



ASSESSMENT OF MEDIA LEGISLATION IN JORDAN

BY FABIO DEL ALISAL

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The state largely shapes the news agenda through its effective control of the Jordan Radio and Television Corporation (JRTV) – still the only terrestrial television broadcaster – and its pervasive influence in the media environment.



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I. EXECUTIVE SUMMARY

This report looks at the legal landscape within which the media functions in Jordan, and how this compares internationally and regionally. It recommends changes to these laws in order to strengthen the role of media in the country.

The report examines the legal framework within which the media functions in Jordan and its conformity with international and regional norms and principles. It recommends changes to the law to enhance the role of the media in a broader process of social advancement and democratisation.

The need for legal reform is not contentious. Jordan's National Media Strategy anticipates the development of an appropriate legislative platform to support independent and informed media capable of defending public interests.

Section 2 introduces the political context in which changes to legislative rules governing the media are proposed. Section 3 surveys the structure of the Jordanian media sector and the rules relating to market entry and media ownership. The subject of section 4 is financing, with particular regard to state aid and advertising. Section 5 explores the impact of limitations on freedom of expression in the context of institutionalised censorship and protective legislation.

Analysis supports the widespread consensus that Jordan's existing laws contribute substantially to government secrecy and to self-censorship by journalists. The legislative formulation of many of the offences is ambiguous and it is unclear to what extent the truth of a statement may serve as a defence. Cumulatively, the restrictions provide a framework for institutionalised censorship.

Section 6 considers the tension between constitutional guarantees of freedom of expression and the limitations imposed by law. Although the latter are justified in terms of balancing freedom with responsibility, analysis suggests that the priority is actually overall government control of the flow of information. A conventional SWOT analysis shows that a media law framework primarily designed as a system of control can produce only diminishing returns in the new communications era.

Section 7 surveys some of the recommendations made by international freedom of expression advocates and media activists in Jordan. It recommends

legal changes that directly affect the status of journalists in Jordan, promote independent regulation, ensure access to information and remove unsustainable reporting restrictions.

Jordan is signatory to a number of international treaties and agreements – including the International Convention on Civil and Political Rights – which require the government to take positive measures to ensure the right of citizens to freedom of expression. Section 7 concludes that Jordan is largely in breach of its treaty obligations although, despite dropping further in world media freedom indexes, it still ranks ahead of most countries in the region.

2. INTRODUCTION

Jordan traditionally has a more liberal media than other countries in the MENA region, but government monopoly of terrestrial TV and laws that curb free speech and access to information all serve to inhibit the sector.

2.1. MEDIA LANDSCAPE

The government's broadcast monopoly officially ended with the passing of the 2002 Audio-visual Law (A-V Law), which opened the media sector to private ownership. Since then there has been an increase in the diversity and number of private media outlets. There are more than 40 licensed TV satellite channels and over 30 privately owned radio stations. However, these are entertainment-driven and the state largely shapes the news agenda through its effective control of the Jordan Radio and Television Corporation (JRTV) – still the only terrestrial television broadcaster – and its pervasive influence in the media environment.

The state has stakes in three daily newspapers (*Al Rai*, *Ad-Dustour* and the English-language daily *The Jordan Times*) and maintains a broadcast presence through JRTV and two radio stations. The challenge to "official media" comes from independent newspapers like *Al Ghad* and *Al Arab Al Yawm* and, more sharply, from a proliferation of online news websites and social media platforms, despite efforts to regulate their activity. There are more than 200 political news

websites, 40 of which have formed a union. A number of blogs attract popular and serious attention.

NGOs and foreign-government funding have contributed to media development, notably community radio. AmmanNet was launched – with UNESCO help – in 2000 as the Arab world's first internet radio station. It continues to provide an independent focus on local news.

2.2. SOURCES OF LAW

The Jordanian Constitution of 1952 set up a parliamentary system based on the English model, with additional provisions adopted from the Belgian Constitution. The result is a constitutional monarchy in which the government bears responsibility before the elected House of Representatives on behalf of the monarch for all actions of the executive branch.¹ The reigning monarch, King Abdullah II, exercises his executive authority by appointing the prime minister, who then organises a cabinet of ministers to be appointed by the king. The king also appoints all the members of the Upper House of Parliament. Under the Constitution the reigning monarch must approve laws before they

can take effect, although his power of veto can be overridden by a two-thirds majority of both houses of parliament. The king also authorises the appointment and dismissal of judges and approves constitutional amendments.²

Amendments to Article 94 of the Constitution have restricted the authority of the government to issue provisional laws – when parliament is dissolved – regarding situations of catastrophe, war, emergencies and expenditure that cannot feasibly be postponed. The amendment is significant. Between 2001 and 2003 – while parliament was suspended – 211 provisional laws were passed.³ The State Secrets and Documents Law No. 150 of 1971 is a striking example. This law, a severe bar to accessing information, has not yet been approved, returned or amended by parliament as is required under the Constitution, and remains in force.

