



## When Freedom of Expression Becomes Seditious

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### Editorial

Should governments overlook inciting speeches and publications made out of malicious intent in the name of 'freedom of expression?' The answers to this question will no doubt vary since we are all entitled to our opinions. Michel Temp let, for example, said that 'if you are not going to use your free speech to criticize your government, then what the hell is the point of having it [1]?' The ability of citizens of democratic nations to express their views and opinions without censorship is clearly the hallmark of every true democracy. What then is 'sedition?' Sedition as an offense cannot be discussed without mentioning Britain, its Sedition Act 1661 in relation to its colonies. It was a rather absurd law made with the aim of keeping its subjects perpetually subjugated against their wishes. Sedition is conduct or speech inciting people to rebel against the state [2]. So it is an exclusive offense against the state. And so to protect the government and the crown the law prohibited acts, speeches, or publications, or writings that were made with seditious intents [3]. Generally speaking, for all cases of sedition the prosecution has to prove one thing and that is the fact that the intention is capable of creating disaffection against the government and also encouraging a violent change in government.

Though England, Australia, and a few other countries have abolished their laws on sedition, the United States seldom invoke its laws in this regard. Nonetheless, several other British colonies like India, Nigeria et al still codified 'sedition' as a punishable offense under its laws. The problem with this crime is that it raises concerns on how

to strike a balance between free speech and the security of a state [4]. Unless you are a citizen of those countries where the laws on sedition are now obsolete you are obligated to be mindful of your utterance in your critic of government activities. Always ensure that your intents are devoid of sedition by being as constructive as possible in assessing the government else you might land in trouble. Keeping in mind that no right is an 'absolute' right; every active citizen is expected to know what their obligations are in exercising the fundamental rights as recognized by the laws of a different jurisdiction. This has become necessary because ignorance of the provisions of the law has never excused or exonerated anyone in the court of law. In this respect, I completely agree with Jim Hines when he said that 'freedom of speech does not protect you from the consequences of saying stupid shit [5].

A look at some of the International and regional legal frameworks on the freedom of expression shows that these freedoms must be restricted for the sake of public safety and national security. The International Covenant on Civil & Political Rights (ICCPR) 1975 provides for the Freedom of Expression in its Article 19 (2), It further stipulated in Article 19 (3)(b) that the exercise of the rights provided for in paragraph 2 of the covenant shall be subject to restrictions necessary for the protection of national security or public order et al. This Covenant while acknowledging that individuals are at liberty to express their views without interferences also recognizes the importance of public order without which there

wouldn't be security and a state to criticize [6]. The European Convention on Human Rights (ECHR) in its Article 10 (1) also recognizes the right of everyone to express their selves but puts a caveat in paragraph 2 of the same Article that the right may be subject to penalties ... in the interest of national security, territorial integrity or public safety [7]. The American Convention on Human Rights in the same vein recognizes the right to freedom of expression in Article 13(1) but stipulates that the right shall be subjected to restrictions necessary for the protection of national security, public order, and public health [8].

The point to always keep in mind is that the state needs as much protection as do its citizens and it is everyone's responsibility to work towards the sanctity of the state. I advocate balanced criticisms of government policies, actions, and inactions. When you allege anything against the state, always ensure that you have your facts correct and that what you are saying is evidence-based. Remember, the fact that you are a human or civil rights activist does not exonerate you from paying for the consequences of an action based on a falsehood that led to violent insurrection against a sovereign state. In Nigeria for instance, the limit beyond which free speech must not extend was illustrated by a dictum of Ademola, a Federal Chief Justice in *D.P.P v Obi* where he said: "It is clearly legitimate and constitutional by means of fair argument to criticize the government of the day. What is not permitted is to criticize the government in a malignant manner... for such attacks by their nature tend to affect public peace [9]. Finally, I am an ardent advocate of egalitarianism and the freedom of speech. However, I do not subscribe to the inciting of anyone against anyone and the government. We must learn to operate and act within the ambits of the law or risk returning to the primitive age when life was cruel, short and brutish. This is because the law is meant for the state and not the other way around and no one

must be seen to be above the law through their actions or inactions. Until the laws governing the crime of sedition in your jurisdiction or place of residency is abolished; always be a law-abiding citizen by acting in accordance with the provisions of the law.

## References

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