



September 19, 2013

H.E. President Ellen Johnson Sirleaf
Executive Mansion
Capitol Hill, Monrovia
Republic of Liberia

Re: Liberia's Defamation Laws and the Rodney Sieh Case

Dear President Sirleaf:

We write today to express our concerns about Liberia's libel laws, which fail to meet international standards on freedom of expression and the media. They allow excessive judgments and undermine the right to appeal, which has been evident in the recent case and imprisonment of Mr. Rodney Sieh, editor-in-chief of *FrontPage Africa*. We urge you to take the lead in immediately seeking a revision of these laws.

We recognize that there have been meaningful gains in the right to freedom of expression since the end of the conflict in Liberia, as evidenced in the growth of new media houses, radio stations and online sites. However, serious problems remain, many of which are generated by several laws you inherited; laws that seriously undermine press freedom. It is these laws that we urge your government to reform so that they both comport with international standards and better promote freedom of expression.

One legal provision, Liberia's Civil Procedure Law sec. 44.71 (2), allows for the imprisonment for non-payment of a court-ordered debt for libel. The United Nations Human Rights Committee, which monitors state compliance with the International Covenant on Civil and Political Rights (ICCPR), to which Liberia is a party, stated in its General Comment 34 on the right to freedom of expression that imprisonment is not an appropriate penalty for defamation. This provision of the Civil Procedure Law – in light of the enormous awards in defamation cases – means that in effect many journalists do in fact risk imprisonment following defamation suits.

Where individuals may be imprisoned for an inability to pay a civil law debt, we believe imprisonment should only be used as a last resort and for as short a period as possible. Yet under Liberia's civil procedure law, there is no cap on the amount of time that a defendant can be imprisoned, nor did the court institute a cap in the aforementioned case of Sieh. Civil Procedure Law sec. 44.71 (2) states that judgment debtor can be "imprisoned for a period sufficiently long to liquidate the full amount of the judgment, interest, and costs at the rate of twenty-five dollars per month." By this calculation, Sieh would have to serve 5,000 years in prison to pay off the \$1.5 million judgment.

Such civil defamation laws can restrict the right to freedom of expression. In 2000, the UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression summarized minimum requirements that civil defamation laws must satisfy in order to comply with the ICCPR. They include:

- Sanctions for defamation should not be so large as to exert a chilling effect on freedom of opinion and expression and the right to seek, receive, and impart information ... and damage awards should be strictly proportionate to the actual harm caused;
- Government bodies and public authorities should not be able to bring defamation suits;
- Defamation laws should reflect the importance of open debate about matters of public interest and the principle that public figures are required to tolerate a greater degree of criticism than private citizens.

The court documents in the *FrontPage Africa* case demonstrate no consideration to the propriety of a large judgment or its possible chilling effect on freedom of expression. The Liberian constitution, under article 21 prohibits excessive fines and punishment. In its General Comment 34, the Human Rights Committee stated that defamation laws should "avoid excessively punitive measures and penalties." The African Commission on Human and Peoples' Rights Declaration of Principles on Freedom of Expression in Africa also states that "sanctions shall never be so severe as to inhibit the right to freedom of expression."

A second legal provision, Civil Procedure Law sec. 51.4 on the appeals process, effectively denies media centers and journalists the right to appeal a large adverse defamation ruling by requiring them to pay a prohibitively disproportionate bond for their defamation judgment. Under the Civil Procedure Law, the appealing party must pay a bond that ensures they can comply with the judgment if the appeal fails, which according to Liberian lawyers is typically one and a half times the amount of the judgment. In Sieh's case this would be \$2.2 million.

In recent years, Liberian government officials have filed several libel lawsuits against local newspapers, seeking damages awards at least as high as \$5 million. As you are well aware, these are sums beyond the reach of most publications in the country. The newspapers sued for these astronomical amounts include the *Analyst*, the *Independent*, and the *New Broom*. The *New Democrat* also lost a large libel lawsuit brought by a company that the newspaper alleged misused public funds.

These cases could have the effect of silencing journalists trying to expose government corruption, which you called a "cancer" for Liberia in your 2006 inaugural address.

We ask that you urgently take the lead in seeking the adoption of a new civil defamation legal regime that appropriately balances the individual right to freedom of expression with the government's obligation to protect its citizens from unjustified attacks on their character and reputations so that cases like the Rodney Sieh case will never be repeated in Liberia.

We thank you for your attention to this matter and look forward to further discussions with your government on this important issue.

Sincerely,

Ken Roth
Executive Director
Human Rights Watch

Salil Shetty
Secretary General
Amnesty International

Patrick Alley
Director
Global Witness