The Constitution and The National Charter (both covered in section 3) provide a legal and policy-making framework. Legislation pertaining to the media is covered in section 9.1.

¹ "The Rule of Law in Jordan: Prospects and Challenges", by Sufian Obeidat. Hiil Rule of Law Quick Scan Series. July 2012. Page 9. Available at: www.hiil.org/data/sitemanagement/media/QuickScan_Jordan_191212_GK.pdf.

² "Overview of the Hashemite Kingdom of Jordan: Legal System and Research", by Sarah Isaias and Fred Jenning. Hauser Global Law School Program. December 2013. Available at: www.nyulawglobal.org/globalex/Jordan.htm.

³ "A Decade of Struggling Reform Efforts in Jordan: The Resilience of the Rentier System", by Marwan Muasher. Carnegie Endowment for International Peace, Middle East. May 2011. Page 6.

3. ANALYSIS OF MEDIA LEGISLATION: STRUCTURE

The 2011 Constitution guarantees freedom of speech – within the limits of the law. Journalists must be registered, and publications and broadcasters licensed, meaning that in practice there is little independence in the media sector.

3.1. MARKET ENTRY

3.1.1. Current situation

3.1.1.1. The Constitution

The Constitution, as amended in 2011, guarantees freedom of expression and freedom of the press and publications – within the limits of the law.⁴

Article 15 states:

1. The state shall guarantee freedom of opinion; and every Jordanian shall freely express his opinion by speech, writing, photography and any other means of expression, provided that he does not go beyond the limits of the law.
2. The state shall guarantee the freedom of scientific research and literary, technical, cultural and sports excellence, provided that such does not violate the provisions of the law or public order and morality.
3. The state shall guarantee the freedom of the press, printing, publication and information media within the limits of the law.
4. Newspapers and information media may not be suspended, nor the licence thereof revoked, except by a judicial order in accordance with the provisions of the law.
5. In the event of the declaration of martial law or an emergency, the law may impose a limited censorship on newspapers, publications, books and information,

and communication media in matters related to public safety and national defence purposes.

6. The law shall regulate the method of control of the resources of newspapers.

Paragraph 3 is explicit. Freedom of the press is guaranteed only within the limits of the law. However, Article 128 states that laws issued “for the regulation of rights and freedoms may not influence the essence of such rights or affect their fundamentals.” At the time of writing, legislators had until 1 October 2014 to repeal or amend laws in conflict with this principle.⁵

3.1.1.2. The National Charter

The National Charter – drafted by a Royal Commission representative of all Jordan’s political groups – was adopted at a national conference in June 1991. Along with the Constitution it guides national debate on fundamental issues. The Charter acknowledges the important role of mass media in strengthening democratic processes.⁶

3.1.1.3. Registration of journalists

The Press and Publications Law (PPL) No. 8 of 1998 is the basis for the regulation of the press. In 2012 amendments brought news websites within its ambit.

Under Articles 2 and 10 of the PPL only those registered with the Jordanian Press Association (JPA) may work as journalists. Article 2 defines a journalist as: “Every person registered as a member of the Jordan Press Association and who makes journalism their profession in the foreign press and other news media; every person of any nationality who practises journalism by dealing with non-Jordanian publications and other news media.” It also defines “journalism” as the “profession of preparing, editing, issuing, and distributing press publications”.

Article 10 states: “It is impermissible for any person who is not a journalist to practise 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.”

Article 16(a) stipulates that: “Press organisations in the kingdom may only employ journalists who are on the JPA’s practising journalists list.”

The JPA was established in 1953 and is regulated by the JPA Law No. 15 of 1998. Article 5 sets out the qualifications necessary for registration. To join the JPA an applicant must be hold

Jordanian citizenship, have no criminal record, work full-time in journalism and meet various educational and professional requirements.

