

























































## Chapter Three

### LAWS DIRECTLY GOVERNING MEDIA WORK





## LAWS DIRECTLY GOVERNING MEDIA WORK

Press and publication laws, in general, have served as the main tool for successive Jordanian governments to control the press. Since the beginning of the transformation to democracy, several press and publications laws have been issued "with different degrees of consistency with human rights standards as enshrined by international covenants"<sup>1</sup>.

### 1. The Press and Publications Law

#### (i) Historical overview

The PPL is the foundation norm for the print media sector. Its central tenets include the right of private ownership of print media enterprises, requirements for the practice of journalism, and rigorous regulation of print media content. The PPL's scope is focused on enterprises as well as individual journalists in certain capacities (e.g., editor-in-chief), and governs all print media, including newspapers, magazines, books, news agencies, and printing presses. The PPL addresses varied topics, including rights of "the press" (presumably print enterprises, as well as journalists), duties of "the press", ownership, licensing, content regulation, and so on.

The first Jordanian Publications Law was issued in 1953, but it did not remain in force for long: successive publications laws were introduced in 1955, 1967 and 1973. The 1973 law remained effective until the Press and Publications Law (PPL) No. 10 of 1993, marking the beginning of a new era of media liberalization after the abolishment of martial law. As a result of the 1993 law, the number of privately owned newspapers increased and the press assumed a larger role in disseminating information, shaping public opinion, reporting human rights violations and exposing corruption. At the same time, the 1993 law provided for certain restrictions involving content censorship such as prohibition of publishing any material or news affecting security agencies or the armed forces<sup>2</sup>.

In May 1997, the Council of Ministers issued the Press and Publications Provisional Law No. 27 of 1997, amidst mounting criticism against the press for allegedly undermining Jordan's image. The 1997 law introduced new restrictions<sup>3</sup>, including an increase in the statutory minimum capital required for publications. As a result, 13 Jordanian weekly newspapers were forced to close down for insufficient capital. This law also extended the list of restrictions imposed on content, prohibiting publication of information on the number of troops and equipment of the Jordanian Armed Forces, any false information or rumors,

---

1 See: Mohammad A'yesh, (Jordanian Pres Laws 1993-2000 and compliance with international human rights standards) in "Studies on Human Rights" - Amman Center for Human Rights Studies, 2003; p 82.

2 The Press and Publications Law of 1993 contained a number of problematic provisions incorporated during the legislation process, including the narrow definition of a "journalist" as well as a list of restrictions on the press. Sa'eda Al-Kilani - Freedom of the Press in Jordan/ Euro-Mediterranean Human Rights Network (2000).

3 Amendments to the Press and Publications Law of 1993 were viewed as a response to press criticism of official policies such as the government's relation with neighboring Arab countries and the then ongoing negotiations with Israel which eventually resulted in the Israeli-Jordanian Peace treaty in 1994.

anything promoting perversion or moral turpitude, and any material that is harmful to national unity or to the dignity or reputation of individuals, and any material that encourages unauthorized strikes or public assemblies.

A year later, in a demonstration of the separation of powers and independence of the judiciary, the Higher Court of Justice ruled the 1997 temporary law unconstitutional, nullifying all decisions issued pursuant to it, including the closure of the weekly newspapers<sup>4</sup>.

In 1998, the Parliament approved the Press and Publications Law No. 18 of 1998<sup>5</sup>, which was viewed as almost identical to the law of 1997. Then, in 1999, the government, upon instruction by King Abdullah, presented a draft amendment to the Press and Publications Law of 1998 to the Parliament. The amended law of 1999 annulled several restrictions provided for in the law of 1998, reduced the statutory minimum capital required for weekly newspapers, and annulled the article that allowed the government to suspend publications temporarily while cases were pending.

The most recent amendment to the Press and Publications Law No. 8 of 1998 was introduced in 2007 by the Amended Press and Publications Law No. 27 of 2007, which came into force in May 2007<sup>6</sup>.

## (ii) Who is a journalist?

Article 10 of the PPL states:

"It is impermissible for any person who is not a journalist to practice journalism in any form, including corresponding with foreign press and other news media, or presenting himself as a journalist. This shall not apply to persons whose work is confined to writing columns".

The PPL goes on to state that a "journalist" is any person "registered as a member of the Jordan Press Association<sup>7</sup>." Article 5 of the JPA Law sets out the qualifications necessary for JPA registration, including Jordanian citizenship, a record free of misdemeanors and felonies, and full-time work in journalism.

The term "journalism" is defined in both the PPL<sup>8</sup> and in the JPA Law<sup>9</sup>.

4 See Higher Court of Justice General Commission decision published in Press Association Magazine; issues 1 and 2 in January and February 1998, p 389.

5 Published in the Official Gazette on September 1, 1998.

6 Published in the Official Gazette on May 1, 2007

7 PPL, Article 2. The NGO Human Rights Watch in 2005 argued that this requirement violates ICCPR Article 22(1). See <http://hrw.org/english/docs/2005/11/22/jordan12080.htm>. ICCPR Art. 22(1) states in full:

Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

8 Article 2 of the PPL defines "journalism" as the "profession of preparing, editing, issuing, and distributing press publications". Article 2 defines "press publication" as a daily newspaper or periodical publication issued weekly or at longer intervals. Article 2 also defines "publication" as any medium "in which meanings, words, or ideas are expressed in any way whatsoever". Although the PPL is limited to print media, this definition raises a question as to whether the legislature intended "publication" to include media other than print media.

9 Article 8 of the JPA Law defines the "practice of journalism" in this way (in full):

For the goals of this law, the following are considered a practice of journalism:

- A- An editor in chief, director general, editor, photographer, cartoonist, correspondent or reporter of a Jordanian press institution;
- B- An editor, reporter or correspondent of a news agency that is officially accredited in the Kingdom or a reporter who is accredited for a media publication;
- C- An editor in chief, director general, editor, photographer, cartoonist, correspondent or reporter at the ministry or any official media department or institution;
- D- A teacher of journalism at a Jordanian university
- E- The position of a registered journalist in any media position at the ministry or any official media department.

Article 2 of the JPA defines "Media Institution" as "any person who issues a printed journal."

Press organizations in the Kingdom may employ as journalists only those individuals listed in the Jordan Press Association's practicing journalists list<sup>10</sup>. See the section below on the Jordan Press Association Law for more information on the requirements to become a practicing journalist and member of the JPA.

### **(iii) Licensing of publications**

The Press and Publications Law prohibits organizations from practicing journalism, issuing publications, newspapers or magazines, or working as news agencies or printing presses without obtaining relevant licenses. As a general rule, the Press and Publications Law allows any qualified (natural or legal) Jordanian citizen to apply for a license<sup>11</sup>, and the Council of Ministers is responsible for granting (or refusing to grant) a license. Refusal must be justified, and decisions are contestable before the Higher Court of Justice. The Press and Publications Department oversees the print media sector, but is not involved in the process of licensing publications or news agencies.

Legal requirements for licensing of printed publications are few and straightforward<sup>12</sup>. The law prohibits non-Jordanians from investing in publications, requires that the editor-in-chief be a member of the Jordan Press Association, and maintains the government's right to issue newspapers and own shares in existing publications.

Article 17 of the Law obligates the Council of Ministers, upon recommendation by the Prime Minister or a minister delegated by the Prime Minister, to decide on a duly submitted publication license application within 30 days of submission thereof, otherwise said application shall be deemed approved, and applicants must be notified of relevant decisions within fifteen days. Any decision of refusal must be justified. The Council of Ministers may refrain from deciding, in which case the relevant publication shall be deemed licensed by law. Refrain shall be deemed contestable before the Higher Court of Justice.

According to a ruling by the Higher Court of Justice:

"It is understood from article 17/b of the Press and Publications Law of 1993 that the Minister must issue a decision of either approval or refusal of a specialized publication license application within 30 days as of the date of application, and that the applicant must be notified of the Minister's decision within fifteen days thereof. The Minister's refrain from issuing a decision on such license application is, as of May 15, 1999, in violation to article 17/b referred to above."<sup>13</sup>

---

<sup>10</sup> Article 16/a of the Press Association Law.

<sup>11</sup> Article 11/a of the Press and Publications Law.

<sup>12</sup> Article 12 of the Press and Publications Law require applicants to provide the following information: Name and place of residence of the applicant, name of publication, place of issuance, frequency of issuance and well as the area of specialization (if any), languages of publication and the names of the relevant Editor-in-Chief (for periodical publications) and the Director (for specialized publications).

<sup>13</sup> Higher Court of Justice decision No. 238/1999 on November 24, 1999.

The Court of First Instance went a step further, ruling that "issuing a newspaper after more than 30 days of applying for a license does not constitute a punishable offence even if said license was not approved". The Court ruled that refraining from issuing a decision within said period deems said license application approved pursuant to article 17/a of the Press and Publications Law<sup>14</sup>.

The Court of Appeal supported the ruling, deciding that "the decision of the Court of First Instance was valid and that the applicant had the right to publish the newspaper 30 days after application as long as said application has not been refused; in which case publishing said newspaper after said period does not constitute a punishable offence. Therefore, the Court dismisses the appeal submitted by the Assistant Public Prosecutor and confirms the decision of the Court of First Instance"<sup>15</sup>.

With the Amended Press and Publications Law of 2007, publications became subject to capital requirements provided for in the Companies Law<sup>16</sup>.

The Press and Publications Law requires that the identities of applicant and Editor-in-Chief, discipline and language of the relevant publication be established when applying for a license<sup>17</sup>.

Under the Law, the Court of First Instance is the competent court for revocation of a publication's license, should said publication violate license terms after being warned twice<sup>18</sup>.

The most recent amendment to the Press and Publications Law abolished pre-publication censorship on books. However, authors or publishers of books printed or published in the Kingdom must deposit copies with the Press and Publications Department upon publication. Should the Director of the Department find that the book includes material in violation to applicable legislations, the Director may, by court decision, confiscate and prohibit circulation of the book<sup>19</sup>.

Despite the government's increased enthusiasm for privatization, the amended Law has maintained the government's right to own shares in newspapers, and the government still retains shares in the two most prominent daily newspapers. This practice allows for government interference in these newspapers' editorial policies.

Material quoted from another source is treated the same as original material drafted by the journalist<sup>20</sup>.

Therefore, journalists are responsible for material quoted from other newspapers, whether in Arabic or translated from foreign newspapers, should the publication of that material violate Jordanian law.

Courts, and not the government, have been authorized to close down newspapers found to be in violation of the Law.

---

14 Amman Court of First Instance decision No. 2872/2001 on June 10, 2002. See the study conducted by Judge Waleed Kanakrieh on press and publications cases before the Jordanian judiciary upon request by the Higher Media Council. [http://www.hmc.org.jo/HMC\\_Public\\_StudiesList.aspx?lang=1&site\\_id=4&page\\_id=94&td=td7#](http://www.hmc.org.jo/HMC_Public_StudiesList.aspx?lang=1&site_id=4&page_id=94&td=td7#)

15 Court of Appeal decision No. 950/2002 on September 29, 2002.

16 According the amended Companies Law of 2008, the statutory minimum capital became as follows: for private shareholding companies: JOD50,000, public shareholding companies: JOD500,000 and limited liability companies: JOD1,000. Capital requirements stipulated under the 1998 PPL as amended (and in force until 2007) amounted to JOD500,000 for dailies, JOD50,000 for weeklies and JOD5,000 for specialized periodicals.

17 Article 12/a, d, e and f.

18 Article 19/b.

19 Article 35.

20 Article 37.

The PPL also addresses the legal treatment of foreign publications and foreign funding of Jordanian print media. Generally speaking, foreign publications are allowed to be published in Jordan, though at times the Press and Publications Department has exercised its right to ban or limit the distribution of foreign publications. The law as amended in 2007 removed the requirement that a distributor or publishing house submit two copies of a foreign publication to the PPD prior to distribution. The law now states, in Article 31a, that "The director shall take the necessary measures to facilitate the entry of the publications that are published outside the Kingdom and distribute them." However, if a publication violates the law, under Article 31b, the PPD Director can ban or limit distribution of the publication.

Foreign ownership of Jordanian publications is not permitted. The Press and Publications Law, in Article 40, states that "the proprietor, chief editor, managing editor, journalist or regular writer of any press publication is prohibited from receiving or accepting, by virtue of his ownership of, or association and relation with that publication, any financial aid or grant from any Jordanian or non-Jordanian quarter."

#### **(iv) The right to access information**

The right to access information is provided for in two Jordanian laws: the Press and Publications Law and the Right of Access to Information Law. The Press and Publications Law provides for the right of every journalist - i.e. member of the Press Association - to access information by means of specific mechanisms. Under the Press and Publications Law, officials must respond to enquiries "promptly", if the information is readily available from one source; within 48 hours, if the information needs to be collected from more than one source or department; or within 14 days, if the information requested requires more research to collect. The 2007 Right of Access to Information Law provides for the right of every Jordanian to access information, giving officials a maximum period of 30 days to respond to information requests. Without access to information, journalists are engaged primarily in the presentation of opinions. While openness in the statement of opinions is an important element of democratic society, it is not sufficient for its development and maintenance. The possibility for an informed citizenry depends on the ability of journalists to have access to sources of information—people, documents, and government proceedings—that allow journalists and citizens to engage in policy discussion, reveal government corruption or mismanagement, and promote social and economic projects, among other things.

Without this kind of journalistic effectiveness, a society can have free and independent media, but the media's utility toward advancement of democratic institution-building will be severely limited.

The most recent amendment to the Press and Publications Law has extended journalists' right to access information. Article 8 of said Law states that:

a. A journalist shall have the right to access information, and all official bodies and public institutions must facilitate and grant access to programs, projects and plans thereof

b. No restrictions may be imposed on freedom of the press to ensure flow of information to citizens, nor may any measures obstructing citizen's right to access information be implemented

c. Subject to effective legislations, a journalist shall have the right to receive a response to inquiries submitted thereby for information and news in accordance with paragraphs (a) and (b) of this article, and the competent authority shall promptly provide said journalist with said information or news according to the nature thereof if in case of urgency, and within no more than two weeks otherwise

d. A journalist, within their work, shall have the right to attend public meetings, meetings of the Senate and Chamber of Deputies, general meetings of parties; associations, unions, clubs, public shareholding companies, charity societies and other public institutions as well as public court sessions unless closed or secret under applicable laws and regulations

A 2007 report on freedom of the press in Jordan, issued by the Higher Media Council, revealed that the biggest obstacle to freedom of the press in Jordan, according to 424 out of 580 journalists polled, is withholding, and difficulty of accessing, information<sup>21</sup>

#### **(v) Confidentiality of sources**

Protecting sources of information is vital to effective journalism. Jordanian Law ensures that journalists' sources remain confidential even before the judiciary. Article 6 of the Press and Publications Law states that freedom of the press shall include the following:

- c. The right of a periodical or journalist to maintain confidentiality of sources of information and news obtained.

