

# RIGHT TO FREEDOM OF EXPRESSION AND THE LAW OF DEFAMATION IN NIGERIA

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## ABSTRACT

*Section 39(1) of the 1999 Constitution of Nigeria guarantees freedom of expression as a fundamental right. This right is also guaranteed under the United Nations Declaration of Human Rights and other international human rights instruments. Provisions are also made in the Constitution and the respective International Instruments for restriction to, and derogation from this right. This study examined the extent to which the law of defamation has restricted freedom of expression in Nigeria and the role of the courts in balancing the two conflicting rights and interests. It was concluded that the legal requirements for proving civil defamation and the availability of defences have made it difficult for this tort to impose any meaningful restriction on the right to freedom of expression in Nigeria. However, criminal defamation and the offence of sedition are serious encroachments on freedom of expression and should be reviewed and reformed or expunged from the statute books.*

*Keywords: Freedom of expression, Law of defamation, Constitution, Human right*

## INTRODUCTION

Freedom of expression is one of the fundamental rights, which are universally recognised and protected. Indeed, the Constitutions of most countries of the world, including Nigeria<sup>1</sup>, have expressly provided for the protection of this right because of its importance and relevance to the enhancement of personal liberty and democracy. The right to freedom of expression is also protected under the Universal Declaration of Human Rights and the various regional Instruments and Conventions on human rights, including the African Charter on Human and Peoples Rights<sup>2</sup>. Obligations and duties are imposed on the State or its agencies and on individuals to protect and promote human rights and fundamental freedoms.

However, the right to freedom of expression, like most other rights, is not absolute. There are recognised restrictions and exceptions to this right; one of which is to be found in the law of defamation. Thus, the enjoyment of the right to freedom of expression must take into consideration the right of other citizens to protect their reputation. The courts therefore have an important role to play in balancing the conflicting interests between freedom of expression and protection of reputation. This article aims at examining the legal and constitutional guarantee of the right to freedom of expression in Nigeria and the extent to which the law of defamation has restricted the enjoyment of this right. The effectiveness of the Nigerian courts in striking an acceptable balance between the two conflicting rights and interests in this regard is also examined.

## **LEGAL/CONSTITUTIONAL GUARANTEE OF RIGHT TO FREEDOM OF EXPRESSION**

The right to freedom of expression is guaranteed and protected in Section 39 of the 1999 Constitution of Nigeria in the following terms:

1. Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.
2. Without prejudice to the generality of sub section (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions provided that no person, other than the government of the federation or a state, or any other person or body authorised by the president on fulfillment of a condition laid down by an Act of National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

The right to freedom of expression is also guaranteed under the various international instruments on human rights and fundamental freedoms. Thus, Article 19 of the Universal Declaration on Human Rights provides as follows:

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

Similarly, Article 19 of the International Covenant on Civil and Political Rights provides for the right to freedom of expression as follows.

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print in the form of art or through any other medium of his choice.

Article 9 of the African Charter on Human and Peoples Rights also provides for the protection of the right to freedom of expression in the following terms:

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinion within the law.

### **NATURE AND SCOPE OF RIGHT TO FREEDOM OF EXPRESSION**

Generally, freedom of expression connotes the liberty of every person to openly discuss issues, hold opinions and impart ideas without restrictions, restraints or fear of punishment. It is undoubtedly, a right to be enjoyed by every person who is not under any bondage or disability. In every human society, Nigeria not being an exception, the desire and freedom of an individual to hold an opinion and share the same with a listener of his choice is a fundamental one. This is because a person has the right to have a perspective of the world, the circumstances around him and the people he interacts with<sup>3</sup>. Indeed, true freedom of a person or persons would be

elusive if it is not possible to ventilate ones viewpoint or share ones opinions with others in the society. Therefore, freedom of expression is one of the essential ingredients of every democratic society. Accordingly, Nwabueze<sup>4</sup> maintains that free speech and a free press are instruments of self-government by the people because they enable the people to be informed and educated about affairs of government, thereby enabling them to form and express intelligent opinions on such matters. He therefore concludes that free dissemination and discussion of ideas and opinions is indispensable to democratic government. Freedom of expression is also regarded as a basic condition for the progress of the society and the development of mankind. The European Court on Human Rights in *Handyside Case*<sup>5</sup>, confirmed this position when it held that the right to freedom of expression is one of the essential foundations of a democratic society and the basic condition for its progress and development.

