



THE LAW OF SEDITION: IMPLICATIONS FOR THE PRACTICE OF JOURNALISM IN NIGERIA

Gabriel T. Nyitse (Ph.D)¹ and Terhile Agaku²

¹Department of Journalism & Media Studies, Bingham University, Karu

Email: ikyengbuusu@gmail.com; Tel: 08036150060

²Department of Journalism & Media Studies, Bingham University, Karu

Email: fishagaku29@gmail.com; Tel: 08064407940

Cite this article:

Gabriel T. N., Terhile A. (2023), The Law of Sedition: Implications for the Practice of Journalism in Nigeria. British Journal of Mass Communication and Media Research 3(1), 59-71. DOI: 10.52589/BJMCMR-QLDUXEYZ

Manuscript History

Received: 26 June 2023

Accepted: 17 Aug 2023

Published: 8 Sept 2023

Copyright © 2023 The Author(s).

This is an Open Access article distributed under the terms of Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International (CC BY-NC-ND 4.0), which permits anyone to share, use, reproduce and redistribute in any medium, provided the original author and source are credited.

ABSTRACT: *This study was conducted to examine the law of sedition and its implication for the practice of journalism in Nigeria. The study is premised on the tenets of the social responsibility theory while the secondary sources of data relevant to the discourse were relied upon for analysis. It was revealed that the freedom of expression is a fundamental human right enjoyed and protected by law in civilized and democratic societies, however this right is not absolute anywhere in the world as the fundamental human rights are restricted by the law of sedition which restricts journalists from publishing or undertaking actions that bring into hatred, ridicule or contempt to the government in power, or incite or provoke the citizens to rise against or seek to remove the government in power. It was also revealed that sedition is a punishable offense under the Nigeria law as journalists in Nigeria have been charged for various seditious offenses in the past. The study equally revealed that journalists charged for sedition have the right of defense through lawful excuse, prove that words used were not seditious as well as claim ignorance of the act. The study concludes that the law of sedition is a compromise to freedom of expression because constructive criticism is an indispensable tool especially in a democratic society. However, the law of sedition law has been used by the government as a tool to regulate citizens' opinions and indiscriminately wield power. The government uses the law to suppress the protesting views of the public and journalists alike. The study recommends that journalists should operate within the ambit of freedom of expression guaranteed by the fundamental human rights for a better society, journalists should observe the ethics of the profession as safety measures against being accused and charged for sedition and journalists should be conversant with laws that tend to inhibit their practice.*

KEYWORDS: Journalism, Law, Nigeria, Offense, Practice, Punishable, Sedition.



INTRODUCTION

All over the world, freedom of expression is an important element of a democratic society. The right to freedom of expression is a fundamental human right which is recognized and protected by law. Freedom of expression is evident and guaranteed in every democratic and civilized government. The right to freedom of expression is universally and globally approved, hence it is the right to express one's ideas and opinions freely through speech and other forms of communication but without deliberately causing harm to others character and or reputation by false or misleading statements.

The First Amendment to the U.S Constitution clearly states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances”. This implies that the first Amendment protects the citizens against governments actions that usually prevent them from freedom of expression.

This position is further enhanced by Ademola (2003) argument that one of the cornerstones upon which a society is built is “freedom of expression” as most constitutions provide for freedom of expression to ensure that debate on public issues may be robust, transparent and such debate may well include vehement, caustic and sometimes unpleasant sharp attacks on government and public officials. Article 19 of the Universal Declaration on Human Rights (UDHR), a United Nations General Assembly resolution, guarantees the right to freedom of expression thus:

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

According to Igwe and Alunegbe (2016), the right to freedom of expression is recognized and guaranteed internationally, regionally and municipally. Thus, the Universal Declaration of Human Rights 1948, as well as the International Covenant on Civil and Political Rights 1966, recognized this right as fundamental human rights. In the words of Nwokolo, the African Charter on Human and People Rights 1981 also recognizes this right as Nigeria is signatory to some of these treaties, and has not only ratified some of them but has also incorporated some of them into her domestic laws, making them domestically recognized and guaranteed.