In earlier Press and Publications Laws, confidentiality of sources was guaranteed "except in court." These words were removed in the 1999 amendments to the Press and Publication Law.

A new provision in the amended Press and Publications Law of 2007 is particularly relevant. Article 8/e states that:

Without prejudice to widely recognized power of Editors in Chief to decide on whether to publish or not, no one may interfere with journalists' work within their profession, nor may journalists be influenced or forced to disclose their sources; including being deprived of performing their jobs, writing or publishing without legitimate reason or justification.

Both the JPA law and the JPA Code of Ethics require journalists to protect the confidentiality of their sources.

---

21 [http://www.hmc.or.jo/HMC\\_Public/Nws\\_NewsDetails.aspx?lang=1&site\\_id=4&page\\_id=94&nNewsID=153&Type=P](http://www.hmc.or.jo/HMC_Public/Nws_NewsDetails.aspx?lang=1&site_id=4&page_id=94&nNewsID=153&Type=P)



**(vi) Publishing court news**

The Press and Publications Law grants journalists the right to publish court news.

The Law distinguishes between two cases with respect to publishing court news: publication before trials (i.e. during investigation), and publication during trials. Article 39 states that:

a. A press publication may not publish investigation records related to any case prior to referring said case to the competent court; unless so authorized by the Public Prosecutor.

b. A press publication shall have the right to publish and cover court sessions unless otherwise decided by the relevant court in order to protect individual or family rights, public order or morals.

Offenders shall be sentenced pursuant to article 46 of the Press and Publications Law, which states that:

Any periodical publication publishing any material contrary to article 39 of this Law shall be sentenced to a fine of no less than three thousand Dinars and not exceeding five thousand Dinars. Said penalty shall not prevent prosecution of perpetrators under effective laws.

**(1) Publishing during investigation:**

Any materials or information emerging as part of an investigation are secret and cannot be published while the investigation is ongoing, unless authorized by the Public Prosecutor.

Article 225 of the Penal Code states that "Any criminal or misdemeanor investigation documents prior to citation thereof in a public session" shall be sentenced to a fine of five to twenty five Dinars.

The Contempt of Court Law also penalizes publishing secret investigations. Article 14 states that: "Anyone publishing, by any of the above mentioned means, information on ongoing criminal investigations shall be sentenced to imprisonment for a period not exceeding six months and a fine not exceeding fifty Dinars, or either penalty."

The Court of First Instance sentenced an Editor-in-Chief to pay compensation to a claimant for publishing information related to an on-going investigation.

"Should a newspaper publish news of a case attributing actions to the defendant while the case is still in the investigation stage before the Public Prosecutor, and should the defendant thereafter acquitted, the newspaper shall be deemed in violation of article 38 of the Press and Publications Law, which prohibits publication of facts of a case during the investigation stage; and shall therefore be convicted of said offence and compelled to compensate and pay damages to the claimant for harm inflicted thereon as a result thereof<sup>22</sup>."

---

<sup>22</sup> Amman Court of First Instance decision No. 1349/1999 on May 8, 2002.

**(2) Publishing during trials:**

The Press and Publications Law provides for the right to publish and cover court sessions unless otherwise decided by the relevant court or prohibited under the Penal Code or the Contempt of Court Law.

A ruling by the Court of First Instance stated that:

“Whereas what has been published is merely proceedings of a case being heard before court, and no evidence has been submitted to prove that the court had issued a decision prohibiting such publication or that said proceedings were secret; therefore, publication of proceedings, including names, is legitimate pursuant to article 198 of the Penal Code. In addition, article 38/b of the Press and Publications Law provides for the right to publish and cover court sessions unless otherwise decided by the relevant court; thus, publishing and covering court sessions is permissible unless otherwise decided by the court<sup>23</sup>.”

Said permissibility is based on public interest, as it enables the public to monitor court activities, which provides a sense of security and confidence in the judicial system. Moreover, publicity enables defendants to best present their defenses, enables judges to demonstrate respect for the Law, and ensures proper implementation of the Law by publicizing punishment of offenders.

The ban imposed during the investigation phase does not apply during the trial phase. If a court wishes for material to remain secret and undisclosed during and after a trial, the judge or court must issue a second ban for the trial and post-trial phase<sup>24</sup>.

The Juvenile Law<sup>25</sup> prohibits publication of a delinquent juvenile’s name and picture, court proceedings, or summary thereof, by any means of publication, including books, newspapers or cinema. Offenders shall be sentenced to a fine of no less than five dinars and not exceeding twenty five dinars. However, sentences may be published without referring to juveniles’ names or titles.

Under the Penal Code, publication of secret session trials and slander and libel trials are punishable by a fine of five to twenty-five dinars.

Article 13 of the Contempt of Court Law No. 9 of 1959 also addresses secret session trials, setting higher penalties. It states that: “Anyone publishing, by any of the above stated means, secret court deliberations or publishing, in bad faith, public court sessions, shall be sentenced to imprisonment for a period not exceeding one year and a fine of no less than twenty dinars and not exceeding one hundred dinars, or either penalty.”

---

23 Amman Court of First Instance decision No. 285/2003 on June 8, 2003.

24 Amman Court of First Instance decision No. 1346/1999.

25 Article 12 of the Juvenile Law No. 24 of 1968 amended by Law No. 7 of 1982.

### **(vii) Content Restrictions and Penalties**

The 2007 Press and Publications Law reinforced, rather than relaxed, content restrictions stipulated in the Penal Code, and introduced penalties of up to 20,000 dinars for offenses.

Article 38 of the 2007 Press and Publications Law states that:

"Publication of any of the following shall be prohibited:

- a. Any material containing slander, libel or defamation directed at, or offensive to, any religion, freedom of which is enshrined in the Constitution
- b. Any material offensive to or implying vilification of founders of religions or prophets; whether by means of writing, drawing, symbols, pictures, or any other means
- c. Any material offending religious feelings or beliefs or inciting sectarian or racial hatred
- d. Any material undermining the dignity and personal freedoms of individuals, or containing false information or rumors about them."

Under article 46 of the law, anyone found to be in violation of paragraphs (a), (b) and (c) of article 38 shall be sentenced to a fine of no less than 10,000 dinars and not exceeding 20,000 dinars. Anyone found to be in violation of paragraph (d) of said article shall be sentenced to a fine of no less than 500 dinars and not exceeding 1,000 dinars.

Said fines must be paid directly to the Treasury. Should a convicted offender not pay the relevant fine, the offender shall be imprisoned for one day for every two dinars or fraction thereof, provided that the period of imprisonment does not exceed one year<sup>26</sup>.

The penalties set forth in the Press and Publications Law for offenders are limited to fines, and detention is illegal under the law. If journalists are prosecuted for violating the Penal Code or the Contempt of Court Law, however, the Public Prosecutor may put them in custody for up to two weeks if they are charged with crimes punishable with jail sentences of one week to three years, and for up to two months if they are charged with crimes punishable with jail sentences of more than three years.

### **(viii) Observing professional ethics**

In addition to what is provided for in the Jordan Press Association Law and detailed in the Journalists' Code of Ethics, the Press and Publications Law provides for respecting journalists' professional ethics.

Article 4 states that: The press shall be free to present news, information and comments and contribute to promote thought, culture and knowledge within the Law and the framework of protecting public freedoms, rights and obligations and respecting privacy of others.

Article 5 states that: Publications must respect the truth and refrain from publishing any material that is inconsistent with the principles of freedom, national obligation, human rights and Arab and Islamic values.

---

<sup>26</sup> Article 22 of the effective Jordanian Penal Code No. (16) of 1960.

Article 7 states that: Journalists shall comply with journalists' codes of conduct and ethics, including the following:

- a. Respecting public liberties, safeguarding the rights of others, and refraining from encroaching on their private lives
- b. Considering the freedom of thought, opinion, expression, and information an equal right for the press and the citizen
- c. Maintaining balance, objectivity, and honesty in presenting press material
- d. Refraining from publishing anything that might incite violence or discord among citizens
- e. Refraining from attracting or obtaining advertisements
- f. Compliance with the provisions and principles of the Journalists' Code of Ethics issued by the Association

Issues such as balance, objectivity and integrity do not fall under the Press and Publications Law, but under the Journalists' Code of Ethics.

If a journalist fails to observe the ethical standards set forth in the Code of Ethics, they can be convicted.

Articles 4, 5 and 7 of the Press and Publications Law are among the most frequently used articles in suing journalists. From 2000 to 2006, it is estimated that some 114 lawsuits were commenced against journalists, 92 of which were against weekly newspapers and 22 of which were against daily ones. Eighty of these lawsuits were commenced in contrary to articles 4, 5 and 7 of the Jordanian Press and Publications Law<sup>27</sup>.

Convictions	Acquittals	Number of lawsuits	Type of lawsuit
29	43	72	Violation of Article (7)
30	37	67	Violation of Article (5)
5	7	12	Violation of Article (4)

The Court of First Instance ruled that publishing an article without verifying information contained therein constitutes an offence contrary to article 5 of the Press and Publications Law<sup>28</sup>.

Therefore, writers must verify the underlying facts of a story before publication, as merely verifying that the source was accurately quoted or paraphrased will not suffice. In other words, a journalist can be punished if a source is mistaken and the facts are not investigated.

Any publication and/or journalist violating article 5 of the Press and Publications Law shall be penalized by a fine of no less than 500 Dinars and not exceeding 2000 Dinars<sup>29</sup>. A violation of article 7 shall be penalized by a fine of up to 500 Dinars<sup>30</sup>.

<sup>27</sup> Research conducted by Yahia Shukkeir.

<sup>28</sup> Amman Court of First Instance decision No. 494/203.

<sup>29</sup> Article 45/a.

<sup>30</sup> Article 47/b.

### **(ix) The right to reply and correction**

The Press and Publications Law grants individuals and government (or public) authorities the right to reply and correct.

Article 27 states that:

a. Should a publication publish false news or an article containing false information, the person to whom said news or article relates shall have the right to reply thereto or demand correction thereof, and the Editor-in-Chief shall publish said reply or correction for free in the following edition in the same place and with the same letters as the said news or article.

b. Should a publication publish false news or an article containing false information related to public interest, the Editor-in-Chief shall publish for free the reply or correction sent by the competent authority or Director thereof in the following edition in the same place and with the same letters as the said news or article.

Provisions of the two paragraphs above shall also apply to all non-Jordanian publications distributed in the Kingdom.

The right to reply is broad: any individual or entity is entitled to exercise the right of reply without having to demonstrate that it was negatively affected by the published material.

The Law does not require that the false information in question be illegal in order to give effect to the right to reply or correct.

In certain cases the reply or correction may not be published; this is the case when said reply contains illegal material, if the publication has already published a correction or if the language used in the reply was different to that of the relevant published material.

Jordanian newspapers refusing to publish replies or corrections may be fined. For foreign publications, such refusal may lead to a temporary or permanent ban in Jordan. It should be noted here that in at least one foreign jurisdiction (the United States) requiring media to provide the right of reply has been deemed unconstitutional.

## **2. The Jordanian Press Association Law and Journalists' Code of Ethics**

The Jordanian Press Association (JPA) was established in 1953 and is regulated by Law No. 15 of 1998. The JPA Law, in Article 5, subsection (D), reflects the goal of professionalization by including among the entry requirements one of the following from an accredited college or university:

1. Phd in media or journalism.
2. M.A degree or high diploma in journalism with six months practice.
3. BA degree in journalism with one year practice.
4. Diploma certificate in journalism with two years practice.
5. At least a BA degree in any other specialization and two years practice.

6. Diploma certificate in any specialization other than journalism and three years practice.
7. General Secondary School certificate or any other equivalent certificate and a minimum of four years practice.

Of this list, requirements 2-7 require refer back to the definition of "practice of journalism" in Article 8 of the JPA Law.

Should one or more membership requirements set forth in said law prove to be unsatisfied at the time of admission to the JPA, or cease to be satisfied after said admission, the membership shall be deemed legally terminated and shall be nullified by decision of the JPA.

As to the regulation of journalistic practice, the JPA is authorized to enforce the rules set forth in the JPA Law, ByLaws, and Code of Ethics. For example, journalists are barred from accepting any funds or financial or symbolic donations or any help of any shape or kind<sup>31</sup>.

All print media journalists, as members of the JPA, are also bound by the JPA's Code of Ethics, which was adopted in 2003<sup>32</sup>. Any violation of the Code of Ethics is considered an act against the profession, and the journalist is questioned in front of the Association's Disciplinary Committee<sup>33</sup>. The Code also has been codified into law, as part of the 2007 amendments to the PPL.

The Code of Ethics stresses journalists' commitment to objectivity, accuracy, high professionalism, refraining from using the profession for personal gain, respect for individual's and families' right to privacy and human dignity, avoiding eroticism when reporting crimes and scandals, observing the society's religious and moral values, separating information from advertisements, protecting confidentiality of sources, verifying news prior to publication, avoiding crooked and illegal ways of obtaining news and information, refraining from using foul or obscene language, and refraining from fabricating, or using fabricated, pictures of individuals that would degrade them or undermine their reputation.

It calls for refraining from mentioning relatives or friends of convicts or indicted individuals without their consent, and giving special consideration for underage witnesses or victims. It also prohibits naming or identifying victims of sexual abuse unless the Law so justifies. Journalists may not accept any grants, financial aid or donations, whether in cash or kind, or impersonate anyone in order to obtain information, unless such impersonation is urgent, necessary and serves the public interest or if the journalistic material in question cannot be obtained otherwise. A journalist may not pay sources or court witnesses.

The JPA disciplinary committee oversees violations of the JPA Law, Code of Ethics and provisions in the Press and Publications Law related to the practice of journalism. The disciplinary committee's rulings on such violations can be appealed to the Higher Court of Justice. The ultimate punishment can be imposition of a ban on the practice of journalism<sup>34</sup>.

---

31 JPA Law, Article 42; JPA Code of Ethics, Article 11.

32 The Code is available in Arabic at <http://www.jpa.jo/all/arabic.htm>.

33 JPA Law, Articles 48-49.

34 Most notably, in 2000, Nidal Mansour, the Director of the Center for Defending Freedom of Journalists (CDFJ), was expelled from the organization after being found guilty of receiving foreign funds. See <http://www.jordanembassyus.org/09072000003.htm>.

A decision by the Disciplinary Board temporarily suspending a journalist from practicing journalism, even for one day, permanently deprives said journalist from becoming head of the Press Association, member of the Association Council or Editor-in-Chief of any Jordanian publication.