Article 8 of the JPA Law defines “the practice of journalism” in basic terms as the work done by journalists on newspapers and for news agencies, including government information outlets. Editors, reporters, correspondents, photographers and cartoonists qualify – as well as journalism teachers at Jordanian universities. Article 2 of the JPA defines “media institution” as “anyone who issues a printed journal”.

Under the JPA Law, only members can be considered journalists. The JPA Board can issue rulings on whether a person is working as a journalist without being a member and, where this is the case, take legal action. Fines of 500–1,000 dinars and jail sentences from one to three months may be imposed.⁷

The JPA Disciplinary Committee oversees violations of the JPA Law, its code of ethics and provisions in the PPL relating to journalistic practice. In 2007 amendments to the PPL incorporated the code into law. Suspension by the Disciplinary Committee – even for a day – can seriously damage a career; disbarring the journalist concerned from becoming head of the Press Association, a member of the Association Council or editor-in-chief of any Jordanian publication. The ultimate punishment can be a ban on practising journalism.⁸

3.1.1.4. Licensing of publications

Article 2 of the PPL defines “publication” as any medium “in which meanings, words, or ideas are expressed in any way whatsoever”. A “press publication” is a daily newspaper or periodical publication issued weekly or at longer intervals. “Periodical publications” include daily publications, non-daily publications, electronic publications, specialised publications and news broadcasting publications.

Article 15 states that a licence is required to establish a printing press, a publishing

house, a distributing house, a study and research centre, a public opinion polling centre, a translation house, or a publicity and advertising agency.

The Jordanian Council of Ministers is made up of the prime minister and the Cabinet appointed by the king and approved by the elected House of Deputies. Under Article 17 of the PPL the Cabinet/Council of Ministers, at the recommendation of the minister of information, decides on the issue (or refusal) of a licence. Any refusal to grant a licence must be justified, and decisions are contestable before the Higher Court of Justice. If the Council of Ministers fails to decide upon a submitted application within 30 days it will be deemed to have been approved under Article 17(a).

As a general rule, any qualified (naturalised or legal) Jordanian citizen may apply for a licence (Article 11). Article 12 requires applicants to provide the following information: name and place of residence, name of publication, place from which publication is issued, frequency of publication well as the area of specialisation (if any), languages of publication and name of the relevant editor-in-chief (for periodical publications) and the director (for specialised publications). Article 23 requires that the editor-in-chief must have been a member of the JPA for at least four years.

The Amended Press and Publications Law No. 27 of 2007 sets new minimum capital requirements for publications in line with the Companies Act: 50,000 Jordanian dinars for private shareholding companies; 500,000 dinars for public shareholding companies; and 1,000 dinars for limited liability companies.

The monitoring and supervision of print licensees is the responsibility of the Press and Publications Department under the direct supervision of the Council of Ministers. Article 48 of the Press and Publications Law (as amended in 2012)⁹ lowered the fines that may be imposed on publications issued without a licence to 1,000–5,000 dinars, but it allows the Director of Press and Publications to

shut down shops and institutions that issue periodical publications in violation of the PPL. Any such publications can be confiscated and banned from publishing.

The 2012 amendments to the PPL also bring websites within the ambit of the Press and Publications Law. Article 49 stipulates that electronic publications – which publish news, press reports, press releases and comments relevant to the domestic or external affairs of Jordan – must be registered and licensed with the Department of Press and Publications. The Director General of the Department of Press and Publications decides whether or not a particular electronic publication requires registration and licensing. The publication has 90 days in which to comply.

The registration and licence requirements apply to all electronic publications irrespective of their location of operation. Electronic publications owned by individuals that reside outside Jordan, or that have administrative offices outside Jordan, are also subject to the new provisions.

User-generated content, such as comments left by readers on websites, are now considered to be press material. This makes electronic publications, their owners, editors-in-chief, managers and employees responsible for all content on such websites. Writers of user-generated content that violate the law can also be liable individually. Electronic publications are responsible for filtering out information that is false or is unrelated to the news. They must keep a register of comments posted – identifying source and subject material – for at least six months after publication. Article 49(g) also requires the Press and Publications Department to block any website that violates any provision of the amended PPL, or any other law.

3.1.1.5. Licensing of broadcasters

The basis and structure of the regulation of the broadcasting sector – terrestrial and satellite radio and television, as well as cable television and mobile television – is Provisional Law No. 71 of 2002 for

⁴ The Hashemite Kingdom of Jordan Constitutional Amendments of 2011, House of Representatives. 2011.