The above view is enhanced by the Constitution of the Federal Republic of Nigeria 1999 (as amended). Section 39 (1) provides that “Every person is entitled to receive and impart ideas and information without interference” (2). Every person shall be entitled to establish, own and operate any medium for the dissemination of information, ideas and opinions: Provided that no person other than the government of the federation or of a state or any other person or body authorized by the President on fulfillment of conditions laid down by an act of the National Assembly shall own, establish or operate a television or wireless broadcasting station for any purpose or whatsoever. In essence, Section 39 of the Constitution of the Federal Republic of Nigeria is about the right to freedom of expression and the press. This section of the Constitution clearly states that every citizen of Nigeria is entitled to freedom of expression through whatever medium desires and also, to impart others with such ideas and opinions



without interference. The government however ensures that freedom of expression is not abused or used to create disorder or chaos in the society.

The law of sedition imposes restrictions on freedom of expression that is within the ambit of legislative interference with the fundamental right of citizens. For instance, the court in the case of *D.P.P v. Obi* clearly painted a scenario to illustrate the limit beyond which free speech must not extend. The court emphasized that a person has the right to discuss any grievance or criticize, canvass and censure the act of government and its public policy, such an individual may do this with a view to effecting a change in the party in power or to call attention to the weakness of a government, so long as he keeps within the limits of fair-criticism (Ikenga, Okeke & Igwe, 2018).

Despite wide condemnation or criticism, sedition, although abolished or strictly limited in some common law jurisdictions, has continued to exist in different forms in many countries including Nigeria. Sedition is the act of inciting a revolt against a legally established government with the intent of destroying or overthrowing the government in power. Longley (2021) argues that in the United States, sedition is a serious federal felony punishable by fines and up to 20 years in prison. A seditious speech has to do with any oral advocacy to overthrow the government or destruction of the state by force or through violence means. Sections 50-52 of the Criminal Code and Sections 416- 422 of the Penal Code provides for the offense of sedition in Nigeria provides that the law of sedition is justified on the grounds that a sovereign government has the right to resist both internal and external aggression, and to protect the citizens of the state from harm.

Recently, the law of sedition has been 'modernized' for counter-terrorism context. Modern sedition laws target types of speech advocating violence against the state in the form of religious sermons, preaching, violence, jihad or glorifying acts of terrorism. For this reason, the modernization of sedition laws renewed debate about the status of free speech and religious expression (Kipruto, 2019). Under the common law or statutory offenses, sedition involves uttering seditious words, publishing or printing seditious words, undertaking a seditious enterprise, or engaging in a "seditious conspiracy".

It is against this backdrop that this study set out to examine the implication of sedition law for the practice of journalism in Nigeria.

CONCEPTS

The Law of Sedition

Sedition is said to occur when an individual or the press publishes (in whatever form) words, or undertake actions that bring into hatred, ridicule or contempt the government in power, or incite or provoke the citizens to rise against or seek to remove the government in power, such an individual or media organization can be sued for or alleged to have committed an act of sedition.

The law of sedition "is intended to protect the government in power as well as to keep down those opposing the government on its policies within reasonable safe limits". Sedition in itself is a comprehensive term and it embraces all practices, whether by word, deed or writing, which



are calculated to disturb the tranquility of the state. Olamide (2016) argues that sedition can be aptly defined as any act, speech or publication that is done with a seditious intention. Section 50 of the Nigerian Criminal Code defines seditious words as “words having a seditious intention and seditious publication as publications having a seditious intention”. Section 50(2) states clearly that a “seditious intention is an intention:

1. To bring into hatred or contempt or incite disaffection against the person of the Head of the Federal Military Government or the military Governor of a state or the Government of the Federation or any State of Nigeria as by law established or against the administration of justice in Nigeria; or
2. To incite the citizens or other inhabitants of Nigeria to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Nigeria as by law established; or
3. To raise discontent or disaffection amongst the citizens or other inhabitants of Nigeria; or
4. To promote feelings of ill-will and hostility between different classes of the population of Nigeria.