In the same vein, Osita Eze (1999) asserts that freedom of expression is of great importance to human race, as free exchange of ideas tends to promote harmony and societal development; while suppression of the freedom of expression often leads to conflict and instability<sup>6</sup>. The freedom of expression guaranteed in the Nigerian Constitution and the various International Instruments on human rights and fundamental freedom, has three constituent elements; namely, the freedom to (1) hold opinions (2) receive ideas and information (3) impart ideas and information? The freedom to hold opinions can only be manifested when the opinions are communicated without adverse consequences. This is therefore inseparable from freedom of speech. It can be said that it incorporates the right to hold and express dissenting views, and the right to comment on matters of public interest. Democracy implies the recognition of skepticism as a vital element and attitude in the lives of free men<sup>8</sup>. Any law or Act that tends to deny people of the right to express their opinion would be regarded as undemocratic and tyrannical and would portray the government of the day in bad light. Thus, the attitude of some government owned media, which, in spite of clear non-discrimination clauses, refuse to air or carry the views of an opposition party is reprehensible as it amounts to a contravention of the right to freedom of expression.

However, the negative effect of such actions is no longer felt as there are so many privately owned media houses in Nigeria today, which are ready to air or carry views which are contrary to those of government. The freedom to receive ideas and information is also an aspect of the right to freedom of expression and the press. It prevents the government and individuals from preventing a person from receiving information and ideas that are available to the public<sup>9</sup>. Thus, where there is a riot and journalists have taken notes or filmed the incident, the seizure or destruction of such notes or films by government security agents will be a violation of the constitutional right of the citizens to be informed<sup>10</sup>. The right to impart information, whether in oral or written form and through any medium is indeed the actualization of freedom of expression. Thus, any individual is free to own, establish and operate any medium for the dissemination of such opinions, ideas or information.

In construing the scope of freedom of expression under section 36 of the 1979 Constitution, which is *impari materia* with section 39 of the 1999 Constitution, the Supreme Court, in *Okogie v A.G. Lagos State*, held that the section confers untrammelled right on any individual to establish and run any educational institution as a medium for the dissemination of ideas. The court stated clearly that the word "medium" used in the said section of the Constitution is not limited only to the orthodox mass communication media but could reasonably include schools. Thus, any statutory abolition of private primary schools would constitute a violation of the right of proprietors of these schools to freedom of expression.

Whether the right to impart information involves the right of non-disclosure of the source of information is an issue of unresolved controversy. In *Tony Momoh v The Senate*<sup>12</sup>, the Senate Committee of Inquiry summoned Mr. Momoh, then Editor of *Daily Times*, to disclose the source of his information, which formed the basis of an article published about the senators. A Lagos High Court upheld the contention of Mr. Momoh that disclosure could violate his right to freedom of expression guaranteed under section 36(1) of the 1979 Constitution<sup>13</sup>.

However, on appeal, the Court of Appeal reversed the decision and held that "the press or any other medium of information cannot claim any right to confidentiality of the source of their information in a proper investigation by a House of the National Assembly or the Police". The decision of the Court of Appeal in this case can be faulted on the ground that it is not consistent with the constitutional requirements on the restriction of the right to freedom of expression<sup>14</sup>. Since the Senate failed to show that the demand for disclosure of source of information was for any of the permitted purposes under the Constitution, the Editor's right to collect and disseminate information should not have been restricted. It is obvious that to compel a journalist to disclose his source of information will reduce considerably the amount of information members of the public would be prepared to give to him. This situation, no doubt, would constitute an interference with the right to collect and disseminate information.

### **RESTRICTION ON, AND DEROGATION FROM RIGHT TO FREEDOM OF EXPRESSION**

It has already been shown that the right to freedom of expression is not absolute, but qualified. Both the Nigerian Constitution and the International Instruments, which have guaranteed the right to freedom of expression, have also provided for those circumstances where this right may be restricted or derogated from. Under section 39(3) of the 1999 Constitution of Nigeria, the right to freedom of expression could be restricted by a law reasonably justifiable in a democratic society, for the purpose of preventing the disclosure of information received in confidence or for the purpose of maintaining the authority and independence of the courts. Also, by virtue of Section 45(1) of the 1999 Constitution, the right to freedom of expression and some other fundamental rights guaranteed in the Constitution could be restricted or curtailed

by any law that is reasonably justifiable in a democratic society:

- (a) In the interest of defence, public safety, public order, public morality, public health or
- (b) For the purpose of protecting the rights and freedoms of other person.

