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Africa - Somalia

Vague and dangerous bill

Somali government urged to revise proposed media law

25 June 2014

Reporters Without Borders cautions the Somali cabinet against adopting an incomplete and overly restrictive media bill, which it is to examine tomorrow. Reporters Without Borders is also disturbed by the information ministry's sudden decision to submit the bill to the cabinet before the start of Ramadan.

While the government has consulted some civil society figures about the proposed law, media community critics continue to say that the choice of persons consulted was one-sided and not truly representative of the journalistic community and Somali civil society.

Reporters Without Borders is of the view that the current draft is no more than a preliminary one that establishes broad outlines but suffers from major omissions that must be addressed.

"The bill's sudden submission to the cabinet and the cancellation of some of the planned public consultations have sent a disturbing message to the media community," said Cléa Kahn-Sriber, the head of the Reporters Without Borders Africa desk.

"The bill does not have enough precision in its current form to provide journalists with the guarantees they need to work freely. We urge the cabinet not to approve as it stands, and instead to insist on the drafting of a consensual bill that guarantees freedom of information for the Somali people."

Reporters Without Borders deplores the overly broad definition of "media" to include "speeches," "books" and all websites. Under the bill, the news media would have to register and apply for a licence from the information ministry (not an independent authority), without which it would be illegal for them to publish.

The bill refers repeatedly to the withdrawal of licenses, clearly treating this as a threat that should always hang over the media, and at no time refers to the need for this or other sanctions to be proportional. Withdrawing a licence should be an exceptional measure.

Article 19 of the International Covenant on Civil and Political Rights, which Somalia ratified in 1970, says any restrictions on freedom of expression must be specifically limited to those that are "provided by the law."

Commenting on article 19, the UN Human Rights Council has said: "Laws must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not."

This bill contains a series of extremely vague and often illegitimate restrictions on freedom of expression. Defamation, national security and the concept of false information are not defined. The right of journalists to receive information is affirmed but can be banned if such a ban is deemed "reasonable." This violates article 32 of the Somali constitution guaranteeing the right to information.

Although the bill says an ethics code should be defined jointly with the relevant parties, its content already seems to have been determined, and includes obligatory respect for Islam and "traditional Somali ethics." This is surprising, and has been condemned by many Somali journalists.

Foreign journalists are not spared. They are subject to the same requirement to respect

"Somali traditions" and to adhere to rules to be approved by the information ministry that are not specified. This leaves the foreign media in a dangerous legal void.

The bill's professed desire to protect journalists appears to be positive but is insufficient. Violations of freedom of information should be specifically penalized, as UN special rapporteur Frank La Rue [has recommended](#). Furthermore, journalists are still liable to be arrested although freedom of information NGOs have long been [calling for the decriminalization of media offences](#).

Contrary to what is announced in the text, the confidentiality of journalists' sources is not guaranteed. This principle should only suffer exceptions in grave cases where procedural guarantees are provided.

Finally, although the bill refers to an "independent" Media Council, it provides no guarantee of its independence and does not specify its composition, how its members are appointed, how it functions, how it is funded and what sanctions it can impose. Furthermore, the bill violates international standards by giving the council authority over all media instead of just the broadcast media.

The bill nonetheless has positive aspects. It enshrines the major principles and specifically refers to article 18 of the constitution and article 19 of the International Covenant on Civil and Political Rights. It also provides for an "independent" public broadcaster and defines journalism in an open manner.

(photo : Prime Minister of Somalia, Abdiweli Sheikh Ahmed)

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