

Reporters Without Borders

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Middle East/North Africa - Tunisia

Wide-ranging reform

Judicial confusion in Tunisia puts press freedom in peril

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Reporters Without Borders calls on the Tunisian authorities to respond to the current lack of judicial clarity, which presents a serious danger to freedom of the press and freedom of expression. The organization reiterates its demand for the application of new media laws to supersede the old legislation, which is at odds with new provisions officially in force since 2 November last year.

"Falling back automatically on repressive laws inherited from the Ben Ali era endangers the spirit of the revolution," the organization said. "Some articles of the criminal code are being used unlawfully to convict journalists and bloggers, yet these are obsolete under the new press code, law 115."

Reporters Without Borders deplores the 2,400-dinar (1,200-euro) fine imposed on **Nabil Karoui**, the owner of the television station *Nessma TV*, on 3 May for broadcasting the animated film "Persepolis", denounced as blasphemous by some Islamists.

This verdict rides roughshod over the provisions of the current press law which, among other things, stresses proportionality. Despite a strong campaign in favour of the application of law 115, the judges based their ruling on a section of the criminal code allowing punishment of publications for "disturbing public order and threatening proper morals".

The station's programming director and the head of the organization that translated the film's dialogue were each fined 1,200 dinars for "disturbing public order". Defence lawyers immediately lodged an appeal.

Salafist protesters convicted of attacking the station's premises and Nabil Karoui's home were fined 9.6 dinars (about five euros) each. Reporters Without Borders notes the highly symbolic nature of these fines, while law 115 provides for criminal penalties for assaults on journalists.

"These convictions raise questions about the existence of a two-speed justice system and a dangerous lack of legal certainty. Journalists can still be convicted in Tunisia on the basis of a general public order law," Reporters Without Borders said.

The repeated use of the criminal code makes it all the more essential to apply the press law exclusively in all matters relating to freedom of the press and freedom of expression.

The same section of the criminal code was used in the trials of **Nasreddine Ben Saida**, publisher of the newspaper *Attounissia* who was fined 1,000 dinars for publishing a photo of a well-known football player embracing a naked model, and **Jabeur Mejri** and **Ghazi Beji**, two Tunisian Internet users who were sentenced on 28 March to seven-and-a-half years' imprisonment each and fined 1,200 dinars (600 euros). The two men, well-known atheists, were accused of publishing a cartoon of the Prophet Mohammed on the Internet.

Jabeur Mejri has lodged an appeal, which will be considered on 14 May by the Monastir appeal court. Ghazi Beji has fled the country to escape prosecution and is currently in Europe where he is seeking political asylum. Convicted in absentia, he does not have the right to appeal.

Reporters Without Borders calls for the immediate release of Jabeur Mejri, in custody since 28 March, and the dropping of charges against both defendants. Their case highlights the need for legal provision guaranteeing freedom of opinion and freedom of expression on the Internet.

In the aftermath of the celebrations organized by UNESCO in Tunis marking World Press Freedom Day on 3 May, the Tunisian government must continue its reform of the media sector and ensure the application of laws 115 and 116 in order to guarantee press freedom.

A government initiative to hold a national consultation on the media aimed at amending the two laws should not delay the implementation of legislation that is more in keeping with international standards than one put in place during the rule of Zine El Abidine Ben Ali. It is not normal for judges to be able to pick and choose which laws they apply.

Laws 115 and 116 enshrine freedom of expression and any changes should be consistent with international standards, ensure greater protection and be accompanied by a wide-ranging reform of the justice system.

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