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<http://www.rsf.org/kenya-rwb-alarmed-by-new-security-law-22-12-2014,47408.html>

Africa - Kenya

Unconstitutional

Controversial security law provisions ruled unconstitutional

26 February 2015

Reporters Without Borders welcomes this week's Kenyan high court decision declaring eight sections of the controversial Security Laws Amendment Act (SLAA) to be unconstitutional. Two of the sections contain provisions restricting free speech and media freedom.

"We hail this Kenyan high court ruling, which is an encouraging signal for the rule of law and the protection of the Kenyan people's fundamental freedoms, including freedom of information," said Cléa Kahn-Sriber, the head of the Reporters Without Borders Africa desk.

"However, we still have reservations about some of the law's other draconian provisions. The Kenyan people's security should not be protected at the expense of civil rights."

As soon as the amendment was adopted and signed into law last December, an opposition coalition associated with the Kenyan National Commission on Human Rights filed a petition before the high court challenging many of its provisions on the ground that they violate free speech, media freedom and other civil liberties.

In its ruling, issued on 23 February, the court struck down Section 12 of the law for "violating the freedom of expression and the media guaranteed under Articles 33 and 34 of the Constitution."

This section penalized media coverage "likely to cause public alarm, incitement to violence, or disturb public peace" or that "undermines investigations or security operations by the National Police Service or the Kenya Defence Forces." The maximum sentence for violators was three years in prison, a fine of 5 million shillings (55,000 dollars) or both.

Section 48, imposing refugee quotas (and thereby threatening the status of refugee journalists in Kenya, above all those from Ethiopia and Somalia) was also struck down on the grounds that it violated the right of asylum enshrined in 1951 UN Convention relating to the Status of Refugees, to which Kenya is a party.

The government has said that it intends to appeal against the high court ruling and that, pending the outcome of that appeal, all of the law's disputed sections remain in effect.

Reporters Without Borders is worried about a controversial security bill that President Uhuru Kenyatta signed into law on 19 December.

Its adoption ended a week of stormy debates overshadowed by an increase in terrorist attacks in Kenya by Al-Shabaab, an Islamist militia based in neighbouring Somalia. Some of the law's provisions dangerously limit freedom of information and could have a grave impact on journalists' ability to work in Kenya.

"We condemn the draconian provisions in this law that are liable to result in drastic censorship of the Kenyan media, Reporters Without Borders deputy programme director Virginie Dangles said. It is vital that journalists should be able to work freely and that the Kenyan people have the right to complete news coverage."

The law says freedom of expression and freedom of the media "shall be limited (...) for the purposes of limiting the publication or distribution of material likely to cause public alarm, incitement to

violence or disturb public peace." It provides for heavy penalties for anyone disseminating "any information (...) relating to terrorism," without qualifying this in any way. It says covering terrorism or publishing images of victims, "which are likely to cause fear and alarm", without prior permission from the police is punishable by "a fine not exceeding five million shillings [55,600 dollars] or imprisonment for a term not exceeding three years or both." The law also provides for a sentence of up to 20 years in prison for anyone convicted of encouraging or abetting terrorist acts in Kenya via social media. Reporters Without Borders is extremely concerned by the possibility that these provisions could be applied to journalists.

This law continues the escalation in draconian media legislation that began in 2013, when laws were adopted creating a special government-appointed media court to rule on editorial content and, in certain circumstances, prevent journalists from working. The creation of this court took powers held until then by the Kenya Media Council, a journalists' self-regulatory body.

[Ranked 90th out of 180 countries in the 2014 Reporters Without Borders press freedom index](#), Kenya is nonetheless supposedly guaranteed freedom of the media, expression and information in a new constitution that was approved in a 2010 referendum.