As noted above, the JPA law stipulates that only JPA members are allowed to consider themselves as journalists. The Law prohibits journalists from practicing any profession other than journalism, including commercial business and representation of commercial or industrial companies, or practicing journalism contrary to applicable legislations and the Journalists' Code of Ethics, acting or behaving contrary to professional dignity or in a way harmful to the Association or its members, or accepting grants or donations, whether in cash or kind, or any other type or form of financial aid.<sup>35</sup>

However, it is estimated that there are currently 300 journalists or correspondents working for media outlets who are not members of the JPA. The JPA usually turns a blind eye to them, although it publishes a yearly advertisement as a reminder that there is a punishment for anyone who works as a journalist and is not a member of the association. In addition, at times the JPA has provided a list of registered journalists to government officials and requested that they not allow individuals whose names are not on this list to attend and cover events and press conferences, so as to "limit the excesses and violations that non-members inflict upon the profession of journalism".<sup>36</sup>

A state's determination to license the practice of journalism will have implications for the news media's role in a democratic society. The JPA's requirements for membership serve dual but sometimes contradictory purposes. On the one hand, by mandating a minimum education and training level for journalists, they could help to promote the observance of high standards in the practice of journalism. On the other hand, the system of mandatory professional qualifications and mandatory JPA membership establishes, in practical effect, a system of licensing for entry and continued participation in the profession of journalism<sup>37</sup>. Around the world, licensing requirements for journalists are increasingly out of favor. For one thing, as new technologies proliferate, it will be harder and harder to limit the functional definition of "journalist." But beyond this, a significant risk exists that licensing requirements can be used to keep disfavored individuals from practicing the profession, thereby threatening a chilling effect on the exercise of free expression. Thus, the use of licensing poses significant human rights problems.

**Protecting journalists from physical assault:** Journalists in their professional activity often must endure the threat or the reality of physical attacks upon them from either public or private persons. The extent to which the legal system protects them is also a key element in maintaining an enabling environment supportive of press freedoms.

---

<sup>35</sup> Article 42 of the Press and Publications Law and article (11) of the Journalists Code of Ethics.

<sup>36</sup> Sa'eda Kilani, Press Freedoms in Jordan, Euro-Mediterranean Human Rights Network (2002).

<sup>37</sup> In one instance, an editor-in-chief was prosecuted for non-membership in the JPA. The defendant was fined JD200, plus fees in the first instance court. (Details on this case provided by Mohammad Qtaishat, in possession of the author).

Once a member of the Jordan Press Association, a journalist is entitled to receive protections against harassment by public authorities. Article 44 of the JPA Law requires the cooperation of any institutions with which the journalist deals with through work and prohibits detention or harassment. Article 45 requires that the Attorney General alert the JPA before questioning any journalist in regards to any complaint filed against him; the head of the JPA is entitled to sit in on the investigation.

Beyond this, Jordanian law does not appear to contain explicit provisions relating to actual physical attacks on journalists. However, it should be noted that this is a matter of regional and international concern<sup>38</sup>.

### 3. The Penal Code

The Penal Code's listing of crimes includes many that, either explicitly or in their interpretation, apply to the content of news media dissemination. The Code therefore is a crucial element in Jordan's overall system of content regulation.

#### (i) Slander and libel

Public slander and libel crimes committed by publications count for most cases filed against journalists. Articles 188-199 of the Penal Code No. 16 of 1960 provide for slander and libel crimes, relevant penalties and exclusions.

Libel is a disseminated written or verbal assertion of fact that injures another person's reputation<sup>39</sup>. A sub-category within libel is the offense of "calumny"—the dissemination of a report, while knowing that the asserted facts were false, that a public employee or official committed an illegal act<sup>40</sup>. The Code provides that the truth of the assertion shall serve as a defense against a charge of libel, but only in those cases where the alleged victim of the impugned statement is a public employee or official, and only then when the asserted facts concerned the conduct of that employee or official's employment or official duties or the commission of a crime<sup>41</sup>.

Slander is a disseminated statement that, while not asserting specific facts, injures the reputation or

---

38 A source on this topic in regard to the Middle East generally is the Arab Archives Institute website: [<http://www.alarchief.com/IF-EXReports/journalism'sMartyrs.asp>]. In the international sphere, physical security for journalists was the leading theme of the UNESCO World Press Freedom Day in May 2007. Also, see UN General Assembly document A/HRC/4/27 (January 2, 2007 report of the Human Rights Council Special Rapporteur on the Promotion and Protection of the Right of Opinion and Expression Ambeyi Ligabo), par. 85: "Media security remains one of the core elements to guarantee pluralist information in a period marked by polarization of opinion and widespread violence." These sources indicate that this is a very difficult problem, but that awareness of it is an important first step.

39 Article 188(1) defines "libel" as:

Expressing certain information about someone, even if in the form of doubting or questioning, which would offend his or her reputation and dignity or expose him or her to people's hatred or loathing, and whether or not the acts alleged in such information would constitute criminal conduct.

Article 188(1) is in that section of the Penal Code listing 'Crimes Against Public Administration.' Article 358 of the Code, which incorporates the Article 188(1) definition, is in the section entitled 'Crimes Against Natural Persons.'

40 Penal Code, Article 192(3) [incorporating Article 210 of the Penal Code].

41 Penal Code, Article 192(1) and (2).



dignity of another person because it suggests that the person has engaged in socially inappropriate conduct<sup>42</sup>. Under this definition, statements of opinion (for example, "The Minister is corrupt" could qualify as the offense of slander. A defense against the charge of slander is available if the subject of the impugned statement was the conduct by a public employee or official of his or her employment or official duties (as distinct from his or her personal characteristics). In addition, the defendant must be able to submit specific facts that support the allegations in the statement<sup>43</sup>. If the alleged victim of the impugned statement is a private person, a defense is available if the defendant's allegations concerned criminal conduct and if the defendant is successful in proving the facts that support the allegations. If the alleged victim of the impugned statement is a private person, a defense is available if the defendant's allegations concerned criminal conduct and if the defendant is successful in proving the facts that support the allegations<sup>44</sup>.

In order for libel to constitute a punishable crime it must be publicly committed (article 73 of the Penal Code), for example using daily or periodical newspapers or any other means of publication such as the Internet, radio or television.

No penalty shall apply if the act of slander and libel committed by means of publication is directed to a public servant by someone related to said public servant's job, or if the matter in question was a legally punishable crime. Under article 192, should said slander be limited to a public servant's job duties and proved to be true, the slanderer shall be acquitted.

Under article 198, publication shall be deemed legitimate if the subject of slander or libel had already been published by the government, the Parliament, in an official document or record, or during proceedings by someone involved in such procedures such as a judge, an attorney, a witness or party to the lawsuit; if the material under question was announced in the Parliament or surfaced during judicial proceedings before a court, provided that the court does not prohibit publication thereof.

**Refraining from mentioning names:** Some journalists refrain from mentioning names or publish initials. The Jordanian Court of Cassation has ruled that if an article, while not explicitly mentioning the name of the person in question, still allows for his/her easy identification, then that is tantamount to having explicitly stated his/her name<sup>45</sup>.

In another ruling, the Court of First Instance further determined that indicating the claimant's job description and department allows for identification, even if that person's name is not explicitly mentioned. If the claimant is damaged as a result of the article, the accused will be liable for defamation<sup>46</sup>.

---

42 Article 188(2) defines 'slander' as:

Attacking someone's dignity or reputation, even if in the form of doubting or questioning, without stating specific information.

As in the case of libel under Article 188(1), Article 188(2) addresses the slander of public employees and officials. Article 359 of the Code, corresponding to Article 358, incorporates Article 188(2) in defining the slander of private individuals.

43 Penal Code, Article 194.

44 Penal Code, Article 362.

45 Court of Cassation decision No. 636/96 on November 18, 1996.

46 Amman Court of First Instance decision No. 935/2001 on January 26, 2002.

### (ii) Permissible criticism

A ruling by the Court of First Instance defined permissible criticism as “free of libel, cursing or insult; so that it does not offend other people’s honor, esteem or reputation, but rather rebukes a behavior or action thereof without the intention to offend them personally in terms of honor or esteem.”

Thus, the distinction between a person and his/her actions and behavior defines the parameters of punishable aggression and those of noncriminal criticism. The law protects the personal reputation of individuals, but does not prevent criticism of their actions as professionals in the exercise of their functions and duties. Yet, if the criticism is intended to offend a person’s honor or to insult or demean him/her, such conduct shall not constitute criticism, but rather slander or insult.

Hence: “criticism is only permissible if conducted in good faith; without intending slander or insult, in which case criticism becomes a natural product of living in a free society; a product that should be referred to by all those who seek public recognition, high status or good reputation<sup>47</sup>.”

Another decision by the Amman Court of First Instance stated that: “Whereas criticism is an assessment of certain matter or action to explain its advantages and disadvantages thereof, and whereas criticism according to this definition is deemed an implementation or embodiment of freedom of opinion, and is definitely of great significance to both the individual and society, as it leads to progress by revealing existing disadvantages and trying to overcome them and enabling individuals to suggest what is to society’s best interest; therefore, criticism is a role of journalism which has a very important social mission to fulfill, and constitutes grounds for permission provided that it observes set limits.”

The court also resolved that there are five requirements to criticism:

1. The criticism must be directed to an established publicly known incident.
2. It must be based on, and limited to, said incident.
3. Said incident must of social significance.
4. The critic must use appropriate language when judging or commenting on said incident.
5. The criticism must be conducted in good faith<sup>48</sup>.

### (iii) Religion

Article 273 of the Penal Code states that: “Anyone proven to have publicly offended any prophet shall be sentenced to imprisonment for a period between one to three years.”

Article 278 of the Penal Code states that: “Anyone found guilty of any of the following shall be sentenced to imprisonment for a period not exceeding three months or a fine not exceeding 20 dinars:

1. Publishing any material that is offensive to other people’s religious feelings or beliefs.
2. Publicly, with another person listening thereto, making a speech or sound that is offensive to said other person’s religious feelings or beliefs.

<sup>47</sup> Decision No. 3139/2006.

<sup>48</sup> Case No. 2256/2007 acquitting Al-Majd weekly of defaming the government of Marouf Al Bakheet.

Should the public prosecutor decide to prosecute journalists under Article 38 of the Press and Publications Law rather than the Penal Code, a fine of 10,000-20,000 dinars would be imposed<sup>49</sup>.

#### **(iv) Slander and Libel directed to State institutions**

Article 191 of the Penal Code penalizes by imprisonment for a period of three months to two years libel directed to the Parliament or a member thereof, or to any official body, court, public administration, the armed forces or any public servant, in the course of work or due to actions taken therein.

Article 193 of the Penal Code penalizes slander with imprisonment for a period between one to six months or a fine between 10-50 dinars if said libel is directed to the Parliament or a member thereof in the course of work or due to actions taken therein, or to any official body, court, public administration, the armed forces or any public servant in the course of work or due to actions taken therein.

#### **(v) Undermining the State's prestige and national sentiment**

Article 130 of the Penal Code states that: Anyone who, in war time or when war is anticipated, makes a propaganda aimed at weakening national sentiment or inciting racial or sectarian hatred shall be sentenced to temporary hard labor.

Article 131 states that:

1. The penalty provided for in the previous article shall be imposed on anyone propagating, in the same circumstances, knowingly false or exaggerated news that would weaken the morale of the nation.
2. Should the perpetrator propagate said news believing them to be true, said perpetrator shall be sentenced to imprisonment for a period not less than three months.

Article 132, on the other hand, states that: Any Jordanian knowingly propagating false or exaggerated news abroad that would undermine the State's prestige or status shall be sentenced to imprisonment for a period not less than six months and a fine not exceeding fifty Dinars.

---

<sup>49</sup> See earlier in this Chapter, Press and Publications Law, Content Restrictions and Penalties. Article 38 of the 2007 Press and Publications Law states that:

"Publication of any of the following shall be prohibited:

- a. Any material containing slander, libel or defamation directed at, or offensive to, any religion, freedom of which is enshrined in the Constitution
- b. Any material offensive to or implying vilification of founders of religions or prophets; whether by means of writing, drawing, symbols, pictures, or any other means
- c. Any material offending religious feelings or beliefs or inciting sectarian or racial hatred
- d. Any material undermining the dignity and personal freedoms of individuals, or containing false information or rumors about them."

#### 4. State Security Court Law

The State Security Court ("SSC") is one of the "Special Courts" in the Jordanian legal system<sup>50</sup>. As provided in the State Security Court Law No. 17 for the year 1959, the SSC has exclusive competence to adjudicate prosecutions involving the crimes found in certain provisions of the Penal Code—Section Two (Crimes Against the State's Internal and External Security, Articles 110-153; Crimes Against Public Safety, Articles 157 and 168; and Crimes of Insult to the Dignity of the King, Article 195—as well as other laws including the Protection of State Secrets and Documents Law No. 50 for the year 1971 and a general category of crimes related to economic security that the Prime Minister decides to refer to the Court<sup>51</sup>.

The SSC is not a court that operates routinely with a regularly scheduled docket; instead, it is convened only when the Prime Minister, in "special circumstances, as required for the public interest," refers a case to it by issuing a decree<sup>52</sup>. The Prime Minister appoints the SSC's three judges. They can be all military judges, in which case the PM will appoint them upon the recommendation of the Joint Chief of Staff, or may include regular civilian court judges, in which case the PM will appoint them upon the recommendation of Minister of Justice<sup>53</sup>. The Joint Chief of Staff also nominates the Court's general prosecutor from among the military judges and designates the Chairman of the military courts or one of his/her deputies as Attorney General before the Court<sup>54</sup>.

A trial at the SSC shall be open to the public unless the court decides in the public interest that it must be treated as confidential<sup>55</sup>. A defendant may appoint a defense attorney for his or her representation "before the court."<sup>56</sup> As stated above, an SSC verdict may be appealed to the Court of Cassation<sup>57</sup>.

In a number of cases, the Court of Cassation has addressed the question of the hierarchical status of

50 See Constitution, Article 99(iii). Article 110 of the Constitution states in full:

Special Courts shall exercise their jurisdiction in accordance with the provisions of the laws constituting them.

51 State Security Court Law No. 17 for the year 1959, Article 3. A question may be raised as to the compatibility of the SSC, as a special court for the adjudication of criminal cases, with the requirements of Article 14 of the International Covenant on Civil and Political Rights. Article 14(1), in part, requires that:

In the determination of any criminal charge against him...everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law.

The U.N. Human Rights Committee, which is charged with the interpretation and application of the ICCPR, recently spoke in abstract terms about this question, stating in a "General Comment" that:

The Committee also notes that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional, i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials.

Human Rights Committee, General Comment No. 32 (August 23, 2007). UN Doc. CCPR/C/GC/32.

52 State Security Court Law No. 17 for the year 1959, Article 2.

53 *Id.*

54 State Security Court Law No. 17 for the year 1959, Article 7(1)(a).

55 State Security Court Law No. 17 for the year 1959, Article 8.

56 The textual phrase «before the court» is not clear as to whether a defendant may invoke this right during the pre-trial phase, or only at the trial itself.

57 State Security Court Law No. 17 for the year 1959, Articles 9 and 10.

SSC decisions in relation to decisions of the regular courts. In these cases, the Court of Cassation has determined that, under the Constitution, SSC decisions will be of greater weight<sup>58</sup>.