Article 19 (3) of the International Covenant on Civil and Political Rights provides for the restriction of the right to freedom of expression as follows:

The exercise of the rights provided for in paragraph 2 of this Article carries with it special responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as provided by law and are necessary.

- (a) For respect of the rights or reputation of others.
- (b) For the protection of national security or public order or of public health or morals.

Also, in this regard, the African Charter on Human and Peoples Rights simply provides to the effect that the exercise or enjoyment of the right to freedom of expression shall be done within the limits of law<sup>15</sup>.

The determination of whether a particular act is justifiable in a democratic society is a question of fact, solely reserved for the court to determine. Thus, in *Chike Obi v Director of Public Prosecution*<sup>16</sup>, the Federal Supreme Court held that its role was not merely to rubber stamp the acts of the Legislature and the Executive; that the court must be the arbiter of whether or not any particular law is reasonably justifiable<sup>17</sup>. Also, in *Olawonyin v Attorney General of Northern Nigeria*<sup>18</sup>, the Court held that a restriction upon a fundamental human right, before it may be considered justifiable must (a) be necessary in the interest of public morality and (b) not be excessive or out of proportion to the object which it is sought to achieve.

In Nigeria, some of the laws, which restrict the right to freedom of expression, include the law of sedition, the law relating to treason and treasonable felony, the Official Secret Act and the law of defamation<sup>19</sup>. The International Covenant on Civil and Political Rights has clearly recognised the law of defamation as one of the restrictions to the right to freedom of expression. Commenting on the provision of section 41(1) of 1979 Constitution (now section 45(1) of the 1999 Constitution), Nwabueze maintains that the restrictions on the right to freedom of expression lack specificity and do little more than restate the general principle that freedom must be balanced with public welfare<sup>20</sup>. Though section 45(1) of the 1999 Constitution of Nigeria does not expressly mention the law of defamation as one of the laws restricting the right to freedom of expression, a careful examination of the purpose of the law of defamation brings it within the contemplation of the said constitutional provision as one of the laws that is reasonably justifiable for the purpose of protecting the rights of others, and in this case, the right to protect their reputation.

## **DEFAMATION AND FREEDOM OF EXPRESSION**

***Civil defamation:*** In Nigeria, defamation is both a tort and a crime. The tort of defamation (civil defamation) is regulated by the rules of common law, with few

statutory interventions aimed at reforming certain aspects of the law. It seeks to protect a person's reputation from unjustified attack either by the written or spoken words of others. In *Benue Printing and Publishing Corp. v Gwagwada*<sup>21</sup>, the Supreme Court defined defamation as any imputation which may tend to lower the plaintiff in the estimation of right-thinking members of the society generally, cut him off from society or expose him to hatred, contempt or ridicule. On the other hand, freedom of expression is a fundamental right of every citizen, which is guaranteed and protected under the Constitution.

In the light of the foregoing, the court is saddled with the onerous task of striking an acceptable balance between the interest in protecting a person's reputation and the interest in freedom of expression. The position of the law is firmly established that in an action for defamation the plaintiff will only succeed if he is able to prove the essential ingredients of the tort, which are (1) that the words complained of are defamatory, (2) that the words referred to the plaintiff, (3) that the words were published. And in the case of slander, the plaintiff must also prove special/actual damage, unless he can come under the exceptional cases where slander is actionable *per se*<sup>22</sup>. Though, all these ingredients of defamation must be proved by the plaintiff in order to succeed, it has been held that the essential part of the cause of action in defamation is the publication of the defamatory statements complained of<sup>23</sup>.

