THE NIGERIAN PRESS AND THE LAW OF SEDITION:
A PROGRESSIVE INTERPRETATION

Peter N. Nwokolo
Department of Mass Communication
University of Nigeria, Nsukka

Abstract
Imperialism has been described as the highest state of capitalism, and obtains when the latter, with all its exploitative tentacles, is exported to other lands. It is important to stress that Europeans were not in Africa on a civilizing mission as claimed, nor were they inspired by charitable intensions, but were purely motivated by the desire to exploit Africa’s human and natural resources, using both the stick and the carrot. Consequently, they enacted draconian laws known as ordinances that facilitated the achievement of their single minded economic motive, even if such laws denied Africans their natural and inalienable rights as humans. An example was the Seditious Offence Ordinance of 1909 transplanted into Nigeria to force the natives into a groove of silence while the violence and plunder lasted. Ironically this law, until recently, has continued to be in our statute book years after we achieved independence and embraced democracy. This paper seeks to show how the judiciary performed its constitutional role of upholding the supremacy of the constitution over any other law by striking out, as unconstitutional, the law of sedition adjudged one of the greatest obstacles to the right of free speech in Nigeria.

Introduction
Colonialism, which gives practical effects to imperialism, itself an outgrowth of capitalism, is inherently evil, being economically exploitative, politically suppressive, and socially discriminatory and dehumanizing. It involves the imposition of the will of one race over another for economic benefits. The beneficiaries of imperialism and colonialism know the evils inherent in them, and always try to mask their real intensions. Hence, according to Morgenthau (1948:88) “a policy of imperialism is always in need of an ideology; for, in contrast to a policy of the status quo, imperialism always has the burden of proof. It must prove that the status quo, it seeks to overthrow deserves to be overthrown, and that the moral legitimacy which in the minds of many attaches to things as they ought, veiled to a higher principle of morality…”
To rationalize their action and distort reality, colonialists usually reach for an ideology which gives them an image of a generous benefactor to their victims. Hence, in the past, one could hear such pretentious moral ideologies as “the white man’s burden”, the “national mission” “Christian duty.” Hans Morgenthau (1948:88) noted that “Colonial imperialism…has frequently been disguised by ideological slogans such as the “blessings of western civilization” which it was the mission of the conqueror to bring to the coloured races of the earth.” The so-called “benefits” and “blessings” were often given by coercion and use of superior arms as the conquerors claimed to know what was better for the victims than the victims themselves – the Africans.

Having taken over the lands of the victims, the colonialists often made laws that enabled them to plunder, and at the same time compelled the victims to maintain absolute “peace and tranquility”. To speak out in the face of man’s inhumanity becomes an offence. Hence, the origin of such draconian laws as sedition was simply that the natives complained of what they say as a miscarriage of justice by those who claimed to stand for Christianity, and cried out in exercise of what ought to be a natural right, believing as Karibi-Whyte (1969:67) that “the most highly valued of the fundamental liberties… is the freedom of expression, and that “the liberty to comment freely and publicly on matters of common concern is an unalienable right…”

Needless to say that Africans soon learnt their lessons; that such luxuries were not for them, but for the “superior race.” What was most annoying about sedition was that the offence was not committed because the offender told or published lies but truth, and the greater the truth the more the provocation and gravity of the offence. It is perhaps this aspect of the Ordinance that clearly revealed the intentions of the framers, which according to Holts in Elias, (1969:71) was “…the protection of the Government in power and… opposition to its policies.” This is not surprising given the original predator motives that inspired colonialism, for if mosquitoes or bedbugs should conquer and establish dominion over human beings, they would enact legislations that outlaw movement of the body while they sucked the victims’ blood. However, what is more intriguing is the continued existence of the law of sedition as part of our law after the exit of the Egertons and the Lugards.

