

Reporters Without Borders

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Middle East/North Africa - Algeria

Progress?

Prison sentence quashed but journalist's libel conviction stands

9 July 2012

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On 7 July, an appeal court in the eastern city of Annaba quashed a two-month prison sentence for libel imposed late last month on **Fatma-Zohra Amara**, a journalist with the newspaper *Akher Sâa*.

"Although we are admittedly relieved that the prison sentence has been quashed, we condemn this latest ruling which has upheld the original libel conviction, coupled with a fine and damages, imposed on this journalist, who was only fulfilling her duty of informing the public," Reporters Without Borders said.

"We consider the sum involved, totalling 120,000 dinars (about 1,200 euros), to be disproportionate."

The case was the result of a lawsuit brought by the former administrator of a hospital in Annaba who was accused of sexual harassment by an employee. According to the daily *El Watan*, "in common with other daily newspapers, the *Akher Sâa* journalist only reported the facts as they occurred".

Algeria has been sending contradictory signals on its legal approach to matters of press freedom. The authorities made known their desire to scrap prison sentences for press offences when parliament approved Law No. 12-05 on information at the end of 2011.

Despite this, the legal system appears to have disregarded this change of direction up to now, for example in sentencing the journalist **Manseur Si Mohammed** to prison for libel in May. In practice, the defamation provisions in the criminal code remain in force.

Reporters Without Borders calls for their repeal, and for the decriminalization of press offences to be carried out effectively and properly.

04.07.2012 - Freedom of information still a concern after 50 years of independence

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Reporters Without Borders would like to shine a spotlight on freedom of information in Algeria on the 50th anniversary of the country's independence.

Algeria won its independence from France on 5 July 1962 but, 50 years, later, its media are still not independent. The entire nation is being asked to join in celebrating this anniversary but there are journalists who will not be able to respond because they are threatened, are being prosecuted or are in prison.

Working as a journalist now – less dangerous, more complex

Around 100 journalists were murdered during the decade-long civil war from 1991 to 2002 but nowadays the problems are very different and no journalists have been killed in connection

with their work for years.

It is not easy to be an independent journalist now in Algeria, a country marked by corruption and nepotism, a country where the military and the Intelligence and Security Department (DRS) occupy a privileged position.

Journalists in Algiers are protected by their news organizations but the situation is different far from the capital – there is much less protection and the dangers are real. While it is not as bad as it was in Ben Ali's Tunisia, journalists who criticize powerful local officials are hounded and sometimes jailed.

Journalists and newspapers are often subjected to financial, judicial, physical or psychological harassment or encounter technical difficulties with printing and distribution.

A semblance of pluralism and independence

If you just take a quick look at all the newspapers on sale at the newsstands on Didouche Street in Algiers, you might conclude that the print media are prospering and enjoy real freedom of expression. No fewer than 80 newspapers, mainly Arabic-language ones, are available on the streets of the capital.

But freedom of expression and the situation of the print media or the media in general cannot be measured by the number of newspapers on sale. Many of them are published by businessmen linked to the government and intelligence services. According to a 12 June report by the United Nations rapporteur on the promotion and protection of the right to freedom of opinion and expression ([LINK to English-language version](#)), fewer than six newspapers are really independent in Algeria.



Newspaper mailboxes at the House of the Press in eastern Algiers, October 2009, Reporters Without Borders

The opening-up of broadcasting is one of the main proposed reforms in a new law on news and information. Privately-owned TV stations will compete with the four state-owned channels. For the time being, the end of the state's broadcasting monopoly is still very notional because, under an additional proposed bill governing broadcasting, the creation of new TV channels must be agreed with a new regulatory authority that has yet to be created.



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Foreign-owned TV stations also need to be accredited in order to be able to begin broadcasting in Algeria. It is surprising that some, such as *Annahar TV* and *Echourouk TV*, are already operating out of studios based abroad and in Algiers although the fact that they have a pro-government editorial position seems to explain how they managed to get accreditation.

Continuing vigilance is needed as there is a danger that the new privately-owned TV stations will all end up being owned by powerful businessmen with close links to the political elite and the armed forces, in which case, ending the state's monopoly of broadcasting would change little and would fail to boost media pluralism.

The print media, which have been pluralistic in principle since the 1990s, continue to suffer from monopolistic practices, especially as regards printing and distribution. Most are dependent on state-controlled printing houses (such as the Société d'Impression d'Alger) and distribution networks, and the state acts as it sees fit, deciding arbitrarily which publications will be printed and distributed.

Advertising is also used to pressure the media. Created in December 1967 and operational since April 1968, the National Publishing and Advertising Agency (ANEP) allocates advertising on behalf of state agencies and companies. State advertising is a major source of funding for the print media and strings are always attached to its renewal. Private sector advertising often comes from companies that support the ruling political elite and is above all channelled to newspaper that kowtow to the military and DRS.

So it is easy for the government to throttle critical newspapers economically. This has led to attempts by a number of publications to emancipate themselves from this tutelage. But the authorities can always fall back on another feared weapon – tax adjustments. This is a threat constantly hanging over independently-minded newspapers.

Disappointing law reform

As the UN special rapporteur says in his report, "the current legal framework is still restrictive." Despite the promises given by the authorities when Law No. 12-05 on information was being drafted, freedom of expression and the right to information are not sufficiently guaranteed.