⁵ *ibid.*

⁶ “Introduction to News Media Law and Policy in Jordan”. USAID. May 2011. Page 19. Available at: www.wirex.org/resource/introduction-news-media-law-and-policy-jordan.

⁷ *ibid.* Page 35.

⁸ *ibid.* Page 37.

⁹ Law Amending the Press and Publications Law of 2012.



Audio-visual Media (the A-V Law). The introduction of this law officially ended the state monopoly on broadcasting and created the legal framework for licensing private radio and terrestrial television broadcasters. Dissemination via the internet is expressly excluded from the A-V Law's scope.

Article 2 defines "audio-visual media" as: "any TV or radio broadcasting which reaches the public, or certain communities, in the form of signals, pictures, sounds or writings of any sort that differs from private correspondence via channels, waves, transmitters and networks as well as other media techniques, means and ways of transmission and broadcasting." Broadcasting is defined as: "transmitting radio and TV works and programmes through electromagnetic waves or via satellite or other techniques or means of any sort or nature received by the public through all technical facilities of various descriptions, excluding the international information network (internet)."

The 2002 A-V Law also established the Audio-visual Commission (AVC). The Commission consists of a

director appointed by the Council of Ministers on the recommendation of the prime minister.

The Telecommunications Regulatory Commission (TRC) is governed by Telecommunications Law No. 13 of 1995 and the amending Provisional Law No. 8 of 2002. With regard to broadcasters, its most significant function is the allocation and licensing of frequencies. The AVC operates within the frequency licensing framework determined by the TRC. The AVC implements the technical rules and standards for broadcasting stations and monitors their adherence to licence conditions.

The A-V Law gives considerable power to the TRC's director, who is not only responsible for the management of the commission (Articles 6(d) and 8(b)), but also fulfils a range of tasks including handling complaints against licensing decisions (Article 8(j-k)).

Articles 18–25 of the A-V Law outline the procedure for issuing broadcast licences. A spectrum frequency licence must be obtained from the TRC. An

application for a broadcasting licence can then be made to the AVC. If the AVC considers the applicant suitable, it will make a recommendation to the Council of Ministers. While the Press and Publications Law limits the right to issue press publications to Jordanians or companies owned by Jordanians, the A-V Law allows non-Jordanians to invest in this sector and apply for licences. Anyone applying for a broadcasting licence must submit a performance bond as provided for in Article 17 of the A-V Law.

Under Article 16(c) of the A-V Law the Council has the power to grant, renew, amend or revoke a licence for broadcast. It "may refuse to grant broadcasting licences to any entity without stating the reasons for such rejection" (Article 18(b)) or upon the recommendation of the director of the AVC (Article 29(b2)).

Article 8 of the A-V Law gives the AVC the power to issue instructions on programming, consider complaints against broadcasters and take action against broadcasters who breach their licence conditions. Broadcast licensing – as with the licensing of press and electronic

publications – provides for the imposition of ongoing content restriction and regulation. Article 21 of the law requires that licensees adhere to the types of radio or television programmes defined in their granted licences and record the entire broadcast and archive it for one month from the date of broadcasting. The Director of the Audio-visual Commission, or any official so authorised in writing, can ask to view these recordings at any time.

Article 24 of the A-V Law states that the Jordan Radio and Television Corporation (JRTV) shall be deemed licensed under the provisions of the A-V Law to practise radio and television broadcasting. This law exempts the corporation and its stations from broadcasting and re-broadcasting fees. It also deems all re-broadcasting agreements signed with the corporation prior to the enactment of the law valid and effective up to their expiry dates, and allows the Corporation to renew these agreements.

3.1.1.6. Spectrum licensing

Under the Telecommunications Law, the TRC is responsible for the management and use of the radio spectrum. This includes planning for and allocating frequency bands, individual licensing and assigning frequencies, national and international co-ordination of frequencies, international representation and administration, including the setting of regulation and cost recovery charges. "Under the Telecommunications Law, the TRC is also responsible for allocating telecoms spectrum, which may be assigned to a legal entity or to any group or individual. Mobile phone services constitute one of the most significant and increasing uses of both the mobile and fixed-link radio spectrum. Wireless communications are also being used to provide broadband access to the internet. The licensing of radio spectrum for mobile broadband wireless access services is under consideration."¹⁰

The TRC must regulate telecoms and IT services in Jordan to ensure good-quality services at reasonable prices.