Some of the recent cases, many years after independence, such as the State V The Ivory Trumpet Publishing Co. Ltd and Ors (1984) and Chief Arthur Nwankwo V The State (1983) which attracted our interest, baffle and set one’s mind on
inquiry as to why such laws should not have been struck out as early as 1963 when Nigeria took charge of her own affairs. In the latter case, the appellant, Arthur Nwankwo was charged with sedition for publishing a book titled, “How Jim Nwobodo Rules Anambra state,” which the state felt was seditious. At the trial, the constitutionality of the offence of sedition under section 51 of the criminal code was subjected to a critical interpretation in view of sections 36 and 41 of the then 1979 constitution of the Federal Republic of Nigeria. According to Belgore J.C.A., (as he then was) the whole idea of sedition is the protection of the person of the sovereign. He cited the case of D.P.P. V Chike Obi among others which he noted were decided when the British West African colonies were subjects of the Queen or King, or when they had not attained a republican status after independence. The court added that under the 1979 constitution the President and the Governors “were not wearing constitutional cloaks of their predecessors…” It held that Chike Obi V D.P.P. no longer represents the law in so far as it recognizes sedition as an offence in spite of the constitutional guarantee of freedom of expression. For instance, how does one reconcile the conflicts between sections 1(3) of the 1979 Constitution which proclaimed the supremacy of the Constitution over any other law in Nigeria, the constitutional provisions on human rights among which was the freedom of speech on the one hand and another law, sedition, which takes away the right? As the saying goes, there cannot be two captains in one boat, for when power collides with another, one must bow! The constitution could not approbate on human rights and reprobate at the same time.

But what is Sedition?

The Criminal Codes Act Cap. 42 vol. II, LFN (Revised 1958) did not define the word sedition per se. But in its section 50(1) it defines “Seditious Publications” to mean publications that have seditious intentions; and “Seditious words” to mean words with seditious intentions. Section 50(2) of the Criminal Code defines a “seditious intention” as an intention:

(a) “to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, her heirs or successors, or the person of the Governor-General or the Governor of a Region or the Government or constitution of the United Kingdom, or of Nigeria, or of any Region thereof, as by law established or against the administration of justice in Nigeria;” or

(b) “to excite her Majesty’s subjects or inhabitants of Nigeria to attempt to procure the alternation,
otherwise, than by lawful means, of any other matter in Nigeria as by law established”; or

(c) “to raise discontent or disaffection amongst Her Majesty’s subjects or inhabitants of Nigeria”; or

(d) “to promote feelings of ill-will and hostility between different classes of the population in Nigeria.”

Details of the provision are found in sections 50 and 51 of the Criminal Code and section 416 to 421 of the Northern Nigeria Penal Code No 18 of 1959.

A seditious offence such as a seditious publication has two elements namely, the mental element known as the mens rea, and the act itself known as the actus reus. Section 50(3) of the criminal code attaches seditious offences with strict liability and provides that “every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.”

According to Omu (1978), referring to Lord Luggard, one of the early British administrators, the law of sedition was made harsh to ensure that the “barbaric” Africans and “mission-educated young men who live in villages interfering with the native councils, and acting as correspondent for the mendacious native press” were silenced. To some scholars, the law imposes liability even where the accused person did not intend to commit the crime so long as the publication could be interpreted as seditious.

Apart from the mental aspect of the offence, the following examples illustrate the actus reus or the actual offence of seditious publications:

(a) In D.P.P. V Chike Obi (1961), the words published were “Down with the enemies of the people, the exploiters of the weak and oppressors of the poor” etc. which were directed at the Federal Government of Nigeria.

(b) In James Ogidi V Commissioner of Police (1960) a telegram sent to the Regional Minister of Justice and published in newspapers and a broadcasting corporation accused the customary courts of a Division of being used to oppress the supporters of an opposition political party.

(c) In African Press Ltd V R. (1952), an article was carried warning the public to beware of administrative officers and alleging that they were clearly disguised enemies of the struggle for freedom, mostly incompetent dictators working against nationalists.

(d) In African Press Ltd V Attorney-General of Western Nigeria (1965) a newspaper
article accusing a regional government of reckless squandamania, abuse of office, misuse of money held in trust for the people, fraudulent diversion of public money for private purpose, and inciting one ethnic group against another.

A careful reading of the seditious offences Ordinance will reveal the fact that it served both as a sword and a shield in the hands of the colonial oppressors to handle and silence critics who dared to point out the iniquities perpetrated against Africans. This was demonstrated in a series of cases that came in the wake of the enactment such as Ogidi V Police (1960), Nwaobiala V Police (1960) R V Agunna (1949), to mention no more. In the case of Ogidi, the defendant sent a telegram to the Minister of Justice, Ibadan with copies to the Broadcasting Corporation and Chief F. Okotie-Eboh, the then Federal Minister of Finance. In it, he suggested the abolition of customary courts in Warri Division. This, he noted, was because the judges were being used to oppress the supporters of the N.C.N.C. (National Council of Nigeria and the Cameroons), which was an opposition political party in the former Western Nigeria. The lower court found him guilty as charged, but on appeal, the Supreme Court reduced the two-year jail term of the lower court to three months with hard labour.