The State Security Court Law was amended in 2001. Important provisions in the law include:

Article 118: A penalty of temporary imprisonment for a period not less than five years shall be imposed on anyone performing actions, writings or speeches without government authorization, resulting in exposing the Kingdom to the threat of aggression, undermining its relations with a foreign state or exposing Jordanians to retaliation directed against them and assets thereof.

This article has frequently been used in prosecuting journalists for writings that would undermine the Kingdom's relations with a foreign state.

Article 136: Anyone printing or publishing a statement or publication for, to the benefit of or issued by, an illegal organization shall be sentenced to imprisonment for a period not exceeding six months or a fine not exceeding fifty Dinars.

Article 150: Any writing or speech or action intended, or leading, to incite sectarian or racial hatred or encourage conflict between religions or different components of the nation; shall be penalized by imprisonment for a period not less than six months and not exceeding three years and a fine not exceeding fifty Dinars.

## 5. Protection of State Secrets and Documents Law

Another law protecting state interests is the State Secrets and Documents Law No. 150 of the year 1971. The law authorizes public officials to protect from public disclosure broad categories of information that they designate as state secrets and imposes criminal liability on any person who violates its provisions<sup>59</sup>.

The law was approved in the absence of the Parliament in 1971. Although the Constitution of Jordan stipulates that any laws enacted when Parliament is not in session should be presented to the Parliament in its next meeting, this law has not yet been approved, returned or amended by the Parliament, and remains in force.

Under said Law, state secrets and documents are categorized as: strictly confidential, confidential, and restricted. Other official documents that are not subject to the provisions of this Law are categorized as "ordinary." Officials must protect ordinary documents from tampering or loss and may not disclose the contents of said documents to anyone other than competent parties unless otherwise authorized.

Not all protected information involves national security. For example, article 8/f, which refers to "any

---

58 Court of Cassation decision No. 492/99 on August 1, 1999 published on p 673 of the Judicial Journal for the year 1999.

59 For a detailed description and analysis of the State Secrets and Documents Law, see the Article 19 "Memorandum" of December 13, 2005, available at: [<http://www.article19.org/pdfs/analysis/jordan-state-secrets.pdf>].

protected information or documents that would harm the reputation of any official figure or undermine the State prestige," would categorize this material as restricted. The use of such broad could become a tool used by the government against freedom of expression and political opponents.

Responding to questions laid by a Deputy in a session held by the Chamber of Deputies on January 25, 2006, the government provided the Chamber with a report prepared by the Audit Bureau on violations committed in the Vocational Training Corporation. The report was marked as "Secret and restricted," and was accompanied by a warning for the press not to publish said response and an explanatory note that read: "This document and attachment thereto are classified as "restricted" and are subject to the Protection of State Secrets and Documents Law No. 50 of 1971. Disclosure of said document and attachments to unauthorized personnel or printing, copying or publication thereof is subject to legal and penal liability in accordance with the provisions of said Law which penalizes with temporary hard labor for a period not less than ten years."

## 6. Contempt of Court Law

The Contempt of Court Law No. 9 of 1959 is the main contact point between the press and media on one hand and independence of the judiciary in managing justice on the other. Many journalists have been prosecuted for charges of publishing material contrary to the provisions of said Law<sup>60</sup>.

Article 15 of the Law states that: Anyone publishing an objection to a judge or court or a commentary on a ruling with the intention to question or contempt the course of justice shall be sentenced to imprisonment for a period not exceeding one year or a fine not exceeding one hundred Dinars or both penalties.

This Law also imposes monetary fines and imprisonment - for a period of six months to one year - on any publication that seeks to influence judges, the prosecution, witnesses or the public opinion, or to expose justices to questioning or contempt.

---

<sup>60</sup> One of the most important cases in this respect is the Amman Court of First Instance decision No. (26/98) on June 29, 1998 in the trial of the Editor-in-Chief of "Al-Arab Al-Aawm" daily Mr. Tahir Al-Edwan and writer Mansoor Shammoot who published an article in said newspaper on March 4, 1998 in which said writer accused the Minister of Justice of interfering in the judiciary, and the Amman Court of First Instance decision No. 494 on April 28, 2003 on the trial of "Al-rai" then Editor-in-Chief for publishing a story on determination of cases in courts as well as facts undermining the Jordanian judiciary. See: Yahia Shukkeir, Freedom of the Press in Jordan - A Comparative Study of Legislations, 2001 p 54.



**Chapter Four**  
**LAWS INDIRECTLY GOVERNING**  
**NEWS MEDIA WORK**





## 1. The Right of Access to Information Law

The policy of the government toward journalistic access to information, which may be a matter of informal access and informal policy rather than law, is key to the functioning of an effective news media sector. One of the most important areas is a state's attitude toward public access (in which journalists often function as the eyes and ears of the public) to its records, documents, proceedings and institutions. Rules concerning access to documents and institutions are examples of the positive use of law to promote media independence and effectiveness. Laws concerning newsgathering include those that recognize and guarantee public access to government-controlled information and institutions, with limited exceptions for national security, protection of personal privacy, crime prevention, and other legitimate public aims.

The year 2007 witnessed two legislative efforts to establish a legal basis for access to information in Jordanian law. The media-specific laws that relate to freedom of information are the Press and Publications Law No. 8 for the year 1998 and its amendments of 2007, and the 2007 Right of Access to Information Law.

The right of journalists to obtain information is stipulated in the Press and Publications Law, Articles 6 and 8. Article 6 was included in the original 1998 PPL and was not amended in 2007. Article 6(c) states that the freedom of the press includes:

The right to obtain information, statistics and news of interest to citizens from various sources, and the right of analysis and circulation, publication and comment on the same.

Article 8 of the same law, significantly amended in 2007, addresses access to information in subsections a-d, stating that:

- a. The journalist has the right to obtain information, and the official bodies and public institutions are obliged to facilitate his/her mission and allow him/her to view their programs, projects and plans.
- b. It is prohibited to impose any restrictions that impede freedom of the press in ensuring the flow of information to citizens, or to impose any procedures that lead to the disruption of their right to obtain such information.
- c. Subject to the provisions of the legislation in force, the journalist shall have the right to receive an answer to his/her inquiries about information and news in accordance with the provisions of paragraphs (a) and (b) of this article. The competent authority shall provide the requested information as soon as necessary according to the nature of the news or requested information if described as urgent, and within a period of not more than two weeks if were not described as such.
- d. Within the limits in the exercise of his/her profession, and in accordance with the regulations prepared for this purpose by the authorities concerned, the journalist has the right to attend public meetings and

court hearings and public meetings of the Senate and the House of Representatives and the meetings of the general assemblies of political parties, professional unions, clubs and associations and other public institutions, unless such meetings or sessions are closed meetings or confidential by law or regulations or the applicable instructions<sup>1</sup>.

While the Press and Publications Law's provisions governing access to information apply only to journalists, the Law on Access to Information No. 47 of 2007 applies to all citizens. The right to information is granted in the Constitution (and, for journalists, in the Press and Publications Law), the 2007 Right of Access to Information Law establishes an official set of mechanisms for requesting documents and information from public institutions, and is an important step in ensuring that Jordanian citizens can fully enjoy the rights granted by the Constitution<sup>2</sup>. The law outlines a process for review, by the Higher Court of Justice, of requests that have been refused<sup>3</sup>. If a request to obtain information has been denied, a request for this to be considered by the Higher Court of Justice must be received within a limited time; the Higher Court of Justice has the authority to consider the decision to refuse a request for information or may refrain from responding to the request.

Globally, a question in access to information legislation is whether the law presumes that all government documents and meetings will be open unless the custodian can demonstrate a legitimate basis for non-disclosure, or whether the burden of persuasion is placed on the person seeking disclosure. The 2007 Right of Access to Information Law does not explicitly address this issue, but it appears to take the latter approach, stating that each Jordanian citizen "is entitled to have access to the information he/she requests pursuant to the provisions of this law, if he/she has legitimate interest or cause for that."<sup>4</sup>

The law mandates that classified government documents must be declassified after 30 years. However, it does not outline a clear mechanism for the classification of governmental documents that may be exempt from disclosure.

The Law provides for the establishment of an Information Council to be in charge of ensuring provision of information to applicants and receive complaints filed by applicants whose requests are refused. The Law states that this Council shall be chaired by the Minister of Culture and include the Information Commissioner (Director General of the Department of the National Library); the Under-Secretaries of the Ministry of Justice, the Ministry of Interior and the Higher Media Council<sup>5</sup>, the Director General of the Department of Statistics, the Director General of the National Information Technology Center, the Director of the National Guidance Directorate at the Jordanian Armed Forces, and the High Commissioner for Human Rights. As a result, the Information Council has been criticized for lacking independence and not sufficiently representing the private sector and civil society.

---

1 Subsections b-d were added in the 2007 amendments.

2 See, however, critical analysis at: [<http://www.alarcheef.com/IFEXReports/accessToInfoDraftLaw.asp>]. See also Article 19's 12/15/05 memo regarding the draft FOI Law and its 4/30/07 memo to the King regarding amendments to the draft FOI Law.

3 2007 Right of Access to Information Law, Article 17(A)..

4 2007 Right of Access to Information Law, Article 7.

5 At the time of writing this primer, the Higher Media Council had been abolished, but mention of it had not yet been amended in the Right of Access to Information Law.

### (i) Exceptions to the right to access information

The law balances citizens' right to know with the State's right to withhold information deemed harmful to national security. Various international covenants impose restrictions on freedom of expression to protect national security, so long as the restrictions meet the so-called "three-part test": they must be provided for by law, must pursue a legitimate aim, and must be necessary to secure one of those aims. The State must provide "relevant and sufficient" reasons for the restriction, and the restriction must be "proportionate to the aim pursued."<sup>6</sup> Many, but not all, of the exceptions appear to be based on grounds that are enumerated in Article 19 of the International Covenant on Civil and Political Rights as legitimate limitations on the exercise of the rights specified in Article 19, which include the right to receive information. However, it is important to note in this regard that Article 19 also imposes certain conditions on the application of such limitations, including the requirement that they must be "necessary."

Article 13 of the law enumerates the grounds upon which a public records custodian is not required to disclose information:

- Secrets and documents protected under any other legislation.
- Classified information obtained through an agreement with another state.
- Secrets of national defense, national security, or foreign policy.
- Information which contains analysis or recommendations, proposals or advice offered to an official before a decision is taken thereon, and includes correspondence and information exchanged between various governmental departments.
- Information and personal files on a person's educational records, medical records or career or bank accounts or remission of professional secrecy.
- Correspondence of personal or confidential nature whether postal, telegraphic or telephone or through any other technical means with the government departments and answers thereto.
- The information the disclosure of which would influence negotiations between the State and any other country.
- Investigations by the general prosecution or judicial enforcement or security agencies on any crime or case within their jurisdiction, as well as investigations by the competent authorities to detect financial or customs or bank irregularities unless the competent authority authorizes such disclosure.
- Information of a commercial, industrial or financial or economic nature, and information on the bids or scientific research whereby the disclosure of which would lead to an infringement of copyright and intellectual property, fair and legitimate competition or would lead to unlawful profit or loss for any person or company.
- Information inciting sectarian, racial or ethnic discrimination, or discrimination based on gender or color<sup>7</sup>.

---

<sup>6</sup> *Lingens v. Austria*, 8 July 1986, Application No.9815/82, 8 EHRR 407, paras. 39-40 (European Court of Human Rights).

<sup>7</sup> Article 10.

## 2. Convergence between telecommunications and media sectors

In recent years, recognizing the growth in new media technologies and the convergence within the information and communications technology (ICT) sector, Jordan's government has made a number of recommendations that, if implemented, would lead to substantial convergence of regulatory functions.

The 2005 National Agenda recommended developing "a comprehensive legislative and regulatory framework to adapt to new technologies and convergence of media and telecommunications and ensure a transparent licensing regime."<sup>8</sup> Specifically, it called for the establishment of a commission "to regulate the media sector, and serve as an umbrella organization for the Audiovisual Commission and Press and Publications Department."

The Government's 2007 Policy Statement for the Information and Communications Technology and Postal Sectors recommended the establishment of a Task Force on New Media. This task force, which was established in 2007, included staff of the Audio-Visual Commission and Telecommunications Regulatory Commission, and had the following objectives:

- "Create a framework for audio-visual content regulation that sets out the rules appropriate to the diverse delivery mechanisms for such media." (2007 Policy Statement, Objective 73)
- "Evaluate the appropriateness of a government role in new media other than the Internet." (2007 Policy Statement, Objective 73) (The 2007 Policy Statement makes clear that self-regulation is preferred for Internet, though it contemplates that "in the absence of self-regulation, some type of government regulation may be appropriate.")
- "Make recommendations concerning the governance of [audiovisual] regulation within and between the AVC and TRC." (2007 Policy Statement, Objective 7.)
- "Make recommendations about the deployment and changeover from terrestrial analogue broadcasting to digital format." (2007 Policy Statement, Objective 73)
- "Take into account the Government's intention to create a single Communications Regulator, which would subsume the functions, although not the structures, of the TRC and AVC" and "publish a draft unified communications law once the Task Force has substantially completed its work." (2007 Policy Statement, Objective 74)

The schemes of regulatory convergence outlined in the 2005 National Agenda (which recommended that the responsibilities of regulating print and broadcast be assumed by one supervising institution) and the 2007 Policy Statement (proposing one regulatory body to be charged with the regulation of both audiovisual media and telecommunications—in other words, technologies that use radio frequency spectrum—but not print media) offer different scenarios for the future.

The plans detailed in the National Agenda—bringing the regulation of print and audiovisual media under one body—would be contrary to the way broadcasting and print media are normally regulated under inter-

<sup>8</sup> <http://www.nationalagenda.jo>.

national best practice. Broadcasting is generally subject to more regulation than print, primarily because broadcasting is seen as more intrusive and influential, because broadcasting uses a scarce public good (radio frequency spectrum), and because coordination is necessary to prevent technical interference. Under international best practice, print is ordinarily not regulated or licensed at all. Bringing the two under the same roof, as is recommended in the National Agenda, could make it more likely that print media would remain subject to licensing requirements and more stringent regulation

The scheme to move toward regulatory convergence, as outlined in the Statement of Policy—either by increasing the regulatory cooperation and coordination between the AVC and TRC, or by going as far as to merge the regulatory functions of the two commissions into one body—would reflect a global trend.

At the time of final editing of this primer, an ad-hoc committee led by the MoICT and including TRC, was finalizing a draft law rolling the AVC into the TRC, streamlining license procedures and paving the way for a more independent regulatory environment.