Government policy – implemented by the Ministry of Information and Communications Technology – requires the TRC to adopt spectrum prices guided by market demand and to prevent the anti-competitive acquisition or hoarding of spectrum by dominant operators.¹¹

3.1.2. Ongoing developments

The government has indicated that a review of the PPL and A-V Laws has been completed, but it has yet to confirm whether any changes will be forthcoming. The JPA Law is in the process of being amended and the changes are expected to widen entry to the association by allowing online journalists to join. In May 2014 the Cabinet endorsed a draft amendment to the PPL under which the Press and Publications Department is to be subsumed within a new Media Commission – in effect a "merger" of the AVC and the PPD, which has been under consideration since 2011.

3.2. MEDIA OWNERSHIP

3.2.1. Current situation

There are no rules in Jordan against concentration of media holdings or cross-media ownership for either domestic or foreign companies.¹² Instead, the Jordanian media sector continues to be characterised by state dominance, which is achieved through direct investment in private companies, advertising leverage and the undisclosed funding of media. Although the enactment of the A-V Law ended the state monopoly on broadcasting, JRTV still has a considerable advantage over new entrants to the market.

JRTV operates under Law No. 35 of 2000, the Jordan Radio and Television Corporation Law. Article 3 states that the corporation shall be a financially and administratively independent entity. In practice, however, the management structure is determined by government. The funding mechanism also gives government a significant degree of control over JRTV. The Law imposes

a levy of one dinar per year on each television set, to be collected with utility bills, and the government determines the Corporation's budget.¹³

According to a 2012 UNESCO report, Jordan has two state-run and 42 private television stations as well as seven public, seven community and 16 private radio stations. There are 37 privately owned newspapers in print (including eight dailies) and eight online.¹⁴ However, the Amended Press and Publications Law of 2007 maintained the government's right to own shares in newspapers. The state owns – through the Social Security Corporation – more than 60% of Jordan's leading daily newspaper *Al Rai* and more than 30% of *Ad-Dustour*.¹⁵

The AVC keeps a full list of all radio and television companies that are licensed in Jordan and the names of the owners of each company. The AVC documents include the date of registration of the stations and reveal a dramatic increase in independently owned radio stations and regional satellite television channels during the five years from 2008 to 2013, following the liberalisation of the licensing regime in 2003.

There have not been any major horizontal or vertical mergers in broadcasting or print media over recent years and the effect of the 2002 A-V Law has been mainly to promote diversity in genres. There has been consolidation in the pay-TV market. In November 2007 there were four providers, compared with only two in 2013, the largest of which was OSN (a pay-TV network). The first community radio station, AmmanNet, was established in 2000 with help from UNESCO.¹⁶

3.2.2. Ongoing developments

The growth of online news sites, social platforms and blogs is shaping a new media culture and challenging the conservative content of traditional information sources. There are estimated to be over 200 "political" news websites, some 40 of which have formed a union.

¹⁰ "Mapping Digital Media: Jordan". Open Society Foundation. October 10th 2013. Page 51. Available at: www.opensocietyfoundations.org/reports/mapping-digital-media-jordan

¹¹ *ibid.*

¹² "The Media Landscape in 28 Countries". UNESCO Institute for Statistics. 2012, Page 44.

¹³ "Introduction to News Media Law and Policy in Jordan", *op. cit.* Page 65.

¹⁴ "The Media Landscape in 28 Countries", *op. cit.*

¹⁵ "Mapping Digital Media: Jordan", *op. cit.* Page 59.

¹⁶ *ibid.*

4. ANALYSIS OF MEDIA LEGISLATION: FINANCING

There are no legislative provisions for state aid to the private media sector or to community radio or television. Furthermore, there are no rules regulating state spending on advertising.

4.1. STATE AID

There are no special legislative provisions for state aid to the private media sector or to community radio or television.

4.2. ADVERTISING

There are no rules regulating state spending on advertising, despite the opportunity this gives the government for influencing media coverage. The government does not make available information about its funding of the media.¹⁷

The EU Election Observation Mission (EOM) reported in 2013: "The Election Law and all relevant legislation for elections do not regulate campaign finance. The newly enacted Political Party Law lacks the limits for campaign expenditure, creating an uneven playing field among different candidates with women being the most affected."¹⁸

¹⁷ *ibid.* Page 62.

¹⁸ "Final Report, 2013 Jordan Parliamentary Elections". European Union Election Observation Mission. Page 7. Available at: www.eods.eu/library/FR%20JORDAN%2027.03.2013_en.pdf.