Also, in Nwobiala V Police (1960) (F.S.C. 243, the defendant sent a telegram to the Premier of Western Region S.L. Akintola who was also the National President of the political party which formed the Government of the Region, accusing members of the party of acts that denigrated the government and sued for restraint. He was charged with sedition. But the Supreme Court acquitted him stating that the court cannot read seditious intention into a publication sent to a person who is also the person maligned as this cannot lead to incitement and discontent against the government. In other words, there was no publication.

Conversely, in R V Agwuna and others (1949) 12 W.A.C.A 456, Chief Osita Agwuna, in a lecture titled, ‘A call for Revolution’ referred to the British colonial masters as “a common enemy” adding that they had a plan to continue their domination of Africa till the duration of the third world war. According him, “we must forget our so-called differences and direct our energy towards the common foe or else we remain like this for another fifty years.” For these and more, Agwuna was convicted for inciting discontent and disaffection against the British government. But what is the genesis of sedition in Nigeria?
History of sedition in Nigeria

At this point, it is important to examine the historical beginning of the law of sedition in Nigeria. In the case of the State V The Ivory Trumpet Publishing Co. Ltd and Ors supra, the Court observed thus: “…To determine whether a law is reasonably justifiable the history of that law and the surrounding circumstances in which that law came into our statute book, the underlying object of that law and the mischief or evil it was aimed at preventing must of necessity be considered.” It is in this context of legislative history as a veritable and time honoured tool, and principle of interpretation that the whole idea, tenor and relevance of the law of sedition must be considered.

The law of sedition is a colonial enactment transplanted from Britain and India to Nigeria despite the differences in political culture. It is to be noted that the whole idea of the law of sedition is the protection of the person of the Queen, Britain being a constitutional monarchy. The notion was that the King or Queen during the regnancy does no wrong. Hence, his heirs and successors must be protected from acts of mischief or truth, which would bring them to contempt, hatred or excite disaffection against them. It was this British political tradition that regrettably guided court’s decisions on sedition cases in Nigeria. In Ivory Trumpet case Supra 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 genesis of the Seditious Offences Ordinance in Nigeria was a pamphlet entitled, “Governor Egerton and the Railway” published in September, 1908. According to Omu (1978:182), the pamphlet “drew attention to the governor’s disregard” of a serious allegation of scandal in the Railway; his “personification of prejudice,” his permitting minor considerations to take precedence over momentous issues, his neglect to direct that criminal prosecutions be commenced against an alleged friend of his who was involved in the scandals as well as his wicked expropriation of people’s lands. It was also reported that the Acting Attorney-General J. Ernest Green’s advice that there was nothing in Macaulay’s write-up that could be construed as seditious being no more than a general attack on the administration of the Railway department and government officials and therefore had nothing that could amount to “an attempt to subvert the Government and excite rebellion and disorder” did not appeal to Governor Egerton. He rather preferred the opinion that advised him that the pamphlet was a seditious libel under both the English and the Indian Penal Code. (See Omu, 1978:183).
Needless to observe that this second advice perfectly served the Governor’s purpose of giving the dog a bad name so as to hang it, the sole motive being to silence Africans.

In a reaction, the Governor wrote to the Secretary of State, urging the enactment of a Seditious Ordinance in Nigeria. To strengthen his argument, the Governor illustrated how Herbert Macaulay has been notorious for his attacks on the Governor’s administration in letters and articles published in newspapers and intended to do infinite harm by the unscrupulous misrepresentation of facts among a people who were apt to accept anything that appears in print.

It was at this juncture that the colonial over lords eagerly sought for a draconian legislation that could contain what they felt were the people’s excesses. As observed by Omu (1978:183): “Egerton indicated his preference for an Indian precedent, and requested that he should be supplied with copies of the latest edition of the Indian Penal Code and of the recent enactments dealing with sedition and seditious publications in newspapers. “Such legislation,” the Governor submitted, “would give the government power… to punish publications and speeches designed to inflame an excitable and ignorant populace the bulk of whom are absolutely under the control of Headmen and chiefs who themselves have recently emerged from barbarism and are still actuated by the old traditions of their race.” The Indian Seditions Offences Ordinances were said to be preferred by the Governor due to their sweeping and severe nature since conviction carried a penalty of “transportation for life.”