The implication is that sedition is a crime that deals with the conspiracy to disrupt the legal operation of the government. It is a crime that deals with attacks on authorities and institutions as well as incitement of segments of societies against one another. The object of sedition is generally to induce discontent and stir up opposition against the government as well as bring the administration of justice into contempt.

Journalism

Journalism is the activity of gathering, assessing, creating, and presenting news and information. It is also the product of these activities. Journalism is the collection and editing of news for presentation through media. Sambe (2007) argued that journalism is the art and science of gathering, selecting and processing information or ideas, and intelligence for dissemination to the public. The media of dissemination are usually the print or broadcast channels. In other words, there is journalism for the print and the broadcast. For both of them, the journalist follows the same principles and is guided by the same determinants/values in gathering news materials.

Journalism is the business of a set of institutions that publicizes periodically (usually daily) information and commentary on contemporary issues normally presented as true and sincere to a dispersed and anonymous audience so as to publicly include the audience in a discourse taken to be publicly important (Goh, 2007).

To enhance the above views, Hasan (2013) argues that journalism is the discipline of collecting, analyzing, verifying and presenting news regarding current events, trends, issues and people. This implies that journalism is a profession which has to do with the process of gathering, processing and disseminating information through a medium for public consumption. In summary, journalism is the gathering, preparation, and distribution of news, related commentary and feature materials through print and electronic media such as newspapers, magazines, books, blogs, webcasts, podcasts, social networking and social media sites, and e-mail as well as through radio.



THEORETICAL PERSPECTIVE

This study is premised on the tenets of the social responsibility theory. The theory originated from the Hutchins Commission of 1947. The social responsibility theory is based on the assumption that the media serve essential functions in the society. Therefore, it should accept and fulfill certain obligations to society. These obligations are to be met by setting high professional standards in communication of information, truth, accuracy, objectivity and balance. In accepting and discharging these obligations, the media should be self-regulatory within the framework of law and established institutions (Hasan, 2016).

The theory encourages total freedom of the press without censorship encourages the press to be regulated according to social responsibilities and external controls. Content is also filtered through public obligation and interference. McQuail (2005) in Ineji, Nkanu and Okoi (2018) summarized the tenets of the social responsibility theory as follows:

1. Media should accept and fulfill certain obligations to society.
2. These obligations are mainly to be met by setting high or professional standards of information, truth, accuracy, objectivity and balance.
3. In accepting and applying these obligations, media should be self-regulating within the framework of law and established institutions.
4. The media should avoid offensive content triggering crime, violence or civil disorder or harm to minority groups.
5. The media as a whole should be pluralist and reflect the diversity of their society giving access to various points of views and rights of reply
6. The society and the public have a right to expect high standards of performance, and intervention can be justified to secure the public good.
7. Journalists and media professionals should be accountable to society as well as to employers and the market.

Social responsibility is an ethical theory in which individuals are accountable for fulfilling their civic duty, and the actions of an individual must benefit the whole of society. In this way, there must be a balance between economic growth and the welfare of society and the environment. The social responsibility theory demands that the media should act responsibly by realizing that they have certain obligations to the public rational decisions.

Bajracharya (2018) in a study "Social Responsibility Theory" identified the strengths of the social responsibility theory to include:

1. The social responsibility theory helps in avoiding conflicts during wars and conflicts.
2. The theory also accepts public opinion and works for the citizens.
3. Press and media houses do not have monopoly as rules and ethics guide them.
4. The media publishes truth due to regulatory activities and their moral obligation to do so.



5. Yellow journalism decreases as the media can be questioned by the law and public.
6. There is pluralism and diversification on news and people involved.
7. The voiceless and marginalized people are able to raise their voice.

The social responsibility theory is however criticized on the grounds that the theory avoids conflict situations during war or emergency by accepting the public opinion. Criticisms leveled against the theory equally indicate that the media will not play monopoly because the audience and media scholars will raise questions if the media published or broadcast anything wrongly or manipulated any story. Media standards will improve. Despite the criticisms leveled against the social responsibility theory, the theory is relevant to this study because journalists have moral obligations to consider the overall needs of society when making journalistic decisions in order to produce the greatest good for the society.