Publication is the communication of the alleged defamatory statement or matter to at least one person other than the plaintiff<sup>24</sup>; which is effectively the exercise of right to freedom of expression. Thus, it is trite law that an action for defamation cannot be sustained, without proof of publication<sup>25</sup>. If the alleged defamatory statements were communicated to the plaintiff only, then no action for defamation would be maintained. The success of the plaintiff in action for defamation also depends on the absence of an acceptable defence from the defendant. When successfully raised, the defences of justification, absolute privilege, qualified privilege, and fair comment would completely exonerate the defendant from liability in an action for defamation. The availability of these defences clearly confirms that the right to freedom of expression would not be denied easily and the restriction provided by the law of defamation is by itself not absolute. The entrenchment of the right to freedom of expression in the Constitution underscores its importance and the need for its protection and promotion.

***Criminal defamation:*** Criminal defamation is provided for in the Criminal Code<sup>26</sup> for the Southern Nigeria and the Penal Code<sup>27</sup> for Northern Nigeria. Thus section 375 of the Criminal Code criminalises defamation in the following terms:

*Subject to the provisions of this chapter, any person who publishes any defamatory matter is guilty of a misdemeanor and is liable to imprisonment for one year and any person who publishes any defamatory matter knowing it to be false is liable to imprisonment for two years.*

By section 373 of the Criminal Code, a defamatory matter is one which is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule or likely to damage any person in his profession or trade by an injury to his reputation.



The bringing of the defamatory matter to the notice of the person defamed will be enough evidence of publication<sup>28</sup> and the posting of a letter to the person defamed is publication<sup>29</sup>. Just as in civil defamation, the defences for criminal defamation include justification, absolute privilege<sup>30</sup> and qualified privilege<sup>31</sup>, amongst others. However, unlike in civil defamation, those accused of criminal defamation must establish not only that the words were true, but also that they were published for the public benefit<sup>32</sup>.

It is difficult to appreciate the continued retention of criminal defamation in its present form in our statute books. Obviously, an attack on a person's reputation is a civil matter, which is adequately addressed and redressed by the tort of defamation. Criminal defamation should be restricted to those situations where defamatory matters are published with intent to extort or commit other crimes. In such cases, the basis for the offence is not in the bare publication of defamatory matter but in the criminal intent to extort<sup>33</sup> money or other property from the person against whom the publication is made.

Akin to criminal defamation is the offence of sedition. A seditious publication has the intention to bring into hatred or contempt or to excite disaffection against the person of the President or Governor or Government of the Federation; or 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 to raise discontent or disaffection amongst the citizens or other inhabitants of Nigeria; or to promote feelings of ill-will and hostility between different classes of the population of Nigeria<sup>34</sup>. Under the Criminal Code, sedition is punishable with a sentence of two years or a fine, and three years for a subsequent offence<sup>35</sup>. Under the Penal Code, the sentences are longer.

The situation in Nigeria regarding the offence of sedition is rather disturbing and unfortunate. Though, in *Arthur Nwankwo v The State*<sup>36</sup>, the Court of Appeal struck down on the offence of sedition and held that sections 51 and 52 of the Criminal Code dealing with sedition are inconsistent with section 36 of the 1979 Constitution (now section 39 of the 1999 Constitution), nevertheless, the law remains in the statute book and several Nigerians have been charged for sedition. The Supreme Court is yet to pronounce on the matter<sup>37</sup>. However, it has been contended that not all the subsections of section 50(2) relating to seditious intention are unconstitutional. Thus, section 50(2)(c) and (d) which define seditious intention as an intention (c) to raise discontent or disaffection among the citizens or other inhabitants of Nigeria, or (d) to promote feelings of ill will and hostility between different classes of the population, are reasonably justifiable in a democratic society. The blanket pronouncement of the Court of Appeal in so far as it affects section 50 in its entirety, is with the greatest respect, *per incuriam*<sup>38</sup>. Perhaps what is needed now is a thorough review and reform of the law of sedition in line with the realities of the modern, democratic Nigerian nation.

## **THE ROLE OF THE COURTS IN DEFAMATION CASES**

It is duty of the Court to ensure the protection of the fundamental rights of the citizens, and, in appropriate cases, to balance the conflicting interests of the parties involved. This was confirmed in the case of *Olawoyin v Attorney of Northern Nigeria*<sup>39</sup>, where it was held that the courts have been appointed sentinels to watch over the fundamental rights secured to the people of Nigeria by the Constitution and to guard against any infringement of those rights... Similarly, *Ayoola JSC, in Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo*<sup>40</sup> declared that the courts are the institution, society has agreed to invest with the responsibility of balancing conflicting interests in a way as to ensure the fullness of liberty without destroying the existence and stability of society itself<sup>41</sup>.