In spite of all opposition, the draft Ordinance appeared in the Gazette of 22 September, 1909 even after an official in the colonial office had advised that much worse things than Macaulay published in the pamphlet were said and done in Ireland and no action was taken. Omu (1978:186) observed that the Standard Newspaper, reported in the Times of Nigeria of 6 August and 18 November, 1918 compared the spirit of the oppressive enactment with the Inquisition and Star Chamber accusing the government of attempting to gag the people and muzzle the mouth of public opinion. It concluded that the intention of the enactment was simply to effectually gag the public press of a country, since under the law, newspaper editors were now expected to talk platitudes or indulge in fulsome adulation of government officials, which represented the worst form of slavery, namely the bondage of the mind. That is against our democratic constitution.

**Conflict Between Sedition and the Nigerian Constitution**

One common thread that appeared to run through the colonial
subject was a feeling that colonialism was inhuman and oppressive in nature. According to Bukar Zuma in Ogunsiji (1989:13) “the press in pre-independent Nigeria saw colonialism as totally the opposite of what was right and just… being politically oppressive, economically exploitative, socially discriminating and culturally polluting if not entirely destructive,” but added that “the press did not however feel shy to fight for justice.”

Similarly, opposition to the unconstitutionality as well as the inhuman nature of the colonial law of sedition did not come from the press alone. Hence, in D.P.P. V Obi (Supra) the High Court even after convicting Chike Obi for sedition still referred the following disturbing questions raised by counsel to one of the parties to the supreme court, thus:

1. Whether the provisions of the Criminal Code relating to sedition as contained in sections (50) and (51) of the Criminal Code have not been invalidated by the provisions of sections (1) and (24) of the Nigeria (constitutional) order in council, 1960 and

2. If the answer to (1) above is in the negative whether those provisions have been modified by section (24) of the Constitution of Nigeria, and if so to what end?

These questions and more continued to agitate the minds of learned Nigerians as they continued in their march and struggle for self-rule. For instance, in the case of Rex V The Amalgamated Press (of Nigeria) Ltd. (1961), the same argument on the constitutionality of the offence of sedition was perforce raised. The judicial passivism engendered by the subordinate status of Nigeria then made the court circumspect in making out right pronouncement on the unconstitutionality of the law of sedition. This was evident in the later case of Ogidi V Commissioner of Police (1960).

In that case, Ogodi sent a telegram to the minister of Justice, Ibadan then, with copies to the broadcasting Corporations, Ibadan and Lagos, the West African Pilot, the Mid West Champion and to chief Okotie-Eboh, the Federal Minister of finance suggesting the abolition of customary courts in Warri Division. This, he said, was necessary because the judges there were being used to oppress the supporters of National Council of Nigeria and the Cameroon (N.C.N.C) an opposition political party in the former western Nigeria. This was found seditious by a lower court. The Supreme Court slashed the two-year sentence to three months with hard labour, but most importantly cautioned that “courts should be slow to attribute seditious intention to communication published
only to the minister responsible for
redressing the grievance complained of” adding, “… we might have taken
a different view of the publication
which is now in question if it had
been communicated only to the
minister.”

By the above decisions, the
court was implying, as it later
confirmed in Nwaobiala V Police
(1960), that a publication sent to a
person who is also maligned cannot
constitute incitement to disaffection
and discontent against the
government. The above two cases of
Ogidi and Nwaobiala have actually
proved the pessimistic and prophetic
warning of the Record Newspaper of
May 10, 1910 following the
enactment of sedition that
“hypersensitive officials may come
tomorrow who will see sedition in
every criticism and crime in every
meeting.”

The unconstitutionality of
the law of sedition finally came to the
fore in the celebrated case of Arthur
Nwankwo V The State (1986) in
which the appellant was charged with
sedition for publishing and
distributing a book entitled, How Jim
Nwobodo Rules Anambra State
which the state adjudged seditious.
The court examined the case in the
light of section (36) and (41) of the
1979 Constitution which gave all
Nigerian citizens the right to freedom
of expression, including freedom to
hold opinions and to receive and
impart ideas and information without
interference except as stipulated by
the constitution itself. Of course,
section 1(1) of the constitution, while
proclaiming its supremacy, clearly
stated in its subsection (3) that “if any
law is inconsistent with the provision
of this constitution, this constitution
shall prevail, and that other law shall,
to the extent of the inconsistency, is
void.” Furthermore, section 274(3)
of the Constitution provided that if
the existing law is inconsistent with
the constitution, the existing law is
null and void to the extent of that
inconsistency.”