REVIEW OF RELATED LITERATURE

Origin and Development of the Sedition Law

This origin of sedition law is traced to Britain with the establishment of the sedition Act of 1661. According to Iredia (2018), the law of sedition was enacted basically to protect the British Monarchy whose authority rested on a concept of “*Divine Rights of Kings*”, a scheme designed essentially to discourage any revolution against the British Royalty. The Act can be broken into: the protection of government and all its organs and then ensuring public peace by discouraging feelings of ill-will and hostility between different people in a society.

In the United States of America, the law of sedition came into being during the tenure of President John Adams (1797-1801), when the Alien and Sedition Act of 1798 was enacted making it illegal for the government of the country to be criticized. This was influenced by the fear at the time that internal dissent could adversely affect the then on-going war between the country and France. It was under the law that Thomas Cooper, a Pennsylvanian lawyer and newspaper editor was indicted, prosecuted, and convicted for his sharp criticism of President Adams (Hoffer, 2011).

In other countries, especially former British colonies, those in power at one time or the other, adopted one form of Sedition law or another for self-preservation. In India, the Sedition law is still being actively used against social activists, political opponents and the media as evidenced by the arrest in 2012 of cartoonist Aseem Trivedi who was charged with sedition because his banners and cartoons allegedly mocked constitution, parliament and India's national flag (Burke, 2012).

In the year 2010, Arundhati Roy and Syed Ali Shah Geelani were arrested for allegedly making anti-Indian speech in New Delhi. The Complaint was filed by Sushil Pandit in the court under Section 156 (3) of the Criminal Procedure Code. Following a court order, the Delhi Police on Monday registered a case of sedition against writer Arundhati Roy, hardline Hurriyat leader Syed Ali Shah Geelani, revolutionary poet Varavara Rao and others on charges of giving “anti-India” speeches at a convention in Kashmir, “Azadi: The Only Way”, held on October 21. The case was registered at Tilak Marg police station under Sections 124 A (sedition), 153 A



(promoting enmity between different groups and doing acts prejudicial to maintenance of harmony), 153 B (imputations, assertions, prejudicial to national integration), 504 (insult intended to provoke breach of peace) and 505 (statements conducing to public mischief) of the IPC and Section 13 of the Unlawful Activities (Prevention) Act.

In Botswana, newspaper editor, Outsa Mokone, who managed the Sunday Standard, one of Botswana's few independent newspapers, was arrested for sedition on account of his report on a late-night car accident involving President Ian Khama. His co-accused, Edgar Tsimane, a senior reporter, allegedly fled into exile. In Bangladesh on the other hand, Agence France Presse, AFP reported the arrest of veteran Magazine Editor, Shafik Rehman for sedition in 2016. Police claimed to have found evidence connecting him to a conspiracy to abduct and murder the Premier's son. This implies that the origin and growth of the law of sedition varies from one country to another.

History of Sedition Law in Nigeria

Historically, the law of sedition is a colonial enactment transplanted from Britain and India to Nigeria despite the differences in political culture (Nwokolo, 2016). It is important to note that the whole idea of sedition is to protect the person of the Queen of Britain being a constitutional monarchy. Hence, the heirs and successors must be protected from acts of mischief or truth, which would bring them to contempt, hatred or incite disaffection against them.

It was this British political tradition that regrettably guided court's decisions on sedition cases in Nigeria. In the Ivory Trumpet case, it was observed that all the cases decided on sedition were when British West African colonies were subjects of the King or Queen of England, or became independent but still a monarchy under the Queen of England. The law of sedition in Nigeria differs from the provisions of the law in other jurisdictions in one particular respect. This explains why Ademola (2003) posited that in Nigeria, there is no need to prove that the accused person did not have the intention of inciting people to violence. This was established in the case of *R. v Wallace Johnson* that violence may well be and no doubt often is the result of wild and ill-considered words but the code does not require proof from the words themselves of any intention to produce the result.