5. ANALYSIS OF MEDIA LEGISLATION: LIMITATIONS AND PROTECTIONS

The freedom of expression assured by the Constitution is curbed by laws that impose content restrictions and penalties on material that offends or defames individuals or sensibilities. This has led to institutionalised censorship in Jordan.

5.1. INSTITUTIONALISED CENSORSHIP

Jordan guarantees freedom of expression under the Constitution and by virtue of its treaty obligations. However, Article 15 of the Constitution emphasises that this is a qualified right which cannot be exercised “beyond the limits of the law”. Newspapers may be suspended “in accordance with the provisions of the law”. Freedom of the press is guaranteed only “within the limits of the law”. Twenty-four statutes regulate the media in Jordan, chief among them being the Penal Code and the PPL.¹⁹ A common criticism is that “Jordanian journalists operate in a restrictive environment where self-censorship is the norm.”²⁰

5.1.1 Press and Publications Law No. 8 of 1998

Apart from registration and licensing requirements, the PPL also regulates content. Amendments to the PPL in 2007 removed detention as a sanction for breaching its provisions. Instead, higher fines were imposed. However, journalists can still be sent to prison for up to three years for reports that breach the Penal Code.

Article 4 requires journalists to report “within the law and the framework of protecting public freedoms, rights and obligations and respecting the privacy of others”. Article 5 bars publications from publishing material “inconsistent with the principles of freedom, national obligation, human rights and Arab and Islamic values”. Under Article 7 journalists must refrain from “publishing anything that might incite violence or discord among citizens”. A publication or journalist violating Article 5 may be fined 500–2,000 dinars (Article 45(a)). Breaches of Article 7 are punishable by fines not exceeding 500 dinars (Article 47(b)).

Article 38 of the PPL makes it an offence to publish material that offends religious sensibilities, abuses prophets, incites sectarian and racial strife or defames individuals and undermines their freedom. Under Article 46 fines of between 10,000 and 20,000 dinars must be imposed for any violation of paragraphs A, B and C. For breaches under paragraph D, fines of between 500 and 1000 dinars are stipulated.

5.1.2. Provisional Law No. 71 of 2002 for Audio-visual Media (the A-V Law)

The A-V Law imposes similar content restrictions and heavier penalties. It requires that radio broadcasting licensees refrain from broadcasting or re-broadcasting material that incites sectarian or ethnic bias, undermines national unity, instigates terrorism, racial or sectarian discrimination or undermines the kingdom’s relations with other states (Article 20(n)). Violations attract fines of 10,000–50,000 dinars. The fine is doubled for recidivism or continued violation (Article 29(b)).

5.1.3. The Penal Code No 16 of 1960

The 1960 Penal Code was amended by the Council of Ministers in 2010. Many of the crimes listed under the Code apply, either directly or indirectly, to news dissemination, making it an important component of content regulation. The 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”. Breaches are penalised by imprisonment

(six months to three years) and a fine of up to 50 dinars (Article 150).

Under Article 118, anyone performing actions, writings or speeches without government authorisation that expose the kingdom to the threat of aggression or undermine its relations with a foreign state can be imprisoned for a minimum of five years. Journalists have faced prosecution frequently on the grounds that their reports undermine Jordan’s relations with a foreign state.²¹

Public slander and libel crimes account for most of the cases filed against journalists.²² These offences, penalties and exclusions are set out in Articles 188–199 of the Code. Libel is a public assertion of fact, written or verbal, which injures another person’s reputation. 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, whether or not the acts alleged in such information would constitute criminal conduct.” Libel may be committed through newspapers, radio, television, the internet or any other means of publication (Article 73).

Slander is defined in Article 188(2) as: “Attacking someone’s dignity or reputation, even if in the form of doubting or questioning, without stating specific information.” Truth is only a defence where the allegations giving rise to charges of libel or slander were made against a public employee engaged in his official duties (Article 192) or a private individual in relation to criminal conduct, and can be proved (Article 362).

Article 90 of the Code defines defamation generally as any act of privately insulting, offending and cursing someone, in person or by verbal utterances, gestures, writings or drawings, telegrams, phone calls, or by harsh conduct. Criticism is permitted where it is free of slander; intended in good faith, related to a known public event of social significance and delivered in appropriate language.²³

Amendments to the Penal Code (Provisional Law No 12 for the Year 2010) abolished imprisonment for libel against ordinary citizens but raised the fines for the same crime. However, penalties for libel against officials and former officials – both fines and prison sentences – were increased. Libel directed towards parliament or its members, any official body, court, public administration, the armed forces or relating to the work of any public servant is punishable by imprisonment (three months to two years) or a fine of 2,000–10,000 dinars (Article 191). Slander aimed at the same targets is punishable by one to six months in jail or a fine of 500–1,000 dinars (Article 193).