In the light of the foregoing, the
Court of Appeal concluded that the
law of sedition as contained in
section 51 of the Criminal Code
derogated from the constitutional
provisions on freedom of speech
guaranteed under the 1979
Constitution; more so when the
publication could not lead to public
disorder envisaged under section
41(2) of the Constitution.

Referring specifically to the
case of Obi and Wallance Johnson
(Supra), Belgore J.C.A. noted inter
alia “… it is my view that sections
50(2), 51 and 52 which cover them
are inconsistent with the provisions
of section 36 and 41 of the 1979
Constitution and are, by implication,
repealed from 1st day of October,
1979.”

The decision of the court
followed the argument by counsel
that earlier cases decided on sedition
were when British West African
colonies were subjects of the King or Queen or became independent, but still under the Queen of England. Even the 1963 constitution, which tried to save the existing laws of Nigeria, 1948 with modifications of replacing the “Queen and heirs and successors” with the President or Governor of a Region was a parliamentary constitution. But under the 1979 democratic constitution, the President was quite different from the President we had in 1963 Constitution. He added that the President under the presidential constitution was a political one and was elected via political processes; so also was the state Governor. They are not wearing constitutional protective cloaks of their 1963 constitution predecessors. Also, while the President and governor in the 1963 Constitution were elder statesmen chosen and not elected, the present incumbents underwent mudslinging and rigours of political campaigns and rallies to win their offices and as occupants and trustees of public offices, they should take criticisms even if they are made uncomfortable. Olatawura JCA observed that much in Nwankwo’s case (Supra) when he noted that those occupying sensitive posts must be prepared:

To face public criticisms in respect of their office so as to ensure that they are accountable to their electorates. They should not be made to feel they live in an Ivory Tower and therefore belong to different class. They must develop thick skin and where possible, plug their ears with cotton wool if they feel sensitive or irascible. They are within their constitutional rights to sue for defamation but they should not use the machinery of government to invoke criminal proceedings to gag their opponents as the freedom of speech guaranteed by our constitution will be meaningless. (Yakubu, J., 1999:15).

There is no known section of our constitution which forbids the publication of truths, save if they violate the security imperatives and other such provisions covered by the constitution itself. The constitution cannot approbate and reprobate at the same time; it cannot give freedom in one section only to take it away in another. Hence, as observed by counsel Anyaduba in Nwankwo V The State (Supra) “… sections 50 and 51 of the criminal code must be construed differently from English cases decided on common law principles… to go and attempt to find analogies in other constitutions may destroy its (the 1979 Constitution) indigenousness and make it sound like a gramophone, and the courts looking
like dogs hearing the master’s voice.” Nigerian has suffered much under this draconian law called sedition.

Effects of sedition on freedom of speech in Nigeria

It is important to state unequivocally that man loves freedom more than anything. Among the most important of these rights and freedoms is that of speech and expression. It is for this fact that Karibi-whyte (1969:8) observed: “it is probably not contentious to say that one of the most highly valued of the fundamental liberties guaranteed to members of a free and democratic society is the freedom of expression. The liberty of comment freely and publicly on matters of common concern is an alienable right of membership of a free society.” This is an incontestable truism, because freedom of speech is the very substratum on which democracy rests. Hence, Chief Rotimi Williams would argue in D.P.P.V Obi (Supra) thus:

Any law, which publishes a person for making a statement which brings a government into discredit or ridicule or creates disaffection against the government irrespective of whether the statement is true or false… is not a law which is reasonably justifiable in a democratic (Elias T., 1969:9).

Similarly, the question was also raised in The State V The Ivory Trumpet and others (1983) “…whether a law which abridged the fundamental rights of a citizen to freely express himself against the actions of his political colleague who happens to be a governor and therefore a politician is reasonably justifiable in a democratic society?”

The answer to the above question, which is in the negative, exposes the difference between a colonial state and a democratic one. For, in the former, the intention of the hegemon colonizer is to exploit the dominated victims using all legal instruments necessary to achieve this final cause, as typified by the seditious ordinance; while in the latter, the citizens are individuals who are equal before the law brooking no patriarchs and no plebeians. Okere (1983, p. 153) aptly observed: “…the law of sedition in Nigeria is perhaps unduly restrictive of freedom of expression particularly as it requires no incitement to violence, and the seditious intention inferable from the word used cannot be negative by fair criticism.”