As technology delivering content has converged world-wide, so has its regulation. Audiovisual programming has traditionally been delivered through conventional terrestrial broadcasting networks, and more recently by satellite, but new technology has broken these monopolies, and television programs can now be delivered through a variety of systems such as cable, the Internet and 3G mobile phones. In a number of countries (including the United States, United Kingdom, Australia, Italy, South Africa, Singapore, Malaysia, and most recently Iraq), the blurring of the distinction between media and telecommunications technologies has led to the convergence of communications regulators. The various communications sectors share similar legal, technical and economic characteristics, and having one regulatory body charged with licensing and regulating all communications has the advantage of providing an efficient one-stop-shop. As it prepared to debate a new telecom and media law, expected to be submitted to Parliament by the end of 2009, Jordan seemed inclined to follow this global trend. However, even if the functions of the broadcasting and telecommunications regulators are not merged into one body, further coordination between the two would likely contribute to greater efficiency and effectiveness of licensing and regulation of technologies that may fall under the authority of both bodies. Such coordination could include developing and publishing clear statements of policy and procedure outlining how the two agencies divide and share responsibility.





**Chapter Five**  
**NEWS MEDIA INSTITUTIONS**  
**AND REGULATORS**





✎ In 2001, the government abolished the Ministry of Information, which long had served as the focal point of media regulation in the Kingdom. This step was initiated by his Royal Highness King Abdullah in an October 25, 2001 Royal Letter to the Prime Minister, Ali Abul Ragheb. In that letter, his Highness stated:

The media forms a basic corner stone for the environment we aspire for. Visual and audio Media, are the means that should not be the exclusivity of any. Jordanian Media is not the Government Media, but rather a State Media that expresses the conscience of the homeland and represents its identity. In this context, work should be exerted to ensure the independence of media institutions, and manage it in a way that achieves its feasibility. Such institutions should operate at a proficient level, to ensure competitiveness in the media market. Furthermore, this demands a new vision and philosophy consistent with this age. We deem it necessary that procedures should be taken to form a Higher Media Council, whereby civic society efficacy, experts and professionals become the alternative for the Ministry of Information<sup>1</sup>.

As a result of the King's letter and the abolition of the Ministry of Information, two new institutions were established: the Audio-Visual Commission "AVC", responsible for the exercise of regulatory authority over the newly revamped broadcast media sector, and the Higher Media Council "HMC" proposed by the King. In 2002, His Highness King Abdullah revisited the status of the HMC in a December 2 Royal Letter to Prime Minister Ali Abul Ragheb. In that letter, he called for the HMC to act as a "regulatory, non executive commission," in order to crystallize and translate into reality the vision of "a modern state media, based upon pluralism, freedom of expression, and respect of diverse views." The letter went on to state that:

We also pledge to support the independence of media organizations, its administration, and to endeavour to elevate the professional dimension of media work, through enhancing professional performance, excellence and creativity, in a climate of pluralism, freedom and responsibility<sup>2</sup>.

In 2004, the National Assembly enacted the permanent law "Permanent Law No. 26 of 2004 for the Higher Media Council" under which the HMC operated until November 2008, when the HMC was abolished by the Parliament upon the recommendation of the Council of Ministers.

In sum, it safely can be said that news media law has been an arena of intense national debate since at least as far back as the early 1990s. Some analysts have argued that the Prime Minister, the Minister of Culture<sup>3</sup> and more recently the Minister of State for Communication and Media Affairs have acted as de facto Ministers of Information<sup>4</sup>.

The current system of laws, institutions, and practices represents the result of an ongoing effort to accommodate the interests of press freedom advocates and proponents of regulation.

1 Available at [http://www.kingabdullah.jo/main.php?main\\_page=0&lang\\_hmka1=1](http://www.kingabdullah.jo/main.php?main_page=0&lang_hmka1=1).

2 The December 2, 2002 Royal Letter is available at: [[http://www.kingabdullah.jo/main.php?main\\_page=0&lang\\_hmka1=1](http://www.kingabdullah.jo/main.php?main_page=0&lang_hmka1=1)].

3 Hashem Khraisat, Secretary General of the Higher Media Council; a lecture delivered to the Council on June 28, 2006. Also see: Regulations No. 110/2003 (Regulations on Jurisdictions related to Media, Press and Publications and Cultural Affairs), issued under paragraph 2 of article 45 and article 120 of the Constitution.

4 Roman Haddan, "Al-Rai" September 22, 2005: "The demise of the Ministry of Information was accompanied by vague unclear distribution of roles among institutions such as the Higher Media Council, the Jordan Information Center, the Press and Publications Department and Jordan Radio and Television Corporation, which led to overlapping of roles leaving and gaps which no institution has been filling."

## 1. Press and Publications Department

The PPD is located within the Council of Ministers apparatus. Its origins can be traced back to 1927, when the Prime Minister directed that an administrative body be established to regulate newspapers and publications<sup>5</sup>. Its location in the administrative apparatus was shifted within several different agencies until it was placed under the then-newly-created Ministry of Information in 1964<sup>6</sup>. Since the Ministry's abolition in 2001, it has been returned to the direct administrative supervision of the Council of Ministers. However, as recently as February 2009, the Cabinet was discussing plans to incorporate the Press and Publications Department into the Ministry of Culture.

The PPD is responsible for regulating the printed press in Jordan, including periodicals (daily, weekly and specialized newspapers) and books, and the distribution of foreign publications.

The essential nature of the PPD's administrative responsibilities lies in the ongoing monitoring and supervision of print licensees. Although it once exercised pre-publication censorial review of periodicals, the PPD no longer has the authority to do so<sup>7</sup>. Instead, its powers lie primarily in the area of supervision, although the agency retains some coercive powers. So, for example, copies of specialized publications and books published in Jordan must be submitted to the PPD prior to public distribution<sup>8</sup>. If a book that is printed in Jordan includes unlawful material, the PPD's Director is authorized to seek court orders confiscating the book and prohibiting its further distribution<sup>9</sup>. In regard to any foreign print publication that contains illegal material, the Director is authorized to act unilaterally to ban its entry or distribution in Jordan, but must at the same time immediately ("with all possible speed") seek a court order to sustain the ban or prohibition<sup>10</sup>.

In 2006, the PPD banned the distribution of 89 books; 73 were banned in 2005. The director of the department justified the decision by saying, "the reasons of banning are related to ethics, offending religions, national interest and personal matters<sup>11</sup>." The department reportedly banned more than 1,200 books between 1955 and 1987<sup>12</sup>.

Critics have observed that such actions have increased at politically strategic times; for example, Sa'eda Kilani's 2002 book *Press Freedoms in Jordan* notes that the PPD had stepped up confiscation efforts prior to elections and had banned publications exposing government corruption. PPD officials, however, maintain that in 2005 alone their department licensed a record 74,000 publications.

---

5 See "The Department of Press and Publications" at the website of the PPD [<http://www.dpp.gov.jo/dpp-E.htm>].

6 *Id.*

7 The PPD reportedly stopped formal pre-publication censorship of newspapers in 2005. See the report in *7 Days* (Abu Dhabi), June 7, 2005, entitled "Jordan censor eases off" [<http://www.7days.ae/2005/06/07/jordan-censor-eases-off.html>].

8 PPL, Articles 26(B) [specialized publications] and 35(A) [books].

9 PPL, Article 35(B).

10 PPL, Article 31(B).

11 Statement of the Director General of the Publications and Publishing Directorate of the Official Jordanian News Agency-Petra-28.12.2005, [www.petra.gov.jo](http://www.petra.gov.jo), published by the Jordanian newspapers on the following day.

12 *Al Arab Al Yawm*, 20/2/2006, the seventh day appendix.

## 2. Audiovisual Media

### (i) Audiovisual Commission

The basis and structure for regulation of the "broadcasting" sector—terrestrial and satellite radio and television, as well as cable television and mobile television—was established in 2002, in Provisional Law No. 71 of 2002 for Audiovisual Media the "A-V Law". Dissemination via the Internet is expressly excluded from the A-V Law's scope. These parameters of the A-V Law, and therefore the "broadcasting" sector itself, are found in the following definitions in Article 2<sup>13</sup>:

**Audiovisual Media:** "Any TV or Radio broadcasting reaches to public or certain communities in the form of signals, pictures, sounds or writings of any sort that differs from private correspondences via Channels, waves, transmitters and networks as well as other media techniques, means and ways of transmission and broadcasting."

**Broadcasting:** "Transmitting Radio and TV Works and Programs through Electromagnetic Waves or via Satellite or other techniques or means of any sort or nature received by public through all technical Facilities of various descriptions, excluding the international information network (Internet)."

The 2002 A-V Law also created the Audiovisual Commission "AVC".

The Audiovisual Commission is supervised by the Council of Ministers. This Commission consists of a Director appointed by the Council of Ministers upon recommendation by the Prime Minister and the Executive Staff<sup>14</sup>.

The A-V Law states that the AVC should enjoy "financial and administrative independence." However, the AVC's independence may be limited by the way it is funded. The license fees the AVC collects are transferred directly to the national treasury<sup>15</sup>, rather than towards the AVC's own account. This means that the AVC is not in control of license revenues at any time, but instead must rely on the government to provide it with the funds it needs to operate. Moreover, these government funds are not guaranteed, but rather the Council of Ministers must approve any donations or grants<sup>16</sup>.

Notwithstanding the declared policy to liberalize the audio-visual sector, relevant authorities failed their first test in August 2007, when ATV, which would have been the first private national terrestrial station,

---

<sup>13</sup> Although the definition of «Broadcasting» expressly excludes the Internet, it does not expressly mention cable television, satellite radio and television, or mobile television, nor does the definition of "Audiovisual Media." Presumably, these forms of media fall within the scope of "other techniques or means of any sort or nature," particularly since the only express exclusion is for transmissions via the Internet. The AVC has always treated these forms of media as within the A-V Law's scope, and therefore within its jurisdiction. However, many questions exist regarding demarcation of the jurisdiction of the AVC and TRC as to these services. (This material is excerpted from written responses to questions submitted to the TRC on 11 October 2007.)

<sup>14</sup> Article 6/b of the Audiovisual Media Law. It should be noted that, as this primer was undergoing final editing, in March 2009, plans were being discussed to roll the AVC into the TRC, significantly re-shaping the regulatory environment.

<sup>15</sup> A-V Law, Article 12.

<sup>16</sup> A-V Law, Article 10.

was banned from going on air just a few hours before its scheduled launch. The decision was issued by the then JRTV Director General, in his capacity as Acting AVC Director, thus raising questions over a perceived conflict of interest.

Broadcast licensing responsibilities are shared between the Council of Ministers, AVC, and TRC. The decisions as to initial grants, renewals, amendments, or revocations of broadcast licenses are made by the Council of Ministers<sup>17</sup>, upon recommendation of the AVC<sup>18</sup>. The AVC's lack of final authority in these aspects of broadcast licensing is a significant difference from the remit of broadcasting regulatory agencies in other legal systems. Substantial changes in this regard, however, may take place as Jordan prepares to discuss a new media and telecom law, which experts and regulators expect will ensure greater independence in licensing decisions<sup>19</sup>.

Meanwhile, the Council of Ministers has fairly wide latitude under the law to grant or deny a broadcasting license. The A-V Law provides that it may "refuse to grant broadcasting licenses to any entity without stating the reasons for such rejection"<sup>20</sup>. A rejection can be appealed to the Higher Court of Justice, and in the process the rationale for refusal would have to be revealed. In practical terms, however, if an application is rejected and no reason is given in the decision, the applicant must spend time and money on litigation to find out the reason why. In a January 2008 decision by the Higher Court of Justice (22/2008, Radio AmmanNet and Daoud Kuttab), the Court stated that "The Council of Ministers has the power to refuse granting a license in circumstances in which the rejection is in line with the general interest, and the decision is considered valid unless proven otherwise."

An applicant must also obtain a spectrum frequency license from the TRC, which will award a frequency allocation to a successful applicant<sup>21</sup>. Only when this step has taken place will the AVC be authorized to decide on the suitability of an applicant for a broadcasting license for the purposes of making a recommendation to the Council of Ministers.

While the Press and Publications Law limits the right to issue press publications to every Jordanian or company owned by Jordanians<sup>22</sup>, the Audiovisual Media Law allows non-Jordanians to invest in this sector and apply for licenses. Anyone applying for a broadcasting license must submit a performance bond as provided for in article 17 of the Audiovisual Media Law.

The A-V Law gives the AVC multi-faceted authority to regulate broadcasting, including many responsibilities normally granted to a national regulatory agency governing broadcasting, such as the power to issue instructions on programming<sup>23</sup>, to consider complaints against broadcasters, and to take action

---

17 A-V Law, Article 16(c).

18 A-V Law, Article 8(d). The authority of the Council of Ministers to revoke a broadcasting license, upon recommendation of the Director of the AVC, also is found in Article 29(b)(2) of the A-V Law.

19 As mentioned above, at the time of final editing of this primer a new telecom and media law was being informally discussed and expectations were high that it would be submitted to Parliament by the end of the year.

20 A-V Law, Article 18(b).

21 Telecommunications Law No. 13 of 1995, Article 31(c).

22 Article 11 of the Press and Publications Law.

23 A-V Law, Article 8(l).

against broadcasters who breach their license conditions<sup>24</sup>. In addition, the AVC By Laws give the AVC responsibility for hearing and deciding complaints of the public about broadcasters, as well as disputes between licensees.

As discussed above, anyone wishing to open a media outlet, whether broadcast or print, must be licensed. The licensing process, meanwhile, also provides a venue for on-going imposition of content regulation on the news media.

Pursuant to article 4/b of the Audiovisual Media Law, the Audiovisual Commission is in charge of supervising licensees adherence to observation of public order and requirements of national security and public interest, as well as refraining from broadcasting any economic issue or comment that would jeopardize the integrity of the national economy.

Licensees must commit to honoring human entity, freedom and rights of others, plural expression of thoughts and ideas, objectivity in broadcasting news and events and observation of public order and requirements of national security and public interests, as well as honoring moral, technical and intellectual rights of others.

Article 21 of the Law requires that licensees adhere to types of radio or television programs defined in granted licenses, record the entire broadcast and keep it for one month from the date of broadcasting. The Director of the Audiovisual Commission, or any official authorized in writing, is authorized to view said recordings at any time.

Under Articles 28-29 of the A-V Law, if a licensee has broadcast material contrary to the terms of the license agreement or to any A-V Law provisions, the Commission is authorized in certain circumstances to suspend the offender's operations for no more than two months<sup>25</sup>, recommend license revocation to the Council of Ministers in the case of continuing or repeated violations<sup>26</sup>, and recommend to the First Instance Courts that they impose substantial monetary fines.

In practice, the AVC reportedly relies on an informal mode of enforcement. When a perceived violation occurs, the broadcaster is called into the AVC to discuss the matter in order to prevent further problems. In part because of this process, the AVC has never felt compelled to initiate a formal content-based complaint against a broadcaster<sup>27</sup>. In light of the broad nature of the A-V Law's content regulation provisions and the apparent lack of legal certainty in regard to their enforcement, it can be assumed that these practices will increase the possibility that broadcasters will engage in self-censorship.

