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Using libel as a gag

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Governor Paterson has a bill on his desk that he should sign right away. The sooner he does, the sooner he will protect the free speech rights of New York authors, journalists and media outlets -- and, by extension, the public's right to know.

The measure, which was passed unanimously by the Legislature on March 31, is called the Libel Terrorism Protection Act. The title is apt. It refers to the use of foreign libel laws, which are often far more friendly to plaintiffs than the free speech and free press protections afforded under the First Amendment of the U.S. Constitution, to intimidate -- some would say gag writers and publishers who criticize influential people in other countries.

Some examples of foreign libel judgments show why New York needs to enact protections. One case involved Time magazine, which published articles on corruption under President Suharto of Indonesia. Mr. Suharto took Time to court in Indonesia and last year won a \$111 million judgment against the magazine.

In another case, Rachel Ehrenfeld, a New York author, was hit with a libel verdict after a Saudi businessman whom she identified as financing terrorists prior to Sept. 11, 2001, took her to court in Britain. Her book, "Funding Evil: How Terrorism is Financed -- and How to Stop It" was not published in England and only 23 copies were sold there. Nonetheless, the Saudi businessman was allowed to have his lawsuit heard in Britain, where a court awarded a \$225,000 verdict under libel laws that are heavily weighted in favor of plaintiffs.

These obvious cases of intimidation would have little impact if the judgments could be ruled unenforceable in New York. But when Ms. Ehrenfeld tried to seek such relief in New York courts, the state's highest tribunal, the Court of Appeals, refused to grant it. The court ruled that the Legislature must first award it jurisdiction to do so.

The New York City Bar rightly notes that the present situation allows foreigners to send "an unmistakable message to other writers and publishers that investigative journalism and reporting on critical issues such as the financing of terrorism will expose journalists to legal, professional and financial perils."

Now it is up to Mr. Paterson to set matters straight with his signature. He has until the end of the month to do so. But why wait? The very idea that foreign courts can be used to mock the free speech rights of New Yorkers is repugnant.

THE ISSUE: Foreign courts are being used to deny New Yorkers free speech rights.

THE STAKES: Gov. Paterson must put an end to this travesty.

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