Article 132 also provides for incarceration: “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.”

“Terrorism” crimes – tried before the military judges of the State Security Court – are defined extremely broadly. Article 149 states: “Everyone who engages in any act that demolishes or instigates to act against the political ruling system in the kingdom and who engages in any individual or collective action with the intention of changing the economic or social entity of the state or the main conditions of the society shall be penalised by temporary hard labour.”

Article 147 says: “The term ‘terrorism’ shall mean the use of violence or threat of violence, regardless of its motives or purposes, to carry out an individual or collective act aimed at disturbing public order or endangering public safety and security where such is liable to spread alarm or terror among the public or jeopardise their lives and security or cause damage to the environment, public facilities or property, private property, international facilities or diplomatic missions, or where it is aimed at occupying or taking over such premises, endangering national resources or obstructing application of the provisions of the constitution and laws.”

5.1.4. The State Security Court Law No. 17 of 1959

The State Security Court (SSC) is one of the “Special Courts” in the Jordanian legal system and was established under State Security Court Law No. 17 of 1959 (amended in 2001). The SSC does not operate routinely but is convened under decree by the prime minister “in special circumstances as required for the public interest” (Article 2). It is essentially a quasi-military tribunal, ranking above regular courts. Since 2011 prosecutors of the SSC have increasingly pursued cases against civilian protesters under the Penal Code crimes described above.²⁴

The Law Amending the State Security Court Law for the Year 2013 addresses concerns about the trial of civilians by military judges. Article 3, as amended, limits the jurisdiction of the SSC to crimes of treason under the Penal Code, espionage committed in violation of Articles 14–16 of State Secrets and Documents Protection Law No. 50 of 1971, drug and counterfeiting, and crimes of terrorism under Articles 147–149 of the Penal Code, in violation of Anti-Terrorism Law No. 55 of 2006 and relating to the Anti-Money Laundering and Terrorism Funding Law No. 46 of 2007.

5.1.5. The Revised Anti-Terrorism Law of 2014

Given the breadth of the definition of terrorism in the Penal Code, there are still fears that civilians exercising their right of free speech could risk prosecution for terrorism in the SSC. This concern has been heightened by an equally expansive definition of terrorism in the Revised Anti-Terrorism Law of 2014 amending the Anti-Terrorism Law No. 55 for the Year 2006.

The new Article 3 gives some idea of the scope of what may now be regarded as terrorist activity. It covers committing acts which would harm Jordan’s relations with a foreign country (3(b)); using the internet or any means of publishing or media to take actions which would jeopardise Jordanians (3(e)); assaulting the freedom of the royal family (3(g)); stirring insurrection against current constitutional

¹⁹ “Media Sustainability Index 2009”. IREX. Page 65. Available at: www.irex.org/system/files/MSIMENA09_Jordan.pdf.

²⁰ “Press Freedom in Jordan: Amending the Licensing Laws for News Websites”. International Press Institute. 28 May 2014.

²¹ *ibid.* Page 54.

²² *ibid.* Page 37.

²³ *ibid.* Page 39.

²⁴ *ibid.*

authority (3(h)) and “forming a gang with the intention of robbing passers-by, or assaulting people, or seizing money, or committing any other acts of thievery” (3(i)).

Article 7 sets out penalties for the acts of terrorism identified in Article 3, along with others. Acts of terrorism involving possible and actual loss of life are punished by hard labour or the death sentence. Plotting any of the stipulated crimes carries the same sentence as committing the crime itself. “Accomplices”, irrespective of their role, receive the same sentence as the principals.

5.1.6. The Protection of State Secrets and Documents Law No. 50 of 1971

Jordanian citizens have a constitutional right to information. Under the PPL, public bodies and institutions have an obligation to facilitate a journalist’s request for information. Article 8 states that journalists have a right to receive answers and must be afforded unimpeded access to information. Information requested urgently must be provided, at the latest, within two weeks. Journalists must also be afforded access to parliament, the courts, political party conventions and the meetings of professional unions, clubs, associations and other public institutions.

The Law on Access to Information No. 47 of 2007 – the first of its kind in the Arab region – applies to all citizens. It establishes an official set of mechanisms for requesting documents and information from public institutions and a process for review (by the Higher Court of Justice) of requests that have been refused. (The Court has the authority to refrain from responding to a request for review.)

