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Libel - How litigious are you?



Libel is legally defined as “in written form”, rather than slander, which is in oral form. Libel is therefore more easy to prove. But is it easier to do?

Is active libelling the preserve of the wealthy, or is it an outlet for self protection and justification for the common person under democratic and “fair” legal parameters?

A generous jury who in some cases assesses the amount worth charged from the loser might help. It appears to depend on where your lawsuit is launched.

Historic libel cases

The most notorious libel case in history is possibly when the Irish author, renowned wit and playwright, Oscar Wilde, launched an ill-advised libel suit against the Marquess of Queensbury, father of Wilde’s homosexual lover, Lord Alfred Douglas.

Homosexuality was illegal in the UK, where Wilde lived at the time, and Wilde lost the case, was imprisoned, and when released, sought sanctuary in France, where homosexuality was not illegal.

He died, bankrupt and deserted, in a cheap French hotel room and reportedly his last words were: “either the [yellow] wallpaper goes or I will”. Which is what happened. I wonder if he thought whether it was all worth it.

A salutary tale of why not to bring a libel case if you are not convinced of your legitimacy? It appears not. The most notorious recent “libel” case was that of actor Johnny Depp versus the British Sun newspaper, for describing him as “wife beater Depp”.

He also engaged in a libel and counter-libel series of court suits with his former wife,

actress Amber Heard. It appeared to be a her versus him débacle - who is the liar?

The world watched in apparent astonishment. I wished the judge had awarded them 1 centime apiece, and banned them both from ever using courts of law again. But he won; she lost, and he appears to have regained popular acclaim.

The media love libel cases, provided they are not the defendants and have to depend on expensive lawyers, since they are almost guaranteed to provide a wash-your-dirty-linen-in-public exercise.

In the UK last year, a jaw-dropping libel case about posts on social media between and apart from two WAGs (“Wives And Girlfriends”, generally of ludicrously overpaid footballers).

One of them launched an admittedly crafty sting operation to establish the other’s guilt, and won. This was thus not a case of money (“I laughed all the way to the bank”), but revenge, reputational damage and consequentially, “moral superiority”.

A Brazilian journalist, Luiz Flavio Pinto, knows a lot about the ins and outs of libel, or “civil defamation” law.

He has been serially ordered to pay damages and costs up to around \$20,000 to the Maionara family, for allegedly defaming their dead father.

The damages awarded totalled over a year’s gross income for his newspaper, Journal Pessoal, where he regularly reports on environmental destruction, drug trafficking and political corruption in the Amazon region.

International legal approaches to libel laws

Criminal defamation laws remain on the statutes in many countries and, in places like Azerbaijan, Russia and Turkey, these laws are accorded by courts.

In these countries, anyone can actively use the laws to prosecute individuals for writing, broadcasting or publishing information and opinions that may be critical of powerful governments or large-scale corporate interests.

As any reader of Tomorrow's Affairs is fully aware, in Russia, that can likely get you exiled to a gulag or a Russian prison, in addition to severe financial penalties.

But can you guess which country in Europe has the highest number per capita of libel cases in Europe? In fact, it is Moldova. If any reader can explain the reason for this, I would be grateful.

Libel cases can exhaust and stress targets. A recent report in the Times quoted a popular television presenter, Chris Packham, a vocal supporter of the British countryside and its conservation, recounted the effects of being serially sued by the "hunting and shooting" sector, which has taken him to court over allegations he allegedly made about its deleterious effects on the British countryside.

He has been abused on social media daily for 5 years. He has said his experience was "brutal", and that his admitted autism had affected his judgement.

There is evidence across the world that demonstrates how libel laws can be used to stifle debate, discourage critical reporting and silence opposition.

This "industry of compensation" is exploited by individuals holding positions of power who may wish to continue their illegal and corrupt activities safe behind walls built by aggressive lawyers and judges, who may sometimes effectively collude against journalists and the

media.

One person could be cited as enjoying libel cases. Ian Hislop is the editor of the British satirical magazine Private Eye, and he and his predecessors have a long history of appearing in court, sued - frequently in the 1990s - for libel by such august parties as Robert Maxwell, now dead and discredited for stealing from his employees' pension funds.

Hislop immediately bought Maxwell's office chair after it appeared for auction, and recounts how Peter Cook, a British comedian and co-founder of Private Eye, used to wave his cheque book at Maxwell whenever he was in court. Quite stylish, but I would not want it to be me.