From James Davies who Lord Lugard accused of inciting the non-trading community against the trading community through his write-ups, African Press Ltd V R (1952); Ogbuagu V Police (1953) to Ogidi V Police (1960); Service Press V Attorney-General (W.N.) (1965) cases to mention no more, Nigerians have
been denied their fundamental freedom to express themselves. This was typified by the case of James Davies who was sentenced to six month’s imprisonment at the age of 68 for an article a chief justice considered “a justifiable journalese comment” (Omu 1978:186).

However, the intriguing question, according to Okonkwo (1978:208), is “why after independence many African countries (still) leave in their books those laws the colonial administrators created to safeguard their selfish and imperial objectives?” In answering the question, he posited out that part of the reasons was that many of these African heads of state were very familiar with the potentials of the press to displace the ruling elite, many of whom began their careers as editors of publishers or many newspapers. He cited examples of Jomo Kenyatta of Kenya, who was editor of Muiugulthania in the late 1980s, Julius Nyerere of Tanzania who began his public career as editor of Santiye Tanu, Nigeria’s Nnamdi Azikiwe who also started the West African Pilot for nationalist purpose and Kwame Nkurumah who founded the Accra Evening News, a daily for mobilizing political support. These rulers, he continued, regarded themselves as founders of the states and would do anything to remain in power, and any opposition or divergent opinions were regarded as attempts to destroy the revolutions for which they had endured so much to build. According to Okonkwo (1978:264) “One method of maintaining power was to force the press into a groove of conformity, and leave those very laws they had attacked in the statute books.” What this boils down to is that Africans, nay Nigerian citizens, have not enjoyed the fundamental freedom of speech, which is an inalienable right even after we had got our independence. For in the words of a musician, Obinna Opara, alias Warrior, “when one sells a dog and buys a monkey, one is not yet done with sitting animals!” We have moved from one level of colonialism to another, from external to internal. As Harry Kalven Jnr. observed, “… the presence or absence in the law of the concept of seditious libel defines the society… if it makes seditious libel an offence it is not a free society no matter what its other characteristics” Okonkwo, (1978:58).

**Conclusion**

The ultimate aim/reason d’etre of colonialism is economic exploitation and the hegemon always devices appropriate legal framework necessary to achieve the teleological end. However, such laws that emasculate basic freedoms cannot be tolerated in a democratic society, especially when bills of rights are enshrined in a document called constitution. Since the history of mankind, the struggle for freedom has not been easy due to what Thomas
Hobbes termed “homo homini lopus,” meaning man’s inhumanity to man. Happily, with time the courageous judges of our Court of Appeal finally rose to the challenge by repealing this long overdue inhuman colonial statute, which, regretfully but egocentrically, was haboured by our indigenous rulers. For avoidance of doubt, the decision of the court in Chief Arthur Nwankwo V The State (1989) Supra which to me is “locus classicus” and which gave a lethal but progressive interpretation to the law of sedition in Nigeria is once more reproduced.”

...While Chike Obi V D.P.P, (Supra), Wallance Johnson V the King (1940) AC, 231 were birds of their respective periods, it is my view that sections 50(2), 51 and 52 which cover them are inconsistent with the provisions of sections 36 and 41 of the 1979 Constitution and are by implication repealed from the first day of October, 1979. There is no ban in the Constitution... against publication of truth except for the provision and security necessities embodied in those sections. If a publication is false news with intent to cause fear and alarm in public, there is section 59 of criminal code to cover it. If a person feels defamed there is the civil remedy of suing for libel or slander. There are also provisions in chapter XXXIII of the criminal code law as to criminal defamation – see section 374 thereof. By looking at the constitution in the light of existing law so as to accommodate and save the provision of existing law defeats the purpose of section 274(3) of the constitution. If the existing law is inconsistent – with the constitution the existing law is null and void to the extent of that inconsistency.

To this end, the court has rightly exercised its powers as stipulated in section 274(3) of the 1979. This it did by remarking that:

Nothing in this constitution shall be construed as affecting the power of a court of law or any tribunal established by law to declare invalid any provision of an existing law on the ground of inconsistency with the provision of any other law, that is to say:

(a) Any other existing law.
(b) A law of a House of Assembly.
(c) An act of the National Assembly; or
(d) Any provision of the constitution.

With a deserving tribute to the legal giants, we say good riddance to
the bad rubbish that was the law of sedition as it way inconsistent with the democratic constitution of the Federal Republic of Nigeria, the supreme law of the land.

References


Ogbruagu V Police (1953). 20 NLR 139.