In balancing the conflicting interests between freedom of expression and the protection of reputation, the courts would normally proceed from the principle that the right to freedom of expression, being a fundamental human right, must be given preferential protective consideration; and any claim to its restriction or derogation must be construed strictly. The European Court on Human Rights confirmed this approach in the *Sunday Times Case*<sup>42</sup>, when it ruled that where the principle of freedom of expression is subject to a number of exceptions, such exceptions must be narrowly construed. Thus, a plaintiff in an action for defamation must satisfy the court that he is entitled to invoke the exception to restrict or curtail the defendant's fundamental right to freedom of expression. This is why he bears the burden of proving the requisite ingredients constituting the tort of defamation. The courts in Nigeria have always exhibited great courage, even during military regimes, in the discharge of its judicial functions, particularly in balancing competing interests and ensuring that justice is done to the parties.

## **CONCLUSION AND RECOMMENDATIONS**

Generally, the enforcement of fundamental rights, which includes the right to freedom of expression, is usually given paramount consideration by the courts in Nigeria. Indeed, the courts have a duty to ensure that the fundamental rights of the citizens are upheld and protected at all times and are not whittled down except by the exceptions and provisions clearly enacted or identified in the Constitution itself or in existing statutes or regulations which are not in conflict with the Constitution<sup>43</sup>.

One of the recognised exceptions or restrictions to the right to freedom of expression is the right to the protection of reputation as provided under the law of defamation<sup>44</sup>. A person will therefore be liable if in the course of exercising his right to freedom of expression, he infringes the right of others to the protection of reputation. However, the exception provided by the law of defamation also aims at promoting the interest of mankind and enhancing the dignity of the human person. It introduces discipline and self-control into the system and prevents the abuse of the right to



freedom of expression. Though the threat of liability for defamation may have a freezing effect on freedom of expression, the resultant discipline in the society and respect for the rights of one another would help in maintaining social cohesion and stability for the overall development of the society. It is suggested that criminal defamation and the offence of sedition should be reviewed and reformed to suit the realities of the modern democratic Nigeria or completely expunged from our statute books. The danger that the individual defamed might be provoked to violent retaliatory action, while it passed as a justification for the criminal punishment of defamation in the old, more violent days, seems rather outworn in modern times, conditioned by more civilized ideas about the redress of grievance through the established process of the law.

Finally, it is important to stress that since the majority of Nigerian citizens are still ignorant of their rights, it has become necessary for the government at all levels with the active support of Non-Governmental Organizations (NGOS), to embark on intensive programmes aimed at enlightening the citizens, not only on their fundamental rights, which include the right to freedom of expression but also on their right to the protection of reputation. An enlightened society where people know their rights and respect the rights of others would certainly be more conducive for social, political and economic development.

## NOTES

<sup>1</sup> See Chapter IV of the 1999 Constitution of Nigeria.

<sup>2</sup> The Charter came into force in 1986.

<sup>3</sup> E. Odike, "Right to Freedom of Expression and the Press", in Okpara Okpara, *Human Right Law and Practice* (Enugu: Chenglo Ltd, 2005) at 249.

<sup>4</sup> B.O. Nwabueze, *The Presidential Constitution of Nigeria* (London/Enugu: C. Hurst & Co. (Publishers Ltd) in association with Nwamife Publishers Ltd 1982) at 456.

<sup>5</sup> Ibid.

<sup>6</sup> Decided on 7/12/1976 in Series A. N0. 24 of European Human Rights Report (EHRR) 737 at R 49.

<sup>7</sup> Osita Eze: "Dissent in a Democratic Polity: Options in a Presidential System", in Y. Osinbajo and A. Kalu, ed. *Democracy and the Law* (Lagos: Federal Ministry of Justice, 1999) at 134.

<sup>8</sup> See also Osita Eze, *Op. Cit.* at 174.

<sup>9</sup> O.Ogbu, *Human Rights Law and Practice in Nigeria: An Introduction*, (Enugu: CIDJAP Press 1999) at 184.

<sup>10</sup> Ibid, at 181.

<sup>11</sup> Osita Eze, *Op. Cit.* at 37. It seems this does not impose any duty on government to give access to official information to any body.