The genesis of the Seditious Offences Ordinance in Nigeria is traced to a pamphlet entitled, "Governor Egerton and the Railway" published in September, 1909. The Seditious Offences Ordinance of 1909, like Decree No. 4 of 1984, criminalized the publication of false reports or statements that exposed a government official or the government itself to ridicule or contempt.

The Law of Sedition in Developing Countries: India, Nigeria, Kenya and Ghana

Dnyaneshwari Patil (2021) in a study titled "Sedition Law and the Attack on Journalists" rightly observes that in India, the law of sedition has always been a controversial topic as there have been calls for delimiting the sedition law from the statute, while others advocating for retaining the law but keeping its implementation within defined legal limits to strike a balance between fundamental rights and national security. The most recent debate regarding the law of sedition has reignited due to the recent order passed by the Supreme Court in *M/s Aamoda Broadcasting Company Pvt. Ltd. & Anr. v. The State of Andhra Pradesh & Ors. (2021)* and the judgment for quashing FIR in *Vinod Dua v. Union of India & Ors. (2020)*.



The Supreme Court has made efforts to re-examine the validity of the colonial-era law of sedition in the petition filed by journalists Kishorechandra Wangkhemcha & Kanhaiya Lal Shukla, challenging the validity of sedition law as it violates freedom of speech and expression in India. It is worthy to note that the sedition law prevailed in India from the colonial era and was used against freedom fighters to suppress their voices. The Indian Penal Code was created in 1860. Originally, sedition law was not in the draft, but the law was introduced in the year 1870. Section 124A stated the offense of sedition under chapter VI of the Code which provides 'the offenses against the State'. The law has been modified multiple times; in 1898, it was again modified through the IPC (Amendment Act), 1898 yet it remains the same. The sedition law had been used multiple times in the past to subdue the voices of the journalists.

In the Nigerian Criminal Law, the law of sedition stemmed from the British colonial rule. It was a law made by the British government with an intent of preventing the locals from complaining about the injustice perceived to have been occasioned by the government. It was also intended to restrict the press from publishing materials which criticized the British administration at the time. For example, the railway scandal during the administration of Sir Herbert Macaulay, this among others resulted in the Seditious Offense Ordinance of November 6th, 1909 which came into force. The picture in this scenario has clearly established that sedition is an offense against the government of the State since the law is made to safeguard in its favor against all forms of criticisms.

An offense of sedition is not deemed to have been committed based on false prepositions but rather, because the truth was told or published and appears to be embarrassing to the government. In other words, the words or publication(s) are perceived as seditious because they are regarded as an embarrassment to the government (Igwe & Alunegbe, 2016). To enhance the above view, Ikenga, Okeke and Igwe (2018) argue that sedition is considered an offense in the Criminal Code in order to preserve public order and safety of the state. Even as all crimes are in one way or the other offenses against the state, sedition, just as treason and treachery, is specifically targeted against the state.

In Kenya, Kipruto (2019) rightly observed that the law of sedition was used in limiting the right to freedom of expression and media. To limit how people communicate as well as to control what is communicated. It was also a powerful tool to quell the fight for democracy and freedom. This was reviewed and corrected by the drafters of the Constitution of Kenya in the year 2010. In the case of *Watoro v Republic*, the applicant was charged with three counts of sedition all of which it was alleged he had committed by printing a seditious document with different intentions. It was urged on behalf of the accused that he ought to be presumed innocent and this ought to have a bearing on the relevance of the maximum sentence which the offense carried. The defense counsel further submitted that the Court ought to bear in mind the prosecution's case and that what his client was charged with was a fair comment within the meaning of section 56 and 57 of the Penal Code. Here the court stated that in such matters of sedition, all those involved would be handled seriously. This was in addition to all related to the matter as the accused was the printer.

According to the West African Journalists Association (2001), the Ghanaian parliament, in July 2001, unanimously repealed the Seditious Laws, which had been used to incarcerate a number of journalists in the past. The repeal follows the passage of the Criminal Code (Repeal of the Criminal and Seditious Laws – Amendment Bill) Act 2001 by a unanimous vote in the House. Following the amendment, any person accused of committing an offense under the repealed



sections will be discharged with all proceedings before the courts on the same sections ceasing. This has enhanced freedom of the press in Ghana as it is legally guaranteed and protected by the 1992 Constitution; however, some laws can be invoked to restrict journalists' and media outlets' activities since the country has a diverse media landscape.

