

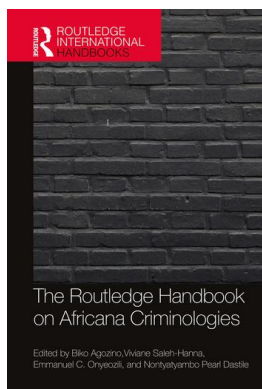
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### Resisting the Colonialist Crime of Sedition Among African People

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## 10

# RESISTING THE COLONIALIST CRIME OF SEDITION AMONG AFRICAN PEOPLE

*Abiodun Raufu*

### **Introduction**

This chapter offers an overview of the impact of the sedition law on colonial Africa and the nationalist struggle. It reviews the struggle for political independence by African colonies within the context of the attempt by the British colonialists to perpetuate their hegemony by using judicial means to silence the people. The chapter examines the experiences of the nationalists in their bid to speak truth to colonial power and bring an end to colonialism through defiant insistence on free speech and an independent press. It is argued that the implementation of the sedition law, rather than intimidating the natives into an apathetic silence, had the opposite effect. Instead, the obnoxious law had the effect of energizing the anticolonial struggle and fast-tracking the pace of decolonization. This chapter concludes by examining how the courageous actions of the people and their leaders precipitated the end of colonialism in many parts of Africa. The irony, however, is that the oppressive law continues to exist in the criminal code of some African countries several years after political independence. Many of the nationalists who eventually transformed into presidents of their countries used the same law to bully critics and the press, calling into question the capacity of African leaders to offer good leadership and imbibe democratic ethos.

The first set of Europeans to set foot in sub-Saharan Africa were Portuguese traders in the 15th century. Not long after, other Europeans, mainly from England, France, Holland, Spain, and other countries followed. The initial reason for their presence was trade, lured by the natural resources of the continent. Contrary to the popular British narrative about colonialism in Africa that has long persisted, the colonization of the African continent was neither about a civilizing mission nor a selfless attempt to liberate some primitive Africans from bestial pagan worship. In reality, the colonization of Africa was the massive exploitation of a whole continent by a handful of European nations (Habib, 2017).

Over time, conquest soon followed, and the Europeans began fighting among themselves for control of the continent. Peace only returned when they sat down to negotiate who got what piece of the African pie at the Berlin Conference of 1884, which supervised the partitioning of Africa among European colonialists in the aftermath of the Scramble for Africa. The Scramble for Africa and the eventual partitioning of Africa were the end result of fierce contestation by European powers to engage in the economic exploitation of Africa by the primitive accumulation and transfer of the continent's resources to the imperialists (Ince, 2016). Sustaining this mode of primitive accumulation required desperate measures to terrify the natives and suppress their will to rebel against the colonial masters. The political economy of colonialism rested on economic exploitation of the weak by the strong. In this regard, just as capitalism is the primitive accumulation of capital within a nation-state, imperialism, by extension, reproduces contestation by the world's strongest nations to prey on the weak.

The British and the French got most of West Africa, while the Belgians, the Portuguese, and the Boers settled for large swaths of Central and Southern Africa. By the 1900, the British had fully established day-to-day administration of the territory under their control. To ease governance and the exploitation of the resources of their colonies, they passed several laws that were not always in the interest of the natives. This often led to resentment and sometimes uprisings, leading to the emergence of the nationalist movement in many of the colonies. The nationalist struggle was often led by natives who had been educated in England and were thus exposed to British culture and its liberal democratic tradition.

The colonial occupation of the African landscape was not without resistance by the natives. The natives largely employed nonviolent means to press their demand for decolonization with the local press at the center of the nationalist struggle, but there were also the occasional violent schisms in the course of the struggle. The colonialists' attempt to maintain a firm grip on the colonies often involved different forms of social control that contradicted their professed commitment to individual liberty and universal human rights. In the process, the law was used largely as an instrument of coercion during the colonial era across Africa, so the colonialists could sustain their hegemony on the continent as an army of occupation. This way, the colonial administration circumscribed freedom of speech and press freedom to ensure minimal resistance against its rule by the African elite, who were bent on pursuing an agenda of decolonization and self-rule. To undermine the nationalist demand for decolonization, therefore, the colonial power simply criminalized free speech, even when it was evident truth, in its bid to nullify the natives' demand for representation and self-rule.

### **The African press and sedition law**

The history of the anticolonial struggle in sub-Saharan Africa cannot be completely told without mentioning the crucial role the African press played in the nationalist movement. Initially, particularly between the 1920s and 1940s, the colonial administration encouraged the emergence of newspapers as it was believed that it would help encourage mass education and the emergence of an enlightened and educated native

population. The colonial administration encouraged the establishment of newspapers primarily to assist them in explaining to the natives their obligations to the colonialists. The local press was free to go about its business as long as it did not ruffle any feathers beyond performing the tasks of informing, educating, and entertaining the people (Osafo, 2016). But the emergence of an educated African elite created a new political climate. The seeds of nationalism sprouted as the locals, using the press to air their views, became more vocal in questioning their exploitation by the colonialists. The new anticolonial environment was facilitated by the advent of uncompromising newspapers that were critical of the colonial administration.