<sup>12</sup> This was the judgment of the Constitutional Court of Austria delivered on 16th March 1987 - B 154/86 (1987). Reported in Osita Eze, *Op. Cit.* at 37.

<sup>13</sup> (1981) NCLR 337.

<sup>14</sup> (1981) 1 Nigerian Commerical Law Report (NCLR) 21 (HC); (1984) 4 NCLR 269 (CA).

<sup>15</sup> See also *Adikwu v Federal House of Representatives* (1982) 2 Nigerian Commerical Law Report 394, where a Lagos State High Court also held that a Newspaper cannot be required to disclose the sources of information except in grave and exceptional circumstances.

- <sup>16</sup> See 1979 Nig. Const., s. 36(3) (now section 39(3) of the 1999 Constitution) and 1979 Nig. Const., s. 41(1) (now section 45(1) of the 1999 Constitution).
- <sup>17</sup> Article 9(2).
- <sup>18</sup> (1961) 1 All Nigerian Law Report (All NLR) 182.
- <sup>19</sup> Ibid, at 196.
- <sup>20</sup> Ogbu, Op. Cit at 184.
- <sup>21</sup> Nwabueze, Op. Cit. at 467.
- <sup>22</sup> (1962) 1 All Nigeria Law Report (NLR) 324.
- <sup>23</sup> (1989) 4 Nigerian Weekly Law Report (NWLR) (Pt. 116) 439.
- <sup>24</sup> The exceptional cases include imputation of crime, imputation of disease, imputation of unchastely and adultery to a woman or girl, imputation of unfitness or incompetence affecting professional or business reputation.
- <sup>25</sup> Ibid., see also *Nsirim v Nsirim* (1990) 3 Nigerian Weekly Law Report (NWLR) (Pt. 138) 285; *Mamman v Salaudeen* (2006) 135 LRCN 859.
- <sup>27</sup> Cap. 77 Law of the Federation of Nigeria (LFN), 1990 now Cap. C. 38 Laws of the Federation of Nigeria 2004.
- <sup>28</sup> Cap 345 Law of the Federation of Nigeria (LFN), 1990 now Cap. P. 3 Vol. 13 Laws of the Federation of Nigeria 2004.
- <sup>29</sup> Unlike in civil defamation where communication of the defamatory matter to the plaintiff alone will not constitute publication. The defendant must have communicated it to a third party.
- <sup>30</sup> *Rex v Adema Arubi* (1935) 11 Nigeria Law Report (NLR) 27, *Ogbuagu v Police* (1953) 2 Nigeria Law Report sNLR 139.
- <sup>31</sup> Criminal Code Act, Cap. C 38 LFN 2004 s. 377.
- <sup>32</sup> Ibid, s. 378.
- <sup>33</sup> Ibid, s. 379.
- <sup>34</sup> Ibid, s. 376.
- <sup>35</sup> Ibid, s. 50.
- <sup>36</sup> Ibid, s. 51.
- <sup>37</sup> (1985) 6 Nigerian Commerical Law Report (NCLR) 228.
- <sup>38</sup> B. Adetokunbo, "Impact of Military Rule on Fundamental Human Rights in Nigeria" in Okpara Okpara ed. Op. Cit. at 365.
- <sup>39</sup> See C. Oko, "Constitutionality of Nigerian Sedition Law *Arthur Nwankwo v The State*" (1978 - 1988) NJR, Vol. 3 at 186 - 187.
- <sup>40</sup> (1961) All Nigeria Law Report (NLR) 269. See also *Nsirim v Nsirim* (1990) 3 NWLR (Pt. 138) 285.
- <sup>41</sup> (2001) 85 LRCN 908.
- <sup>42</sup> Op. Cit. at 956, Per Ayoola JSC.
- <sup>43</sup> EHRR of 7/12/1976 Series A of N0. 24 at 49.
- <sup>44</sup> *Akulega v Benue State Civil Service Commission* (2001) 12 Nigeria Weekly Law Report (NWLR) (Pt. 728) 524 at 57.
- <sup>45</sup> See 1999 Nig. Const., s. 45(1) (b).
- <sup>46</sup> *Hercy and Atsegbua: An Introduction to the Nigerian Law of Torts* (Benin: UNIBEN Press, 1990) at 135.
- <sup>47</sup> Nwabueze, Op. Cit. at 475.