The Commission lacks the power to make final decisions on matters related to granting, refusing or renewing licenses; such power is vested in the Council of Ministers.

Article 12 of the AVC Instructions No 1 for the Year 2006 sets forth the basics of a mechanism for resolv-

---

24 A-V Law, Article 8.

25 A-V Law, Article 29(b)(1).

26 A-V Law, Article 29(b)(2).

27 ByLaw No. 163 For the Year 2003, Article 6. Discussed in greater detail in Article XIX's Memorandum on the Audiovisual Media Law (Provisional Law No. 71, 2002) of the Kingdom of Jordan, dated March 2006.

ing complaints against broadcast licensees<sup>28</sup>. According to Article 12, the AVC will consider all complaints submitted by the public or other licensees. If necessary, the Commission will invite the disputing parties, who will be committed to providing the commission with any documents or statements that are beneficial to the process of considering the complaint without delay. Transcripts of the hearings will be provided, which will be confirmed by the commission and the disputing parties for accuracy and will be binding on the disputing parties. The disputing parties are committed to implementing the decision of the Commission.

The Audio-Visual Law states that "the Council of Ministers may refuse to grant a broadcasting license to any entity without stating the reasons for such refusal<sup>29</sup>." Said refusal may be appealed before the Higher Court of Justice.

In the Higher Court of Justice's ruling on case No. 22/2008, filed by Daoud Kuttab & Company for refusal of a radio broadcasting license application in the city of Zarqa, the Court explained that the Council of Ministers has the discretionary power to refuse licenses as it may deem appropriate and as public interest may necessitate, without having to state the reasons behind said decision.

### **(ii) The Telecommunications Regulatory Commission**

The Telecommunications Regulatory Commission (TRC) was established through Telecommunications Law No 13 of 1995 and its amending Provisional law No. 8 of 2002. The TRC structure consists of a supervisory board and an executive body.

The TRC is supervised by a five-member Board of Commissioners, which might create an effective buffer to insulate management from external influence; however, the Commissioners are appointed by the Council of Ministers, upon nomination by the Prime Minister<sup>30</sup>.

With regard to the media, the TRC's most significant function is that broadcasting license applicants must have a frequency allocated to them by the TRC before going on the air. According to the A-V Law, the TRC must approve any "matters falling within its jurisdiction, specifically the licenses for frequencies" (Article 19) before the AVC may act. However, the TRC reportedly has never denied an application where the AVC had indicated preliminary approval, nor has it attempted to intervene in the AVC's broadcast license decisions or the operations of broadcasters. Instead, it has limited its review to the technical aspects of applications and the assignment of frequencies.

Other functions of the TRC are to issue telecommunications licenses, regulate telecommunications and information technology services, and manage the use of the radio frequency spectrum. The TRC also is

---

28 For example, provisions in Articles 20(l), (n), and (o). See discussion in section VI.C.1, above.

29 missing

30 TRC Law, Articles 7 and 8(a).

charged with stimulating competition in the telecommunications and information technology sectors, encouraging self-regulation by the industry, and proposing draft laws dealing with the telecommunications and information technology sectors for presentation to the MoICT.

### **(iii) Jordan Radio and Television Corporation:**

In 1968, the first law for Jordan Television was approved. Television and radio were merged into one corporation in 1985.

Jordan Radio and Television operates under Law No. 35 of 2000. Article 24 of the Audiovisual Media Law of 2002 states that the Jordan Radio and Television Corporation (JRTV) shall be deemed licensed under the provisions of this Law to practice radio and television broadcasting.

The Audiovisual Law exempts the Corporation and its stations from broadcasting and re-broadcasting license fees. It also deems all re-broadcasting agreements signed with the Corporation (such as the agreements with the BBC, Monte Carlo and Sawa) prior to this Law valid and effective up to their relevant expiry dates, and allows the Corporation to renew said agreements<sup>31</sup>.

The Jordan Radio and Television Corporation is managed by a Board of Directors comprising nine members, one of which may be named by the Prime Minister as Chairman of the Board, provided that said Chairman does not receive any salary or remuneration. The Board of Directors comprises the following members<sup>32</sup>:

- The General Manager, appointed by resolution of the Council of Ministers upon Royal Decree. The General Manager's salary and all other financial entitlements shall be specified in the same resolution and his/her services shall be ended by resolution of the Council of Ministers.
- The Under-Secretary of the Ministry of Culture.
- The Under-secretary of the Ministry of Endowments and Islamic Affairs and Sanctuaries.
- Director of the Moral Guidance Directorate at the Jordanian Armed Forces.
- Four non-governmental members appointed by resolution of the Council of Ministers for two renewable years.

Article 3 of the Jordan Radio and Television Corporation Law states that the Corporation shall be a financially and administratively independent entity. In practice, however, the management structure and funding mechanism<sup>33</sup> give the government a significant degree of control over JRTV.

---

31 See Rawand Al-Zo'bi (Legal Advisor at the Audiovisual Commission), Legal Study of the Audiovisual Media Law, presented to a workshop organized by the Jordan Media Strengthening Program in 2007.

32 Article 6 of the Jordan Radio and Television Corporation Law.

33 The Law imposes a one Dinar fee on each television set to be collected with electric utility bills, and the government determines the corporation's budget.

**(iv) The Higher Media Council:**

After the abolition of the Ministry of Information, Provisional Law No. 74 of 2001 established the Higher Media Council ("HMC") as a financially and administratively independent non-executive regulatory reference entity. That law in turn was amended and issued as the Permanent Law No. 26 of 2004 (the "HMC Law").

In October 2008, the Council of Ministers announced the intention to abolish the Higher Media Council<sup>34</sup>, and a draft law for the cancellation of the HMC was submitted to Parliament in November 2008. The law annulling the Higher Media Council was published in the Official Gazette in December 2008.

The HMC was not directly involved in licensing in the media sector. Rather, its responsibilities included monitoring and review of complaints against the media, articulation of national media policy, development of plans for specific media sectors, the review of existing media-related legislation and development of legislative proposals, and the training of media workers.

Before its dissolution, the HMC's goals included: contributing to the development and professionalization of the media sector, fostering of competition, support of plurality, and encouragement of investment. It was also the body responsible for monitoring the media, purportedly to safeguard media independence and freedom of expression. It ran a Media Training Center for Jordanian media professionals. The HMC was charged with making recommendations to the authorities on ways to restructure governmental media institutions and presenting draft laws and regulations on media to the government.

---

<sup>34</sup> The Council of Ministers made the relevant resolution in a session held on Tuesday October 21, 2008.





**Chapter Six**  
**MEDIA AND LEGAL LIABILITY**



- ✎ The courts in Jordan, as in many other legal systems, have a multi-faceted role in news media law: safeguarding of press freedoms and enforcement of regulation. In the end, their mandate is to apply the laws in an independent and objective manner.

## 1. The Judiciary

The Jordanian judiciary consists of several courts of various jurisdictions; there are first degree courts which comprise the Court of Conciliation and the Court of First Instance, each hearing certain types of cases according to either the value or type of lawsuit as provided for in the Law. The Court of Appeals is a second degree court hearing appeals filed against rulings of first degree courts. The Court of Cassation is the highest body in the hierarchical structure of Regular Courts. It reviews decisions of the Courts of Appeal; however, it normally has competence to review only questions of law, not the appellate courts' findings of fact. In addition to its authority to review decisions of the Criminal Courts, the Court of Cassation is competent to review decisions of the State Security Court; in these cases, as with decisions from the Criminal Courts, it does have authority to review both factual findings and questions of law.

The amended Press and Publications Law of 2007 granted courts more powers with regards to press and publications issues, for example giving courts the power to revoke publications' licenses<sup>1</sup>, confiscate books<sup>2</sup>, ban circulation of foreign periodicals<sup>3</sup> and more. Prior to this amendment, the Director of the Press and Publications Department had the sole power to make such decisions.

According to the Penal Code, crimes are divided into contraventions, misdemeanors and felonies, with different penalties imposed for each crime. For instance, publishing material contrary to the Press and Publications Law is considered contravention; the penalty set for such crime is a fine. Most press and publications crimes, including slander and libel, as outlined in the Penal Code (articles 188-193), are misdemeanors, the penalty for which is a fine or imprisonment for periods not exceeding three years. Generally speaking, the Court of First Instance, in its penal capacity, hears press and publications crimes, excluding those falling within the jurisdiction of the State Security Court. Misdemeanors in general are appealed but may not be brought to the Court of Cassation unless permitted by written request of the Minister of Justice. For this reason, very few rulings of the Court of Cassation have been made in cases related to freedom of expression and freedom of the press. Rulings of the State Security Court, on the other hand, can be brought to the Court of Cassation for appeal.

---

1 Article 19/b.

2 Article 35/b.

3 Article 31/b. This article allows the Director of the Press and Publications Department to impose temporary prohibition but requires said Director to seek judicial decision, as promptly as possible, to extend said prohibition.

The State Security Court is the sole competent court to hear misdemeanor or felony cases committed against the State's internal and external security, as provided for in the Penal Code No. 16 of 1960, crimes against public safety as provided for in articles 157-168 of the same law, crimes of offending the King, violations of the Protection of State's Secrets and Documents Law No. 50 of 1971 and a general category of crimes related to economic security referred to this court by the Prime Minister<sup>4</sup>.

The Higher Court of Justice is an administrative court hearing appeals filed by parties requesting nullification of decisions made or measures taken pursuant to any law contrary to the Constitution or any regulation contrary to the Constitution or the Law. The Court's rulings are final and may not be appealed or reviewed<sup>5</sup>.

With respect to media activity, the Higher Court of Justice is the competent court to hear appeals filed by parties aggrieved by decisions of the Audiovisual Commission and the Press and Publications Department. Moreover, this court is, under the Right of Access to Information Law of 2007, the competent court to hear appeals against officials refusing to provide information.

Despite concerns regarding independence of the judicial branch, it appears that there is a relatively high degree of judicial independence in Jordan. Reportedly, the government lost 90 percent of the 300 cases it brought in the regular courts under PPL and Penal Code against media professionals and outlets between 1993 and 2005. In the 10 percent of cases the government won, the minimum fine of five JD was imposed most of the time. No judge in a regular court in Jordan has ever sent a journalist to jail; three journalists have been jailed in cases before the State Security Court<sup>6</sup>.

## 2. Legal liability in publication related crimes:

The policies of incrimination and punishment have changed dramatically in different countries of the world. Punishment of offenders primarily seeks not to retaliate, but rather to deter the commission of future crimes. For this reason, most countries comply with the principle of pro rata punishment, which requires that a penalty must be proportionate to the severity of the offence.

Journalists face four types of penalties:

1. **Penal:** Aiming at limiting their personal freedom (such as detention or imprisonment) and/or fine, in addition to other preventive measures.
2. **Civil:** Financial compensation of aggrieved parties.
3. **Complementary:** Temporary or permanent prohibition from practicing journalism or publishing the verdict in one or more newspapers.

---

4 Article 3 of the State Security Court Law No. 17 of 1959.

5 Articles 9/b and 26/b of the Higher Court of Justice Law No. 17 of 1992.

6 We are indebted to Yahia Shukkeir for these estimates, which are based on his review of the rulings on cases brought to the regular courts and the State Security Court.

4. **Disciplinary:** Penalties such as those imposed by the Press association on its members, which may include prohibition from practicing journalism, which sometimes leads to prohibition from running for positions in the Association or Editor-in-Chief positions.

#### **(i) Joint Liability**

Of particular note for the relationship between press freedoms and democratic governance is the fact that in the PPL these penalties for the most part are imposed directly on individual persons, not enterprises, and also that the greatest potential for liability is targeted at the position at the core of the editorial process: the editor-in-chief of a publication. In large part, the PPL minimizes the principle of "personal punishment"—in other words, the imposition of punishment on the actual wrongdoer—in content offenses committed by the newspapers. Instead, it imposes vicarious liability, substituting certain individuals based on their status within the enterprise for the actual wrongdoer. Thus, under the concepts of "assumed" and "joint" responsibility, it is the editor-in-chief who is the most visible and vulnerable target in the allocation of legal responsibility.

Under the notion of "assumed responsibility," criminal responsibility is imposed on the editor-in-chief even if he or she is not the one who committed the offense. Article 23(c) of the PPL states:

The editor in-chief is responsible for what is published in the publication; he or she is also jointly responsible with the writer of an article on the content of such article.

Article 42(d) of the PPL states:

Public right cases in publications crimes shall be filed against the editor-in-chief, and the writer of the press material being original actors. The owner of the publication shall be jointly responsible on personal rights resulted from such crimes and the court expenses, but shall not be subject to criminal responsibility unless proven that he or she has contributed or intervened in the crime.

Thus, according to the concepts of assumed and joint responsibility, the editor-in-chief will be exposed to criminal liability for anything disseminated in the publication<sup>7</sup>.

In the realm of broadcasting, the position of editor-in-chief is not directly targeted. Article 78 of the Penal Code does not include non-print media within its scope, and the A-V Law imposes liability for content violations on the "licensee," who is defined in Article 2 as the "person who obtained a broadcasting license." Of course, a broadcasting licensee certainly might also seek to reduce the risk of penalties by influencing the editor's exercise of judgment. Here, it should be noted that although the monetary fines available under Article 29(b) of the A-V Law are substantial (as is the threat of license suspension or revocation), the penalties for content violations do not include prison terms.

---

<sup>7</sup> These concepts are not found in the same form in regard to non-periodical publications, such as books. In regard to non-periodical publications, the PPL employs the concept of "consecutive responsibility," which is codified in Article 42(e):

Public right cases in non-periodic publications crimes shall be filed against the author as a primary actor, and on its publisher as his or her partner in the crime. Should the author or the publisher be unknown, the lawsuit shall be filed against the owner of the publication and its director jointly.

### (ii) Delegation

Jordanian legislations do not allow delegation in criminal cases in general, but the Criminal Procedures Law provides an exclusion allowing a journalist not to appear before court but rather appoint an attorney. Article 168 of said law which states that:

Anyone suspected of misdemeanors that do not carry an imprisonment sentence may delegate an attorney therefor unless required to appear in person by the court.

There is no real implementation of this article in courts, and journalists are only granted this right when misdemeanors in question do not carry imprisonment sentences, as in violations of the Press and Publications Law (as all penalties imposed under the PPL are fines).

## 3. Detention

Although PPL Article 42(f) prohibits pre-trial detention for publication of allegedly illegal statements, other legal acts give the authorities the power to detain suspected violators. For example, the Penal Procedure Law permits the prosecutor to order placement of a suspect in custody if the crime in question carries a penalty of more than two years' imprisonment<sup>8</sup>. Similarly, journalists are not detained for crimes falling within the jurisdiction of the Court of Conciliation (such as slander and libel crimes), as such crimes are penalized with imprisonment for periods not exceeding two years.