As soon as it was adopted on 14 December 2011, it was slammed by opposition parties, journalists and human rights groups. Throughout the drafting process, its critics had felt that the government was not listening to them, and when it went before parliament, all of the opposition's amendments were rejected.

Although article 2 of the new law says that "news reporting is a freely exercised activity," it immediately restricts this activity by subjecting it to 12 catch-all conditions including respect for "national identity," "economic interests" and "public order." These restrictions also apply to the electronic media (article 71).

Many of the law's provisions restrict freedom of information in a disproportionate manner. They include article 112 on the right of "any person or entity" to respond to articles "attacking national values and national interest," article 123 on "causing offence to foreign heads of state" and article 119 on "publishing a document that violates the confidentiality of a judicial investigation."

The law imposes many obstacles on publishing and the creation of media. Article 11 says that anyone is “free to publish a periodical” but it nonetheless stipulates that publications require official approval. Too many restrictions are also placed on foreign publications, which are subject to the communication ministry’s control.

As the special rapporteur’s report says, “there should be no official or de facto mechanisms of authorization beyond notification to state institutions.” A number of labour unions and NGOs have filed a notification of their intent to publish a newspaper under article 4 of Law No. 90-07, but they have been unable to proceed because the authorities refuse to issue them with the required receipt. Algeria’s authorities should follow international standards on launching new publications. Prior restrictions are unacceptable.

While the proposed creation of a regulatory authority is positive in principle, questions persist about its composition, independence and extent of its powers. According to article 50, three of its members, including the chair, will be appointed directly by Algeria’s president, two will be appointed by the national assembly speaker, and two will be appointed by the speaker of the national council (senate). The other seven members will be elected by absolute majority from among professional journalists with at least 15 years of experience. Like the special rapporteur, Reporters Without Borders fears it will end up restricting media freedom even more.

Continuing danger of imprisonment

Law No. 11-14 of 2 August 2011 decriminalized defamation of government officials by amending articles 144 (b) and 146 of the criminal code. Similarly, Law No. 12-05 on information abolished prison sentences for media offences. This should have ended the threat to journalists posed by articles 144 (b), 146 and 77 to 99 of the criminal code, but the fines are disproportionate and articles 296 and 298 of the criminal code maintain prison sentences for defaming individuals.

So the legislative progress is only notional. Since the decriminalization of media offences in January, journalists have received sentences ranging from fines to jail terms in the course of prosecutions. “Journalists should not be subject to criminal prosecutions,” Reporters Without Borders said. “Judges must do their duty and apply the new media law by excluding the provisions of the criminal code.”



While judicial proceedings against journalists or media may be slowed down or even “forgotten,” the threat of a judicial decision subsequently emerging constitutes a threat that forces journalists to censor themselves.

Reporters Without Borders has compiled the following partial list of recent cases involving newspaper reporters and local correspondents that illustrates the severity of sentences being imposed on media personnel:

Fatma-Zohra Amara of the regional daily *Akher Sâa* was sentenced to two years in prison and a fine of 20 000 dinars (200 euros) in a libel case on 26 June. She was also ordered to pay 100,000 dinars (1,000 euros) in damages. The case was the result of a lawsuit by the former administrator of a hospital in Annaba (600 km east of Algiers), who was accused of sexually harassing an employee. Amara wrote a story detailing the evidence presented at his trial. According to Agence France Presse, she has appealed against the sentence.

A libel case was brought against **Manseur Si Mohamed** – the chief of the French-language daily *La Nouvelle République*’s bureau in the northwestern city of Mascara and head of the local branch of the Union of Algerian Journalists – in connection with a story published on 20 December 2011 accusing the head of the Mascara tax office of failing to comply with a Council of State ruling rescinding her decision to demote a senior employee. During the first hearing,

on 6 May, the Mascara prosecutor requested a sentence of six months in prison and a fine of 50,000 dinars (500 euros). Mohamed was finally sentenced on 20 May to two months in prison and the requested fine.

The wali (chief government official) in Guelma (450 km east of Algiers) filed a complaint with the local prosecutor's office on 19 June accusing *Al-Watan* correspondent **Karim Dadci** of libel and "false information" in a story in that day's issue criticizing the construction of a lavish 13-hectare amusement park on the site of a massacre of Algerians by the French colonial forces in May 1945, a project approved by the authorities on 14 September 2011. Police went to Dadci's home on the morning of 19 June to give him a summons without offering any explanation. He has since been questioned by the Guelma judicial police.



Reporters are sometimes also the targets of intimidation attempts. **Illiès Benabdeslam**, *Carrefour d'Algérie's* correspondent in Mostaganem (50 km east of Oran), was threatened by an associate of the mayor of Stidia (a locality 15 km outside Mostaganem) last month after reporting allegations that the mayor and his sons had attacked a local businessmen and tried to abduct him. No one has charged with threatening Benabdeslam. Reporters Without Borders urges the authorities to identify the person responsible. According to article 126 of Law No. 12-05, "degrading actions or offensive comments against journalists while they are exercising their profession" are punishable by a fine of 30,000 to 100,000 dinars (300 to 1,000 euros).

Photo : AFP

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- , (JPEG - 80.3 kb)
 - Freedom of information still a concern after 50 years of independence - In Arabic, (PDF - 1.1 Mb)
 - Prison sentence quashed but journalist's libel conviction stands (In Arabic), (PDF - 54.6 kb)
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