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Liberia: Urgently Reform Libel Laws

Liberia should promptly revise its libel laws to meet international standards for freedom of expression and the media, Human Rights Watch, Amnesty International and Global Witness said today in a letter to President Ellen Johnson Sirleaf. The groups urged President Sirleaf to press for the reform of libel laws and procedure to prevent excessive judgments and restrictions on appeals from undermining free speech rights.

The urgent need for libel reform was highlighted by the August 2013 imprisonment of Rodney Sieh, editor-in-chief of the Liberian investigative newspaper FrontPage Africa, because he could not pay a US\$1.5 million civil libel judgment. The judgment arose from a lawsuit brought in 2010 by a former government minister, Dr. J. Chris Toe, against the newspaper and Sieh for allegedly falsely linking Toe to corruption scandals. The Supreme Court in July dismissed Sieh's appeal because he failed to post a huge bond required by Liberian law to file an appeal. Kofi Woods, Sieh's lawyer, said they are contemplating bringing his case before the Court of the Economic Community of West African Countries (ECOWAS), whose decisions are binding on Liberia.

"Politicians shouldn't be able to squelch press freedom with big-ticket lawsuits against the media," said Corinne Dufka, senior West Africa researcher at Human Rights Watch. "Liberia's libel laws should be changed to limit civil suits by public officials and to make sure any damage awards are no more than the actual harm caused."

Liberia is a party to the International Covenant on Civil and Political Rights (ICCPR), which provides for the right to freedom of expression. The United Nations Human Rights Committee, which monitors state compliance with the treaty, has stated that imprisonment is not an appropriate penalty for defamation. By allowing awards in defamation cases which are far beyond the ability of most Liberian newspapers to pay - and mandating imprisonment for non-payment - Liberian law makes imprisonment the likely outcome of many defamation cases, which creates a serious chilling effect on journalism. In any case, imprisonment for non-payment of a court-ordered debt, while permitted under Liberian law, should only be used as a last resort and for as short a period as possible.

Liberia's civil procedure law provides no cap on the period that a civil defendant can be imprisoned. It states that a defendant 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." At that rate it would take 5,000 years in prison for Sieh to pay off the \$1.5 million judgment.

Civil defamation laws, like criminal defamation laws, can also improperly restrict freedom of expression, the organizations said. The UN special rapporteur on freedom of opinion and expression in 2000 summarized minimum requirements that civil defamation laws must satisfy 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. 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 gave no consideration to the propriety of a large judgment or its possible chilling effect on freedom of expression, contrary to the Liberian constitution and international standards, the organizations said. The Liberian constitution in article 21 prohibits excessive fines and punishment. The UN Human Rights Committee has said that defamation laws should “avoid excessively punitive measures and penalties.” Also, the Declaration of Principles on Freedom of Expression in Africa of the African Commission on Human and Peoples’ Rights states that “sanctions shall never be so severe as to inhibit the right to freedom of expression.”

“The Rodney Sieh case points to the urgent need for the Liberian government to reform the country’s libel laws to meet international standards,” said Lisa Sherman-Nikolaus, Amnesty International’s Liberia Researcher. “While Liberia has made strides in promoting free speech since the conflict, its libel laws clearly expose serious gaps in promoting freedom of expression.”

Liberian law on the appeals process also threatens media organizations and journalists who face huge civil defamation judgments. Under the law, the appealing party must pay a bond that ensures it 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 have been \$2.2 million. As Sieh was unable to pay the appeal bond as stipulated by the appeal statute, the Supreme Court dismissed his case. Such disproportionate bonds effectively deny media centers and journalists the right to appeal an adverse defamation ruling.

In recent years, Liberian government officials have filed several libel lawsuits against local newspapers, seeking damages awards at least as high as \$5 million. These are incredible sums in a country that ranks toward the very bottom of the World Bank’s development indicators. 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 President Sirleaf in her 2006 inaugural address called “a national cancer that creates hostility, distrust, and anger.”

The Liberian government should adopt 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, the organizations said.

“The Liberian government has prided itself on allowing a free and vibrant media,” said Chloe Fussell, Campaigner on Liberia at Global Witness. “The Rodney Sieh case should spur the government to promptly address its draconian libel laws if it wants to maintain its credibility on promoting media freedom.”