Also, as to crimes that fall within the competence of the State Security Court, the State Security Court Law authorizes the police to detain a suspect for up to seven days before presenting that person to the general prosecutor<sup>9</sup>. This is in violation of article 114 of the Jordanian Criminal Procedures Law No. 9 of 1961 and its amendments, which compels members of the judicial police to take statements from defendants promptly upon arrest and send said defendants to the Public Prosecutor within 24 hours. In addition, the general prosecutor may order detention of a suspect for up to two weeks if necessary for investigation of the alleged crime. This period of detention may be renewed, up to a maximum of two months, for misdemeanors, or up to six months for felonies<sup>10</sup>.

---

<sup>8</sup> Penal Procedure Code, Article 114.

<sup>9</sup> State Security Court Law, Article 7(1)(b)(1).

<sup>10</sup> State Security Court Law, Article 7(1)(b)(2). This provision also expressly states that it overrides any contrary provisions in the Penal Procedure Code.

## 4. Legal liability for violating the Press and Publications Law

### (i) Content regulation

The current normative structure of news media content regulation is comprised primarily of rules found in three laws: the PPL, A-V Law, and Penal Code<sup>11</sup>. We will examine this structure by focusing first on the substantive nature of the offenses themselves. Then, we will turn to the various means of enforcing those rules.

Jordan's laws, including the PPL, A-V Law and AVC ByLaws, Penal Code, and Contempt of Court Law, place restrictions on the content of information and ideas that news media disseminate to the public. These laws seek to protect both individuals and a broad range of collective interests from material that is deemed harmful.

Three laws—the PPL, A-V Law, and the Penal Code—seek to protect individual rights of personality, such as reputation (standing in the community), dignity (individual self-esteem), and privacy. Some of these legislative provisions are very general, while others are defined with greater specificity, and there is considerable overlap among them. Generally, these protections extend to all natural persons, whether they are private individuals or public employees or officials, including the King and members of the royal family;<sup>12</sup> however, in certain cases the laws distinguish between offenses against persons in these different categories.

Among the general provisions are those found in the PPL and A-V Law, which apply to print enterprises and journalists and to broadcast enterprises, respectively. The PPL contains at least three provisions that arguably target violations of personality rights: Article 5, which requires the print media to refrain from publishing anything that conflicts with "human rights";<sup>13</sup> Article 7(a), which dictates that journalists must respect "public liberties," safeguard the "rights of others," and refrain from encroaching on individuals' privacy; and Article 38(d), which prohibits the dissemination of any material that "harms the dignity and personal freedoms of individuals, or any material that includes false information or rumors about them".<sup>14</sup> The A-V Law, meanwhile, contains in Article 20(i) a broad requirement that broadcast licensees "honor the human entity, freedom and rights of others".<sup>15</sup>

---

11 There also is copyright law. However, this topic is outside the scope of this Primer. Also note that, at the time of writing this, the government was holding consultations and working on a new draft telecom and audio-visual media law.

12 Penal Code, Article 195.

13 Article 5 states in full:

A publication shall search for the truth and adhere to accuracy, neutrality, and objectivity in publishing journalistic materials, and refrain from publishing anything that conflicts with the principles of freedom, national responsibility, human rights, and values of the Arab and Islamic nation.

14 Also, although it is not stated in the form of a prohibition, Article 4 of the PPL states (in full) that:

The press shall freely exercise its task of presenting news, information, and commentaries and shall contribute to the dissemination of thought, culture, and science within the limits of the law and within the framework of preserving public liberties, rights and duties as well as respecting the private life of others. [emphasis added]

15 See also the AVC's ByLaws (adopted pursuant to legislative delegation), Article 6(a)(4).

These legislative formulations do not identify possible defenses against these charges. For example, the extent to which the truth of a statement will serve as a defense is unclear. Article 38(d) of the PPL expressly defines as an offense the dissemination of "false information or rumors," which suggests that a burden will be placed on the prosecutor to establish the falsity of a factual assertion. On the other hand, it is not clear whether such a requirement might adhere to the part of 38(d) that prohibits material harming the "dignity and personal freedoms of individuals," or to Article 7(a) of the PPL and Article 20 (i) of the A-V Law.

PPL Article 26(a) imposes a content restriction on all print media that are licensed as «specialized» publications. The PPL defines "specialized publication" as: "A publication specialized in a specific area and prepared for distribution as stipulated in its issuance license."<sup>16</sup>

Under Article 26(a), a publication in this category is prohibited from publishing content on any subject matter other than the licensed field.

A recent judicial decision illustrates the application of the Article 26(a) prohibition. A newspaper licensed as a "youth" specialization was prosecuted in a First Instance Court for publishing discussions of political, economic, and social topics. The outcome of the case turned on the interpretation of what constitutes a "youth" publication. The First Instance Court acquitted the defendant, holding that the topics addressed in the newspaper were of interest and importance to young people. The General Prosecutor appealed, and the Court of Appeals reversed the decision of the First Instance Court, reasoning that the "youth" specialization is limited to coverage of arts and sports. The case was returned to the First Instance Court, which, adopting the approach of the Court of Appeals, found the defendant guilty and imposed a monetary fine of 100JD<sup>17</sup>.

### **(ii) Revocation of publication licenses**

A periodical publication license shall be deemed revoked by law in any of the following conditions:<sup>18</sup>

1. If the publication is not published within six months as of the date of obtaining the license.
2. If a daily publication is not published for three consecutive months.
3. If a non-daily publication issued regularly one a week is not published for twelve consecutive months.
4. If a non-daily publication issued regularly in time intervals exceeding one week is not published for four consecutive issues.
5. If the owner of a publication assigns said publication contrary to the provisions of the Law.

Press publications issued by registered political parties shall be excluded from the previous conditions. After two warnings, the court may revoke a publication license should the conditions to said license, including area of specialization, be violated without prior approval of the Minister.

---

<sup>16</sup> PPL, Article 2.

<sup>17</sup> Details provided by Mohammad Qtaishat, in possession of author.

<sup>18</sup> Article 19 of the Press and Publications Law.



## 5. Civil liability arising from publication related crimes

Any aggrieved party in publication-related crimes may claim personal right which entails claiming "civil" financial compensation for damages inflicted on said aggrieved party.

Assessment of damage remedying compensation is at the sole discretion of the trial judge as long as there is no binding legal provision stipulating certain criteria for that."<sup>19</sup>

An aggrieved party may claim compensation either by initiating separate civil action before the competent civil courts or by claiming personal right before the court hearing the relevant criminal case. Claiming personal right means seeking compensation for damage; as article 52 of the Criminal Procedures Law states that: "Anyone believing to be harmed by a felony or misdemeanor may file a complaint of personal right claim to the Public Prosecutor or competent court."

An example of an actus reus is when a newspaper uses its right to publish news and comments illegally, or if the benefit arising from using such right does not justify harm inflicted on others. Should more than one person be responsible for an act of harm, liability is not always joint but each has a share of responsibility as per their part in said act, and the court may, in its own discretion, resolve that said persons are equally, jointly or severally responsible.<sup>20</sup> This was confirmed by the Court of First Instance in a decision supported by the Court of Appeals stating that:

If a newspaper publishes an article entitled "The Department of Supplies launches a campaign to seize all bad items in the market," featuring a picture of the claimant and his son, that would give the impression that said claimant is one of the people seized for committing offences stated in said article. And whereas no evidence has proved so, this act by the newspaper constitutes violation of the claimant's privacy, goodwill and social status. The civil liability arising from an act of harm requires three elements which are: actus reus, harm and causal relation between the harm and the act.

The form of act in this lawsuit is that the newspaper used of its right illegally or when the benefit arising from using such right does not justify the harm inflicted on others, the harm is established, and the causal relation between the act and the harm exists.

The decision also stipulated that, should several people be responsible for the act of harm, each shall have a share of responsibility as per their part in said act, and the court may, in its own discretion, resolve that said persons are equally, jointly or separately responsible therefore.<sup>21</sup>

---

19 See: Majed Al-Hiari, *The Journalist's Civil Liability*, Jaffa Scientific Publication House 2008, p 298.

20 Judge Waleed Kanakrieh, decision No. 3650/98 on May 31, 2001 issued by Amman Court of First Instance

21 See: Judge Waleed Kanakrieh, *ibid*.

## 6. Liability for violating the Audio-Visual Law

The Audio-Visual Law requires that radio broadcasting licensees refrain from broadcasting or re-broadcasting any material that would incite sectarian or ethnic bias or anything that would undermine national unity, instigate terrorism or racial or sectarian discrimination or undermine the Kingdom's relations with other states<sup>22</sup>. Anyone violating the previous article shall be penalized with a fine between 10,000-50,000 dinars for first offences and double that amount in case of recidivism or continued violation.<sup>23</sup>

The Penal Code also prohibits "any writing, speech or act aimed at, or resulting in, inciting sectarian or racial bias or instigating conflict between sects and different components of the nation"<sup>24</sup>. Violators are penalized with imprisonment for a period not less than six months and not exceeding three years, and a fine not exceeding 50 dinars.

## 7. Electronic Media

In 2007, the Press and Publications Department asked the Legislation and Opinion Bureau the Prime Ministry for an interpretation of the Press and Publications Law, to ascertain whether that law would be applicable to news websites. The Bureau gave a positive reply, largely based on Article 2 of the Press and Publications Law, which defines a publication as: Any media in which meanings, words, or ideas are expressed in any way whatsoever.

Analysts and observers, however, immediately pointed out that the Bureau's opinions have no legal value. The courts and the "Diwan for the Interpretation of the Law," whose decisions have value in the Jordanian system, have not ruled on the applicability of the Press and Publications Law to news websites. Furthermore, in September 2007, the His Majesty King Abdullah said that it was his vision, and government policy, not to regulate news websites.

Dissemination via the Internet was expressly excluded from the A-V Law's scope.

---

<sup>22</sup> Article 20(n).

<sup>23</sup> Article 29(b).

<sup>24</sup> Article 150 of the Penal Code.



## Chapter Seven

**ADDRESSING THE BALANCING  
CHALLENGE: THE NEWS MEDIA  
THROUGH THE PRISM OF THE  
INTERNATIONAL COVENANT ON  
CIVIL AND POLITICAL RIGHTS,  
ARTICLE 19**





✎ Jordan faces the challenge confronted by all countries that seek to recognize and advance press freedoms: how to strike the proper balance between such freedoms and the protection of the rights of others and important public interests. A very recent illustration of the challenge is found in His Majesty King Abdullah's December 2, 2007 address to the National Assembly, in which he stated:

"As for the freedom of the press and information, we do assert, from this house of democracy, our commitment to preserve and protect this freedom, so that the media will be the monitor's eye that uncovers truth on a professional and objective basis and in the spirit of responsible freedom. This is on condition that it is Jordanian in its belonging and nationalist in its goals and message. The Constitution guarantees the freedom of opinion and expression. It is not acceptable to send a journalist to prison for a difference in opinion on a public issue, as long as this opinion does not entail abusing the rights of others, their freedoms, honor or dignity"<sup>1</sup>.

The difficulty that all legal systems face in resolving individual conflicts is the fact that it is challenging to weigh these countervailing interests in abstract terms. Some systematic method must be found for approaching this problem.

It goes without saying that the regulatory systems discussed in this document affect the conduct of news media activity. The crucial question is whether a particular form of regulation is lawful: in other words, whether other legal norms might make it unenforceable. Therefore, when this matter arises, two questions must be asked: (1) is the affected news media activity protected under applicable legal norms that must be taken into account as a result of the application to it of a regulatory act?; and (2) if yes, what should be the means by which governmental actors—judges, legislators, and the executive branch—determine whether or not the particular regulatory act is lawful?

Article 19 of the ICCPR provides a framework for addressing and resolving these questions. Article 19 states in full:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

As discussed above, the ICCPR is binding in the Jordanian legal system and is superior to legislative and

---

<sup>1</sup> Jordan Times: December 3, 2007 (<http://www.jordantimes.com/index.php?news=4058>).

other governmental acts in the Jordanian legal hierarchy. In addition, while applicable in itself, the ICCPR also might serve as guidance for informing the interpretation and application of Article 15 of the Constitution. For example, Article 15(ii) states that "Freedom of the press and publications shall be ensured within the limits of the law." In this regard, because it is incorporated in the Jordanian legal system, the ICCPR is part of "the law," along with legislative acts, for purposes of Article 15(ii). In addition, Article 19 provides a basis for interpreting the meaning of those legislative acts.

Article 19's text sets forth the rights of free expression in sub-sections one and two, while recognizing in sub-section three that restrictions may be imposed on the exercise of those rights. To this extent, Article 19 is similar to the approach set forth in Article 15(ii) of the Constitution. However, it also goes further toward a balancing of these competing interests by requiring that any restriction based on the Article 19(3) "limitations clause" must satisfy certain conditions. First, a restriction must be "provided by law." Second, it must have as its purpose the advancement of an exhaustive list of specific private or public interests: respect for the rights or reputations of others or protection of national security, public order, public health, or public morals. Third, it must be "necessary"—a condition that indicates that not all governmental acts will be satisfactory even if they are provided by law and are based on a justifiable limitation.

Pronouncements of international bodies have expanded upon the meaning of Article 19(3). The UN Human Rights Committee (HRC), an organ comprised of legal experts established pursuant to the ICCPR<sup>2</sup>, has issued an interpretive "General Comment," in which it is recognized that "when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself"<sup>3</sup>. This, according to the HRC, is the basis for requiring that restrictions may be imposed only when consistent with certain conditions.

Article 19(3) also is the subject of a detailed examination of the ICCPR "limitation clauses" in the "Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights"<sup>4</sup>, adopted in 1984 by a sub-commission of the United Nations Economic and Social Council. These principles are the product of a conference of 31 international lawyers from more than 17 different countries who met under the auspices of UNESCO to provide authoritative, uniform guidance on the meaning of the terms in the limitation clauses<sup>5</sup>.

We now will consider the conditions on state restrictions in Article 19(3) and apply them to certain of the regulations described in this document. In this regard, a threshold question must first be addressed: the allocation of the burden of persuasion as to the compatibility of a state's regulation with Article 19. On this question, the Siracusa Principles state that: "The burden of justifying a limitation upon a right guaranteed under the Covenant lies with the state"<sup>6</sup>.

---

2 ICCPR, Articles 28-45.

3 Human Rights Committee General Comment Number 10 (adopted July 27, 1983), par. 4.

Available at [<http://www1.umn.edu/humanrts/gencomm/hrcom10.htm>].

4 UN Doc E/CN.4/1984/4 (1984), Annex. Available at: [<http://hei.unige.ch/~clapham/hrdoc/docs/siracusa.html>].

5 See also "Symposium: Limitation and Derogation Provisions in the International Covenant of Civil and Political Rights," *Human Rights Quarterly*, Volume 7 (1985), pages 1-157.

