

Criminal defamation declared unconstitutional in Lesotho

The Committee to Protect Journalists has welcomed the ruling by Lesotho's Constitutional Court that criminal defamation is unconstitutional, calling it a significant step toward safeguarding press freedom in the country.



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The [Southern Africa Litigation Centre](#) (SALC) supported an application by *Lesotho Times* owner and publisher Basildon Peta to have Section 104 of the penal code declared unconstitutional, the centre said in a [statement](#) yesterday. Peta had been [charged](#) with criminal defamation on July 6, 2016, according to CPJ research.

"Journalists should never face criminal charges for doing their job and yesterday's ruling by Lesotho's Constitutional Court is the latest victory in the fight to abolish criminal defamation throughout the African continent," said CPJ Africa program coordinator Angela Quintal. "Criminal defamation is too often used to target critical journalists and we welcome Lesotho joining a growing group of countries that have found that criminal defamation is incompatible with constitutional guarantees for a free press."

In Peta's application before the court, he argued that the offense of criminal defamation violated the right to freedom of expression. He further argued that the use of criminal sanctions was a disproportionate response to protect individuals' reputations because, among other reasons, a less-restrictive mechanism - civil defamation - was available, the SALC said.

The court agreed, and [declared](#) criminal defamation unconstitutional with retrospective effect, the SALC said. The three judges held that criminalising defamation had a chilling effect of journalistic freedom of expression, resulting in self-censorship by journalists and a less-informed public.

The ruling was in keeping with a [2010 resolution](#) from the African Commission on Human and Peoples' Rights calling on member states to repeal criminal libel laws, referring to them as "a serious interference with freedom of expression". African countries where criminal defamation has been ruled unconstitutional since 2010, include [Kenya](#), [Zimbabwe](#), and [Gambia](#).