Many of the journalists working on the newspapers were prominent members of the nationalist struggle. Quite a number of the existing newspapers were owned by members of the new African elite who headed the nationalist movement and who had studied in England. During their sojourn in the Western world, they had observed the role of the press as an essential feature of a liberal democracy. They had witnessed the functions of the press not only in terms of its educative and information dissemination role but also as a watchdog and a vital means of mass mobilization. Consequently, the African editors and their publishers were fully involved in political mobilization and agitation against colonial rule (Twumasi, 1974). The nationalists pressed their demand for self-rule, and they employed the service of the local press as a convenient vehicle to pursue that aspiration. Expectedly, the newspapers were highly critical of the colonial administration, and the latter sought to suppress them (Omu, 1968). The newspapers provided a critical platform for an upsurge in creating a nationalist fervor among the natives. The newspapers were not only critical of the colonial administration; they also provided a platform to mobilize the people to oppose repressive laws, taxation, and other unwholesome activities of the colonialists, creating anxiety about possible native uprising.

The colonialists were in a dilemma between holding tightly to their hegemonic prize and global promotion of the democratic ideology of individual liberty and human rights. Given the prominent role of the press in serving as a watchdog on the British colonialists, it was inevitable that the journalists would feel the full wrath of the colonialists. Unwilling to relax its hold on the colonies or allow for any form of self-determination, the colonial administration felt compelled to react. The colonialists used the pretext of the Second World War to introduce the full implementation of the sedition law, on the pretext that it was needed to combat communism and espionage. Yet the obvious reason was to halt the increasing tempo of militant nationalism that the newspapers appeared to be supporting (Mordi, 2017). The reaction came in various forms.

A major manifestation of the colonialist reaction was the introduction of the sedition law to control the free press and speech (Newell, 2016). The political economy of colonialism compelled the colonial administrators to hold on to power by any means. The use of the sedition law to suppress the natives was thus an attempt by the colonialists to hold on to the colonies and their riches by hook or by crook. The social and structural dynamics allowed the colonialists to engage in raw displays of power and to get away with it because, when the gloves were removed, colonialism was no different than bare-faced robbery or predation by powerful nations on weak ones.

India was the first colony where the British introduced the sedition law in 1901, which was used to punish many of its nationalist leaders for utterances or and publications that were deemed seditious. In 1909, the colonialists introduced the Seditious Offenses Ordinance in Nigeria, its first African colony to feel the full impact of the repressive law to deal with the activities of the nationalists and an increasingly critical local press (Iredia, 2018). The aim was to stifle the local press from criticizing the British colonial administration's mismanagement of the colonies and to silence the natives' complaints of wanton violation of their fundamental human rights. Over time, the sedition was applied to all other British colonies in Africa to ensure that forceful enslavement of the natives was unquestioned. The sedition law was a judicial instrument of coercion used to circumscribe the fundamental rights of the local people in the colonialists' bid to consolidate their control over the people and their resources. Although the colonial state professed a liberal agenda anchored on democratic ideals and human dignity, the colonial administration afforded the natives neither their dignity nor their liberty (Ibhawoh, 2002). The law of sedition struck at the heart of individual liberty and freedom because it empowered the colonial administration to use its powers and its courts to gag the people from expressing their opinion.

In Ghana, for example, several antigovernment newspapers owned by either missionaries or the missionary-educated elite were established between 1857 and 1900, spearheading agitation for self-rule (Osafo, 2016). But once the newspapers became a strategic weapon in the hands of the nationalists to fight cruel laws and inhumane policies, the colonialists became wary of the newspapers and began to seek to control them. Several anti-free speech legislations were initially introduced to gag the press. These included the Newspaper Registration Ordinance, 1893 (Cap 103 and Cap 125), which was later amended and renamed the Book and Newspaper Registration Ordinance in 1897 (Cap 124). This was to suppress the press by controlling the process of newspaper registration. In 1893, the Newspaper Registration Ordinance, 1893 (Cap 103 and Cap 125) was added to make public the names of the owners of each newspaper as well as the name of the authors of stories in the newspapers to make it easy for the colonial authorities to identify who to punish for stories critical of its administration and officials. It wasn't until 1934 that the Criminal Code (Amendment) Ordinance, otherwise known as the Sedition Ordinance, was introduced in Ghana (Osafo, 2016). The law prescribed fines of up to 100 pounds, up to three years imprisonment, or both for criticism of the colonial administration policies and its officials. The offenses included printing, publishing, selling, reproducing, distributing, or importing publications; utterances; words; and materials that caused hatred of the colonial government, its officials, or its representatives. In addition, it stipulated stiff punishment for any agitation for the overthrow of the colonial government or any campaign to end colonialism in the Gold Coast (Osafo, 2016).