Sadly, Ghana's reputation as one of the freest media environments in sub-Saharan Africa was tarnished in 2016 by the series of physical attacks against journalists. A good example is the January mob attack on a radio station in the Brong Ahafo Region, as well as an incident in April in which a radio presenter at Kumasi-based Fox FM and a panelist were attacked during a live broadcast by supporters of an opposition political party.

Cases of Seditious Charges Against Journalists in Nigeria

In the past, journalists in Nigeria have been charged for various cases of sedition. For instance, in June 2006, two journalists, Gbenga Aruleba and Rotimi Durojaiye were arrested by the State Security Service (SSS) following the transmission of a television interview in which former Senator of the Federal Republic of Nigeria representing Benue North West Senatorial District, Sen. Joseph Waku publicly criticized President Olusegun Obasanjo's government. Both journalists were later charged with "sedition" for writing about the presidential jet and denied bail, for about a month.

At the state level, another media professional, Lere Olayinka was arrested by policemen from the Ekiti State Government House in October 2012. He was arraigned on a four-count charge; namely, sponsoring a seditious publication against the state governor; engaging in conducts likely to cause a breach of the peace; promoting feelings of ill will and hostility between teachers and government of Ekiti and unlawfully inciting teachers against Teachers Development Needs Assessment before he was later discharged and acquitted a year later.

In May 2017, an online publisher, Austin Okai was charged with sedition and defamation against Governor Yahaya Bello of Kogi State which seems to confirm that in Nigeria, state governments are probably more active in using sedition laws to halt free speech. Sedition charges against Mike Gbenga Aruleba, presenter of a political broadcast on privately-owned African Independent Television (AIT) were dropped on 10th of October 2006 after the Judge, Bash Kawewumi, stated that the journalist has "shown enormous remorse". The journalist however denied on leaving court that he had "apologized to anyone". The trial of Rotimi Durojaiye, aeronautical correspondent on the privately-owned Daily Independent and Aruleba's co-accused held at the appeal court on 3rd November, 2006.

An article by Durojaiye headlined "*Controversy Over Age, Cost of Presidential Jet*" in the Daily Independent of 12 June (2006) raised questions about the manner in which a new plane was acquired for President Olusegun Obasanjo. The story set off a storm in the Nigerian press and Aruleba referred to it the next day in his "Focus Nigeria" programme on AIT. Agents of Security Service arrested him on 14 June because of his choice of words, such as Tokunbo considered pejorative which suggested or insinuated that the supposedly new plane was a second-hand one. He was released the following day on condition that he reported his movements to the authorities.

Similarly, the State Security Service arrested Durojaiye on 25 June, 2016 and interrogated his editor, while Aruleba was re-arrested the next day. Both journalists were consequently arraigned before a Judge in Abuja and formally charged. The senate finally rejected the



amendment in May, after weeks of stormy debate in the press and the national assembly. Reuters quoted AIT chairman Raymond Dokpesi as saying “Aruleba was being targeted by the authorities because of the popularity of his programme, which played an important role in turning public opinion against the idea of a third term agenda”.

On January 29, 2008, Akwa Ibom State sent a journalist to prison on sedition charges, the move was part of a crackdown launched by the state government in response to a story alleging corruption by the state governor. The newspaper’s distributor was arrested in relation to the same article on January 24 and the paper itself was legally banned. The implication is that journalists in Nigeria have been charged for sedition severally over the years.

The Right to Freedom of Expression

In every democratic society, each and every member of the society has the right to freedom of expression. In Nigeria, this right is contained in the provision of section. 39 of the 1999 Constitution. However, this right comes with its own limitations. If this freedom is left unfettered, it is sure to be abused by members of the society. This is why it is provided for in section 39 (3) and Section 45 (1) of the Constitution that the provisions of Section 39 would not invalidate any law that is reasonably justifiable in a democratic society.

