

THE OFFENCE OF SEDITION IN NIGERIA

Posted on [June 3, 2016](#) June 3, 2016 Written By [Olanrewaju Olamide](#) Posted in [Nigerian Criminal Law](#) Tagged [Freedom of expression](#), [offences against the state](#)



The Right to Freedom of Expression

In every democratic society, each and every member of the society is granted the right to freedom of expression. In Nigeria, this right is contained in the provision of S. 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 S. 39 (3) and S. 45 (1) of the Constitution that the provisions of S. 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 per Ademola CJ in the case of *DPP vs. Oby*^[1] stated:

A person has every right to discuss any grievance or criticise, canvass and censor the act of 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 criticise the government of the day. What is not allowed is to criticise the government in a malignant manner as described in this case. For such attacks, by their nature, tend to affect the public peace.

It is due to this reasoning by the court that the offence of sedition has to be put in place.

What is Sedition?

Sedition can be aptly defined as any act, speech or publication that is done with a seditious intention. Seditious intention has been defined by the provision of S. 50 (2) of the Criminal Code. It provides:

50 (2) A "seditious intention" is an intention-

- (a) To bring into hatred or contempt or excite disaffection against the person of the President or of the Governor of a State or the Government of the Federation; or
- (b) to excite 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
- (c) To raise discontent or disaffection amongst the citizens or other inhabitants of Nigeria; or
- (d) To promote feelings of ill-will and hostility between different classes of the population of Nigeria

In determining the *actus reus* for sedition, the court in the case of *IGP vs. Anagbogu*^[2] held that the act of writing an article with a seditious intention is enough to amount to the offence of sedition.

The provision of S. 51 (2) further makes arrangement for situations in which would not be regarded as constituting seditious intention. It provides:

But an act, speech or publication is not seditious by reason only that it intends-

- to show that the President or the Governor of a State has been misled or mistaken in any measure in the Federation or a State, as the case may be; or

- (ii) to point out errors or defects in the Government or constitution of Nigeria, or of any State thereof, as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
- to persuade the citizens or other inhabitants of Nigeria to attempt to procure by lawful means the alteration of any matter in Nigeria as by law established; or
- To point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of Nigeria.

It is further provided for in S. 50 (3) that in determining whether an act was done with a seditious intention, such person would be deemed to intend the natural consequences that would flow from his actions.

Â

The Punishment for Sedition

The Criminal Code in S. 51 provides for the punishment in the offence of sedition. The section states:

51

Â (1) 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 offence and liable on conviction for a first offence to imprisonment for two years or to a fine of two hundred naira or to both such imprisonment and fine and for a subsequent offence to imprisonment for three years and any seditious publication shall be forfeited to the State.

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and liable on conviction, for a first offence to imprisonment for one year or to a fine of one hundred naira or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication shall be forfeited to the State.

It should be noted that prosecution for the offence of sedition must be commenced within six months after the offence is committed^[3]. Prosecution for the offence of sedition cannot be carried out except with the written approval of the Attorney General of the Federation or of the State concerned^[4].

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^[5].

References

^[1] 1961 Vol 1 ANLR

^[2] 1954 vol 21 NLR

^[3] S. 52 (1) of the Criminal Code

^[4] S. 52 (2)

^[5] S. 52 (3)