adopt, proactively, a number of the regulatory proposals suggested by the respondents for the control of possible abuses particularly in the online graffiti writing spaces, including the need for the establishment of a viable, visionary and credible regulatory and management Council for the alternative

visual art sector, that could work alongside other professional bodies and cultural agencies of governments, to ensure the upward mobility of the sector.

- (iv) When the courts in Nigeria evaluate whether a certain form of graffiti constitutes an act of vandalism, they should stay open to adopt the principle of the *Manu Invisible* case, and thus acquit graffiti artists charged with offences when their graffiti arts contain some form of creativity, while the artists erred only in placing the arts on already defaced surfaces.
- (v) For the purpose of further study, the paper also recommends an exploration of the history of graffiti writing in Nigeria, to enable new entrants into the field and students in art schools to learn from their past.

Conflict of Interest

The authors report no conflict of interest.

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