Also, in determining the extent of a person’s right to freedom of expression, the court presided over by the Chief Justice of the state, Ademola CJ in the case of *DPP vs. Obi* stated:

“A person has every right to discuss any grievance or criticize, canvass and censor the acts of the government and their public policy. He may even do this with a view to effecting a change to the party in power or to call attention to some of the weaknesses of the government so long as he keeps within the limits of fair criticism”.

It is clearly legitimate and constitutional, by means of fair argument, to criticize the government of the day. What is not allowed is to criticize the government in a malignant manner as described in this case. Such attacks, by their nature, tend to affect public peace. It is due to this reasoning by the court that the offense of sedition has to be put in place.

The Punishment for Sedition

Sedition is a crime against the state and a punishable offense under the law. The Criminal Code in Section 51 provides the punishment in the offense of sedition that any person who:

- (a) Does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;
- (b) Utters any seditious words;
- (c) Prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;
- (d) Imports any seditious publication, unless he has no reason to believe that it is seditious; shall be guilty of an offense and liable on conviction for a first offense to imprisonment for two years or to a fine of two hundred naira or to both such imprisonment and fine and for a subsequent offense to imprisonment for three years and any seditious publication shall he forfeited to the State.



Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offense and liable on conviction, for a first offense to imprisonment for one year or to a fine of one hundred naira or to both such imprisonment and fine, and for a subsequent offense to imprisonment for two years; and such publication shall be forfeited to the State. It should be noted that prosecution for the offense of sedition must be commenced within six months after the offense is committed. Prosecution for the offense of sedition cannot be carried out except with the written approval of the Attorney General of the Federation or of the State concerned. It should also be noted that when it comes to the uttering of seditious words, a person cannot be convicted on the uncorroborated testimony of just one witness.

Defenses against Sedition

It has been established earlier in this study that sedition is a punishable offense under the Criminal Law. Therefore, in the event of sedition, Osinbajo and Fogam (2001) provide the defense for sedition to include: Lawful excuse, proof that words used were not seditious as well as ignorance.

Lawful Excuse

As a form of defense against sedition, a lawful excuse comes into play when an individual is in possession of a seditious material. Such an individual can use this defense mechanism to show that he/she is in possession of the alleged seditious material or publication for a purpose that is legal and authorized under the law. For instance, he/she can claim that the said publication is being used to impart knowledge. If however the accused is not able to prove that he/she is in possession of the material for a lawful purpose, he can also prove as a defense that he is not in possession of the material for an unlawful motive.

Proof that words used were not seditious

This form of defense is used when a defendant is able to prove to the court that the literal and/or implied meanings of the word(s) alleged are not seditious, he/she can be discharged. It is also important to note that if the defendant is able to prove from the overall meaning of the entire publication that the intention is not seditious, this can also be a defense.

Ignorance

This form of defense is used when an individual is in possession of a material, he/she is not aware contains a seditious content, such an individual can be absolved. Or if a person imports materials that are seditious, he can be acquitted if he is able to show that he had no knowledge to believe that the publications would contain such. Also, if a bookseller or vendor is accused of distributing seditious material, ignorance on the content of publications can be a defense. This position is valid based on the provisions of the law of defamation in Section 381 of the Criminal Code which provides that:

“The sale by any person of any book, pamphlet, or other printed or written material, or of any number or part of any periodical, is not a publication thereof for the purpose of this chapter, unless such persons knows that such book, pamphlet or printed or written matter, or number or part, contains defamatory matter; or in the case of any part or number of any periodical, that such periodical habitually contains defamatory matter”.



The implication is that an individual who is ignorant that a book, pamphlet or any other printed or written material or periodical contains defamatory matters cannot be charged for sedition. It has been established from this section of the study that in an event where an individual or journalist is being charged for sedition, certain defense can be used to prove that the journalist is innocent. These include: lawful excuse, proof that words used were not seditious as well as ignorance.

