

Landmark libel bill falls short of expectations

The new defamation bill fails to address some of the most important issues, including restrictions on the ability of corporations to sue for libel, writes Jonathan Heawood, director of English PEN.



This is one of the biggest years in the history of English media law. All eyes are on Lord Justice Leveson, whose inquiry into press standards is due to report in the autumn. Leveson will probably recommend a new, independent regulatory body, perhaps with the statutory power to force newspapers to sign up. But his proposals are only part of much wider reforms that will profoundly change the nature of free speech, and the free press, in the UK.

In a little-noticed line of her speech to parliament last week, the Queen promised that her government would table a bill reforming the law of defamation to protect freedom of speech in England and Wales. That bill is already drafted and has begun making its way through parliament. It responds to international concerns that English libel law is biased in favour of those who want to shut down negative stories. The reforms promise to rebalance the law so that free speech is not sold to the highest bidder.

However, the government has focused on tweaks, rather than root-and-branch reform. Some of the

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tweaks are sensible and long-overdue. They have abolished the arcane multiple publication rule, which allowed you to be sued every time a piece was republished, even if only through an online link. And they have limited the scope for libel tourism, by asking anyone who wants to sue a non-UK resident to show that London is the most appropriate place to bring an action.

But they have failed to address some of the most important issues, including the need for a more robust public interest defence, a higher threshold for launching libel actions, and restrictions on the ability of corporations to sue in libel. The bill does include sketchy provisions for dealing with online publication, where at the moment internet service providers are required to censor the material they host, without any legal checks and balances to protect free speech. Yet we await further detail on how these provisions will work in practice.

The truth about media law is that it increasingly affects people who have never written for and probably do not even read a newspaper. For years now, libel has been turned against so-called "authors" and "publishers" who are in fact scientists, bloggers or NGO researchers. So many people who have expressed an opinion or circulated information about a wealthy individual or company have had their fingers burned by aggressive letters from reputation management law firms that they now prefer not to publish their views.

Yet the government and Lord Justice Leveson are still approaching the reform of media law as though they are dealing merely with a group of newspapers sitting in a row on Fleet Street. They are not. They are dealing with all of us who use the internet to express our views and to share information. And they are dealing with all of us who benefit from the work of scientists, NGOs, historians and others whose commitment to the public interest is implicit in their choice of profession. The problem to be solved here is not simply the abuse of power by a handful of newspaper proprietors, but the chilling of free speech by a great number of individuals and companies who would rather not hear what people think about them, and can afford to pay for the sound of silence.

Published on: May 16, 2012