One of the most celebrated cases in the Gold Coast regarding the sedition law took place in 1936, when Dr. Nnamdi Azikiwe, a Nigerian nationalist and journalist who was living in Gold Coast at the time, and I.T.A. Wallace, a Sierra Leonean nationalist and journalist, were charged with publishing an article that was deemed highly critical

of the colonial administration in the Gold Coast. In *Rex v. I.T.A. Wallace Johnson & Nnamdi Azikiwe*, both men were arraigned for publishing seditious material authored by Azikiwe, titled “Has Africa a God,” which was published in the *African Morning Post*. The two nationalists were sentenced to a six-month jail term, fined 50 pounds (£50) each, and later deported (Egbenda, 2018). Over the years, several journalists and nationalists experienced the same fate. But rather than being cowed, the nationalist movement agitation grew more vocal (Osafo, 2016).

In Sierra Leone, the Hut Tax War, a famous uprising by the natives against a cruel tax policy, provided a convenient excuse to clamp down on the local press. The colonial governor, Sir F. Cardew, blamed the local press for inciting the natives against colonial rule. The governor said the newspapers had published stories critical of the tax policy, precipitating a rebellion after clerks and Creole traders read the stories to hinterland chiefs, who mobilized their people to violently oppose the tax (Hargreaves, 1956).

### **History of sedition law**

The history of sedition can be situated in the emergence of the printing press in England. In the late 17th century, the English monarchy introduced seditious libel as a more effective means of defending itself against criticism by the printed press after other means, such as licensing and treason laws, had become unusable in the mid-1690s (Hamburger, 1985). It was not always possible to complain of treason against most offensive publications since the treason law of the milieu presupposed that one of three conditions must be met: namely, that the act threatened death to the king, to wage war against him, or to assist his enemies. In any case, treason was too harsh to be used against all publications that criticized the king and his officials.

The monarchy also had problem using *scandalum magnatum* because the law stated that that the offensive material must be only news, and it could be critical of neither political nor theological doctrines. The third option was heresy, but this dealt only with religion, and even this must be a man’s opinion and nothing else. The fourth option, libel, required the opinion of a third party, but at this point in the development of criminal law, libel was not regarded as an effective means of curtailing the press. After the Reformation in the 15th and 16th centuries, the licensing law was the tool the state used for controlling all printed publications. But this also became ineffective when, in 1641, the Parliament repealed the prerogative courts that had promulgated and supervised the enforcement of the licensing laws (Hamburger, 1985).

The sedition law was as ruthless as it was repressive. Basically, it criminalized free speech and opinion. It rejected a defense of truth, criminalized criticism of government even when it did not libel an individual, and punished criticism of government even if it were true (Wendell, 2016). Simply put, sedition law in its full oppressive intent was simply incompatible with the concepts of individual liberty and free speech. The law criminalized criticism of the government, functioning as a weapon of political suppression of freedom of the press and speech (Koffler and Gershman, 1983).

## Sedition law in post-colonial Africa

Despite its sordid past, the sedition law lives on in post-colonial Africa. The nationalists who took over the running of their countries when the British colonialists departed and who had suffered untold hardship under the sedition law have, ironically, kept the legislation and used it to stifle critics who complain about their misrule.

Post-colonial human rights violations are believed to be rooted in Nigeria's colonial legacy. And nearly six decades after independence, repressive colonial laws such as the seditious law continue to be a permanent fixture of Nigeria's legal system (Jauhari, 2011).

## Conclusion

The colonialists used the sedition law to attempt to bully the local press and the natives into silence. Ironically, its implementation produced opposite effect. Rather than terrorizing the nationalists into submission, the sedition law actually energized them into defiance. The more they were punished and imprisoned, the more they agitated for self-rule. It can therefore be argued that the use of the sedition law had the unintended consequence of awakening the consciousness of Africans to their plight and the necessity for them to resist subjugation. Indeed, the use of the sedition law as a judicial instrumentation of oppression boosted the African anticolonial struggle and prepared the ground for the ensuing political independence of many African colonies in the decades that followed.

It is safe to say that if the British colonialists had not acquiesced and granted political independence to their Africa colonies, one after the other, at the time they did, resorting to violence to attain self-rule might have been the next stage of the anticolonial struggle. This was the case in other parts of Africa, where the natives had to resort to armed struggle to push out their European colonizers. Mozambique, Namibia, and a few others are examples of places where the natives confronted their Portuguese colonizers in pitched bloody battle to gain independence.

Therefore, while the sedition law was an unfair use of the law to clamp down on the free press and speech, it played a crucial role in emboldening the nationalists, radicalizing them to engage in open defiance of colonial rule and arguably helping to fast-track the process of decolonization in Africa.

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