CONCLUSION/RECOMMENDATIONS

The study concludes that the law of sedition is a compromise to freedom of expression because constructive criticism is an indispensable tool, especially in a democratic society. However, the law of sedition has been used by the government as a tool to regulate citizens' opinions and indiscriminately wield power. The government uses the law to suppress the protesting views of the public and journalists alike. The study also concludes that the law of sedition is ambiguous since words such as “bring into hatred or contempt” or “attempt to excite disaffection” can be interpreted in many different ways. Thus, the law of sedition empowers the government in power to harass innocent citizens who raise their voices or freely express themselves in line with the fundamental human rights. The study thus recommends that:

1. Journalists should operate within the ambit of freedom of expression guaranteed by the fundamental human rights for a better society
2. Journalists should observe the ethics of the profession as safety measures against being accused and charged for sedition
3. Journalists should also be conversant with laws of the society that tend to affect their practice.
4. The journalist must get his/her facts straight and ensure that any accusations or allegations are verified before being published for public consumption.
5. Journalists in the discharge of their duties should be guided by the journalistic code of ethics. This would guide them in carrying out their duties and responsibilities effectively.
6. Journalists should also embark on investigative reportage to gather adequate facts before going public. This is because investigative reportage would enable the journalist to gather adequate information, dig deep into the issue at hand and gather more facts.
7. Journalists should equally balance their report on issues of public importance to avoid being charged for sedition.



REFERENCES

- Ademola, J.Y (2003). Press laws in nigeria. Ibadan: Demyaxs Press Ltd
- Bajracharya, S. (2018). Social responsibility theory in *businessstopia*,
<https://www.businessstopia.net/mass-communication/social-responsibility-theory>.
- Dnyaneshwari, P. (2021). Sedition law and the attack on journalists. *RTMNU Babasaheb Ambedkar College of Law, Nagpur*. Available at
<https://loyallogic.tumblr.com/post/661066720228835328/sedition-law-and-the-attack-on-journalists>.
- Goh, R. (2007). Mainstream media meets citizen journalism: In search of a new model. Retrieved from
<http://www.google.com.ng/mainstream+media+meet+citizen+journalism>.
- Hasan,S. (2013). Mass communication principles and concepts. New Delhi: CBS Publishers and distributors.
- Igwe, O.W & Alunegbe, O (2016). The law of sedition in contemporary Nigerian criminal law: A review of the case of *Arthur Nwankwo v the state*. Accessed via
<https://www.researchgate.net/publication/links> 13th June,2021.
- Iredia, T. (2018). Trends in sedition laws: implications for the practice of journalism in developing Societies. DOI: 10.9790/0837-2301024450www.iosrjournals.org 46| Page section
- Ineji, P.U, Nkanu,,E.A & Oko P.E (2018). Social responsibility, media theory and its implication for media professionalism in Nigeria. In *Journal of Communication, media and languages*
- Ikenga, K.E, Okeke,M. and Igwe,C.J (2018) Sedition under nigerian criminal code: effects on the right to freedom of expression. *Library Research Journal*
- Kipruto,R.B (2019). Words that started a riot: an appraisal of the law against sedition and criminal libel in Kenya.
- Longley,R.(2021). What is sedition? definition and examples.18th October,2021.
- McQuail, D. (2005). *McQuail's mass communication theory*, New Delhi: Vistaar Publications.
- Nakarawa, J.,(2018). Sedition and the question of freedom of expression in Fiji. SSRN:
<https://ssrn.com/abstract=3200665> .
- Nwokolo, P.N (2016). The nigerian press and the law of sedition: A progressive interpretation [2012] (23)(1) *Review of Educational Journal*; 210 – 224.
- Odinma, C. (2016).Democracy in danger: law of sedition and a free press
www.academia.edu/129814.
- Olamide, O. (2016). The offence of sedition in Nigeria. <https://djetlawyer.com/offence-sedition-nigeria>.
- Sambe, J.A (2005). Introduction to mass communication practice in Nigeria. Ibadan: Spectrum Books Ltd
- Sambe, S.A (2007). Writing for the mass media. Makurdi: Samphil communications.