6 Siracusa Principles, Principle 12.

### Provided by Law

Under this condition, a restriction on Article 19(1) and (2) rights must be set forth in a transparent, clearly-stated, generally applicable legislative act. Put another way, a law must not be so vague that it permits excessive discretion and lack of certainty in its implementation<sup>7</sup>. According to the Siracusa Principles, "no limitation on the exercise of human rights shall be made unless provided for by national law of general application which is consistent with the Covenant and is in force at the time the limitation is applied<sup>8</sup>," and such a law must be "clear and accessible to everyone"<sup>9</sup>.

Many of the regulations discussed in this Primer would appear to satisfy the "provided by law" condition. However, a number of provisions might be suspect under the clarity standard, due to their lack of precision and susceptibility to subjective application. Such questions, for example, might be raised about the "objectivity" requirements in PPL Articles 5 and 7.

### Justifiable Basis

The Siracusa Principles state that: "No limitations or grounds for applying them to rights guaranteed by the Covenant are permitted other than those contained in the terms of the Covenant itself"<sup>10</sup>. Thus, in satisfying its burden of demonstrating that a restriction is compatible with the ICCPR, the state must base the restriction on at least one of the justifiable grounds enumerated in Articles 19(3)(a) and (b).

The Principles also go into considerable detail in setting forth "Interpretative Principles Relating to Specific Limitation Clauses," including each of the justifiable grounds identified in Articles 19(3)(a) and (b). For example, as to protection of the "rights and reputations of others," one of the Interpretive Principles states in full: "A limitation to a human right based upon the reputation of others shall not be used to protect the state and its officials from public opinion or criticism"<sup>11</sup>. As to "national security" as a basis for restrictions, other Interpretive Principles state that "National security may be invoked to justify measures limiting certain rights only when they are taken to protect the existence of the nation or its territorial integrity or political independence against force or threat of force"<sup>12</sup>, and that "National security cannot be used as a pretext for imposing vague or arbitrary limitations and may only be invoked when there exists adequate safeguards and effective remedies against abuse"<sup>13</sup>.

Again, many of the restrictions in Jordanian law, such as those that seek to protect the individual and

---

7 Sarah Joseph, et al. *The International Covenant on Civil and Political Rights: Cases, Materials, Commentary* (2000), sec. 1.51.

8 Siracusa Principles, Principle 15.

9 Siracusa Principles, Principle 17.

10 Siracusa Principles, Principle 1.

11 Siracusa Principles, Principle 37.

12 Siracusa Principles, Principle 29.

13 Siracusa Principles, Principle 31.

collective rights of others<sup>14</sup>, would appear to satisfy the "justifiable basis" condition. At the same time, however, a number of others are questionable. For one thing, it is perhaps difficult to identify which justifiable basis underlies the mandatory JPA membership requirement, or more generally the professional entry standards set forth in the JPA<sup>15</sup>. Similar questions could be raised about the PPL's specialization requirement<sup>16</sup>, or the same law's authorization to the PPD Director to require a reply or correction in the case of incorrect information, even if the information did not harm anyone<sup>17</sup>. In addition, the state would face the burden of demonstrating which justifiable basis is served by the objectivity requirements in PPL Articles 5 and 7.

A second group of questionable restrictions comprises those that evidently are grounded on a justifiable basis, but upon closer scrutiny advance other goals. So, for example, under Interpretive Principle 37, questions might be raised about the system of more severe criminal penalties for libel of public officials than for private individuals<sup>18</sup>, or prosecution and punishment for cases involving criticism of public officials<sup>19</sup>. Similar questions might arise in regard to provisions to which Interpretive Principles 29 and 31 might be relevant<sup>20</sup>. In sum, an application of the "justifiable basis" condition in cases such as these would have to look beyond the text of a legislative act to examine the specific facts surrounding its application.

---

14 Although it is outside the strict parameters of Article 19 analysis, an assessment of measures to protect some collective rights also probably should take into account Article 20(2) of the ICCPR, which states in full that "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

15 These concerns are in addition to the National Agenda's call for abolition of JPA mandatory membership in order to comply with the Universal Declaration of Human Rights.

16 PPL, Article 26(a).

17 PPL, Article 27(B).

18 From a broader perspective, it should be noted that the U.N. Human Rights Council Special Rapporteur on the Promotion and Protection of the Right of Opinion and Expression, Ambeyi Ligabo, addressed the criminalization of libel and related offenses in his January 2, 2007 report, stating:

The Special Rapporteur strongly recommends to Governments to decriminalize defamation and similar offences. These should be dealt with under civil law. The amount of fines to be paid as compensation should be reasonable and allow the continuation of professional activities. The Special Rapporteur also urges Governments to release immediately and unconditionally all journalists detained because of their media-related activities. Prison sentences should be excluded for offences concerning the reputation of others such as defamation and libel.

UN General Assembly document A/HRC/4/27 (January 2, 2007 report of the Human Rights Council Special Rapporteur on the Promotion and Protection of the Right of Opinion and Expression Ambeyi Ligabo), par. 81.

19 For example, the cases described in section VI.C.1.e above.

20 In this regard, the January 2, 2007 Special Rapporteur's report cited above also states:

Governments should also refrain from introducing new norms which will pursue the same goals as defamation laws under a different legal terminology such as disinformation and dissemination of false information. Under no circumstances, criticism of the nation, its symbols, the Government, its members and their action should be seen as an offence. Elected officials and authorities' officials should be conscious that, because of their role, they might attract the attention of the press in the implementation of their functions.

UN General Assembly document A/HRC/4/27 (January 2, 2007 report of the Human Rights Council Special Rapporteur on the Promotion and Protection of the Right of Opinion and Expression Ambeyi Ligabo), par. 82.



## Necessary

Although a restriction may be provided by law and be based on a justifiable goal, it also must satisfy a multi-faceted “necessity” requirement. The Siracusa Principles state that the term “necessary” implies that the restriction, among other requirements, “responds to a pressing public or social need,” “pursues a legitimate aim,” and “is proportionate to that aim”<sup>21</sup>. In explaining the proportionality requirement, the Principles state that “a state shall use no more restrictive means than are required for the achievement of the purpose of the limitation”<sup>22</sup>.

As a general matter, because adjudication of a specific case often will require close examination of the context and specific facts, it is difficult in the abstract to assess the compliance of laws with the “necessary” condition. Certainly, as a matter of textual analysis, many of Jordan’s restrictions can be viewed as “necessary”. However, some broad regulatory systems might be susceptible to questions. For example, given the apparent ease with which print media can be monitored, and the availability of extensive post-dissemination measures, what “pressing public or social need” undergirds the licensing system for print media? Or, can it be said that prison terms and high monetary fines are “proportionate” to the aims of many content regulations?

---

21 Siracusa Principles, Principle 10.

22 Siracusa Principles, Principle 11.





## CONCLUSION AND RECOMMENDATIONS



✎ We set out, in this volume, to examine and assess the legal environment – the institutions, laws, and practices – in which news media operate in Jordan. But a constant goal was to encourage continuing evaluation and improvement – to enhance the system for citizens, government officials, organizations of civil society. Description is important only as a means of diagnosis and an invitation to improvement. And there are areas that we could not cover adequately, including structural aspects of Jordan’s media. We have emphasized the significance of the rule of law itself and laws and policies governing journalists’ access to information as specially basic to the flow of information.

There is an increasing acknowledgment of the link between democracy, human rights and fighting corruption and development, and an awareness that press freedom is not a luxury, but rather a critical factor in social and economic development.

In spite of the steps taken to support freedom of expression, and to ensure that regulations governing the media are in line with both international standards and Jordan’s obligations, Jordan is struggling with many competing and complex interests as changing geopolitical realities and new technologies transform the production and distribution of information.

Basic recommendations for the strengthening of Jordan’s media sector include, especially, a continuing re-examination of law and policy, an attitude of internal discourse and healthy self-criticism. One area for recommendation is how to institutionalize such an environment of conversation, debate and attitude towards change.

Indeed, while we make recommendations for specific changes in laws, we emphasize that far more meaningful is improving – even more than is now the case – the atmosphere in which change is considered, evaluated, tested and implemented.

We recommend that the major organs of mass media have mechanisms (an ombudsman, a public editor, mechanisms for responding to complaints from the public, and more vigorous letters to the editor columns) where there is regular discussion of internal practices and of the relationship between the media and the state.

We recommend that the journalists association (the Jordan Press Association) create regular opportunities for discussion of societal needs for civic information and robust public debate and barriers to their achievement.

We recommend that the public agencies, including those engaged in granting licenses and otherwise regulating media, highlight a more transparent system for self-evaluation and for the discussion of policies that further press freedom and citizen education.

Ultimately, what is important is the tone and direction of a society, its openness as a pathway to building confidence between state and citizen.

With that as background, we turn to somewhat more specific goals:

### **First: Regarding the Practice of Journalism**

- Lifting any licensing and association membership requirements for journalists
- Removing any other restrictions on the practice of journalism
- Amending all aspects of law that permit detention and jail sentences for the expression of opinion and the practice of journalism
- Ensuring that any remaining trial of journalists occurs exclusively before civil courts
- Making libel and slander civil, and not criminal, offenses, in line with international standards<sup>1</sup>
- Eliminating articles hindering freedom of expression in all laws directly and indirectly regulating the media (including the State Security Court Law, Jordan Press Association Law and Contempt of Court Law)
- Championing industry-based codes of ethics, thus fostering self-regulation

### **Second: Regarding the Print Media**

- Lifting any licensing requirements on the printed press
- Phasing out government ownership of print media outlets
- Abolishing taxes on printing press production inputs (including sales tax on paper)

### **Third: Regarding Access to Information**

- Amending the Protection of State Secrets and Documents Law No. (50) of 1971 in line with the Right of Access to Information Law No. (47) of 2007 and article (19) of the International Covenant on Civil and Political Rights, based on the principles of "maximum disclosure" and "fewer exceptions"<sup>2</sup>
- Ensuring legal protection for those who provide information, especially on corruption and/or mismanagement
- Setting up a clear classification system, and entrusting the judiciary with ruling on whether classified documents deserve classification
- Encouraging public bodies to become more open and transparent, including by publishing their rules and decisions online

---

<sup>1</sup> <http://www.article19.org/advocacy/defamationmap/overview.html>.

<sup>2</sup> These principles are a result of long studies, analysis and consultations supervised by the International Center for Combating Censorship of Freedom of Expression (Article 19), as well as a result of working with partner organizations in many countries from all over the world. These principles were ratified by the UN Resolution on the Freedom of Opinion and Expression (annual report 2000, 63/2000/4/E, Paragraph 43). (Annual Report for 1999).

**Fourth: Regarding Audiovisual Media**

- Amending the Jordan Radio and Television Corporation Law No. 35 of 2000, abolishing government control on JRTV and starting the transition to public-service-broadcaster
- Establishing an independent public funding mechanism for JRTV so that government officials cannot hold back funds as a means of editorial control
- Requiring the independent regulator to develop a broadcast code of content in consultation with the industry, establish a monitoring and compliance mechanism based primarily on complaints from the public, and institute a sanctions system based on proportional sanctions applied on an escalating scale
- Establishing a transparent licensing system, and granting licensing authority to an independent regulator. To promote its independence, the regulator must have an independent, guaranteed funding stream and its management and board must be appointed in a way that diminishes the influence of any particular government official, department or branch. Refusals of licenses should be justified and appealable before the judiciary.
- Improving licensing rules and conditions, especially by eliminating the 50% premium on fees charged to broadcasters of news
- Encouraging investments in the audiovisual sector by streamlining licensing procedures.







## Appendix I Definitions







**Claimant:** The person initiating an action in civil lawsuits.

**Contravention:** A crime penalized with confinement for no less than 24 hours and no more than a week, (Article 33 of the Penal Code), or with a fine (Article 16 of the Penal Code).

**Crime:** An act contrary to the Law. A crime shall be deemed a felony, a misdemeanor, or a contravention as per the penalty imposed therefore. (Article 55 of the Penal Code.)

**Criticism:** An act void of slander or libel.

**Defamation:** Any act of defamation and cursing, other than slander and libel, against the defendant whether in person or by verbal utterances, gestures, writings or drawings not being considered public, telegrams, phone calls, or by harsh conduct. (Article 90 of the Penal Code.)

**Defendant:** The person against whom an action/lawsuit is initiated, the person charged with an offense.

**Felony:** A crime that, in case of conviction, is punished with death, hard-labor, or imprisonment.

**Fine:** Monetary amount specified by court ruling and payable to the Treasury by the convicted person. According to Article 22 of the Penal Code, such amount shall be no less than five dinars and no more than 200 dinars, unless otherwise specified by the Law.

**General Pardon:** A pardon issued through a law or a temporary law issued by the Legislative Authority. A pardon overturns the criminal capacity. It is issued by public action prior to and following the issuance of a ruling in said action so that said pardon eliminates each and every penalty, be it an original or secondary penalty. However, said penalty shall not prevent the issuance of a ruling in favor of the claimant with respect to civil obligations nor shall it prevent the enforcement of the ruling that is related to said obligations. (Article 50 of the Penal Code.)

**Ignorance of the Law:** "Ignorance of the Law shall not be deemed as an excuse for committing any crime." (Article 85 of the Penal Code No. 16 of 1960.)

**Imprisonment:** Holding the convicted person as prisoner in a state prison for a period of more than three years.

**Jailing:** Holding the convicted person as prisoner in a state prison for no less than a week and no more than three years, unless otherwise specified by the Law. (Article 21 of the Penal Code.) If a person is sentenced to less than three months, the court issuing the ruling may convert the period of the sentence into a fine, equivalent to two dinars in lieu of each day, should the court believe that a fine constitutes a sufficient penalty for the crime upon which said person has been convicted. (Article 27 of the Penal Code.)

**Law:** A set of general abstract rules aiming at organizing individuals' behavior within the society and to which a penalty is attached and compulsorily executed by the general authority upon violation thereof.

**Libel:** Attacking the honor or dignity of others, weather by implying doubt or by questioning, without providing a certain material (Article 188-2 of the Penal Code).

**Misdemeanor:** A crime which, in case of conviction, is penalized with jailing or fines.

**Slander:** Assigning a given material to a certain person, whether by implying doubt or by questioning, that may lead to undermining his/her honor and pride, or being hated or disrespected by others, whether or not this material requires penalty (Article 188-1 of the Penal Code).

**Special Pardon:** Special pardons are granted by His Majesty the King upon the recommendation of the Council of Ministers. A special pardon cannot be granted to those against whom a final ruling has not yet been issued. A pardon may include dismissing, substituting or fully commuting the penalty (Article 51 of the Penal Code).

**Suspect:** The defendant being accused by the Public Prosecutor of the performance of a misdemeanor by way of suspicion.





**IREX-Jordan/JMSP**

**4 Amro Bin Dinar Street Sweifieh-Amman**

**Tel: +962 6 58 33 517/58 33 265**

**Fax: +962 6 58 33 019**

**E-mail: [info@irexjordan.org](mailto:info@irexjordan.org)**

**[www.irex.org](http://www.irex.org)**