

**DEFAMATION LAWS, THE MEDIA AND
PUBLIC'S FREEDOM OF SPEECH**

<p>The private press in Ghana remains vibrant and critical in its coverage, reportage and commentary on politics and the conduct of the government. But its freedom and, for that matter, the public's freedom of expression continues to be undermined by draconian, archaic laws and jurisprudence.</p> <p>In a case involving the private press, an Accra High Court in May 1999 levied civil damages to the tune of 40 million cedis (approx. \$18,000) against the publishers of the Ghanaian Chronicle after the court had determined that a report carried by the paper alleging self-dealing and other misconduct by the Minister of roads was libelous. The amount represents the single largest monetary judgment awarded against a private newspaper in a civil libel case.</p> <p>While public officials are entitled to resort to the law to protect their reputation, the current state of the law of libel in Ghana gives scant protection to journalists who err even in good faith. Journalists and newspapers are allowed practically no room under the prevailing jurisprudence even for honest error in reporting on matters of public interest. In the absence of a Freedom of Information Act and in the face of a persistent culture of Official refusal to answer journalist's requests for information and comment, a law of libel that expects news reports to be virtually error-free on factual details is impracticable and rather draconian.</p>	<p>At a minimum, the laws should require some proof reckless or international conduct on the part of the erring journalist or newspaper to be established by the complaining public official before a publication is determined to be libelous. To subject the press to a "strict liability" standard (i.e., liability that follows automatically once the story is determined to be false and defamatory, without regard to whether it was published negligently, intentionally or as a result of an honest mistake), as the present law of libel practically does, is plainly unreasonable and undermines the Ability of the press to check official misconduct and corruption.</p> <p>Also, instead of placing the burden on the press to establish the truth of a publication, as the law currently does, the burden must be placed on the complaining public official to establish the falsity of the publication, since it is often, the public official that is in possession of the information needed to establish the truth or falsity of the allegedly offending publication. By the standard of contemporary constitutional democracies, Ghana's law of libel is clearly outdated and urgently in need of reform.</p>
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