Under Article 7 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”. The Law provides for the establishment of an information council

(essentially a government body chaired by the minister of culture) to deal with applications for information and complaints when they are refused.

A public records custodian is not always required to disclose information. The exceptions (set out in Article 13) are broadly based on grounds of national security and public order. It is legitimate, under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to restrict the right of freedom of expression to secure these objectives. However, these restrictions must also be necessary. The question of whether the exceptions in the Access to Information Law are necessary is irrelevant. Article 13 states that secrets and documents protected under any other legislation are exempt from disclosure.

It is a criminal offence to violate provisions of the Protection of State Secrets and Documents Law No. 50 of 1971, which allows public officials to keep information secret. Under the law, state documents are categorised as: strictly confidential; confidential; and restricted. Other official documents that are not subject to the provisions of the law are categorised as “ordinary”. Officials may not disclose the contents of ordinary documents to anyone other than competent parties unless otherwise authorised. It would appear that all documents are secret by default; secrecy is not restricted to security concerns. Under Article 8(f), “any protected information or documents that would harm the reputation of any official figure or undermine the state’s prestige” are restricted.

5.1.7. Temporary Law on Crimes of Information Systems No. 30 for 2010

In August 2010 the Council of Ministers passed the Temporary Law on Crimes of Information Systems – one of more than 40 provisional laws enacted in parliament’s absence. The Law aims to ensure security and morality in an electronic communication context, but its broad and ambiguous provisions

were seen as an attempt to curb online expression.²⁵ Critics claimed it provided the authorities with sweeping powers to restrict the flow of information and public debate.²⁶

Article 11 stipulates a penalty for accessing websites and information systems without a licence but does not specify how such a licence is to be acquired. Article 12 provides considerable powers to search website offices and seize equipment. Despite revisions of the law following protests, reservations remain about clarity, fair implementation and effective oversight. There are also concerns that subjecting internet content to greater restrictions than other media under separate rules deviates from international best practice.²⁷

5.1.8. The Contempt of Court Law No. 9 of 1959

Although trials are open to the public – including those before the State Security Court – many journalists have been charged for breaching the Contempt of Court Law No. 9 of 1959. Article 15 states: “Anyone publishing an objection to a judge or court or a commentary on a ruling with the intention to question or corrupt 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.” The Law also makes it an offence for a publication to influence judges, the prosecution, witnesses or the public or to expose justices to questioning or contempt.²⁸

5.1.9. Vicarious liability

Under the Press and Publications Law penalties are imposed directly on individuals, not enterprises. Under Article 23(c) the editor-in-chief at the core of the editorial process is targeted and made jointly responsible for the content of articles. This provision essentially forces editors to impose significant censorship on writers, effectively limiting freedom of speech.²⁹

5.2. SPECIAL LEGISLATION DURING ELECTORAL PERIODS

The Election Law (Law No. 25 of 2012, the Election Law to the Lower House of Parliament) contains only two provisions relating to media coverage of the campaign. Article 22 states that “the official (state-run) media shall treat all candidates during the election campaign with neutrality and equality”, and Article 23 allows for candidates and lists to place advertisements. In addition, Law No. 11 of 2012, the law on the Independent Election Commission (IEC Law) requires the commission to “establish the rules and procedures for electoral campaigns and publicity, and monitor them according to executive instructions”.

Executive Instruction No. 11 on campaigning states that media coverage should include debates between candidates, requires independence with objectivity and precludes insinuating that the government supports any particular contestants. It also requires that candidates are provided with paid-for election campaign services (advertising) on an equal basis and that no advertising is published that would offend any of the candidates. However, the EU EOM Final Report on the parliamentary elections noted that: “media regulations lacked a legal procedure to deal with media complaints and violations during and after the election campaign.”

5.3. LEGISLATION ON THE PROTECTION OF MINORITIES, WOMEN AND CHILDREN

5.3.1. The Juvenile Law No. 24 of 1968 amended by Law No. 7 of 1982

Article 12 of this law 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. Sentences may be published without referring to juveniles’ names or titles.” This prohibition is often disregarded because of the derisory fine, which undermines the importance of the protection extended.



“Officials may not disclose the contents of ordinary documents to anyone other than competent parties unless otherwise authorised. It would appear that all documents are secret by default; secrecy is not restricted to security concerns.”

²⁵ “A Decade of Struggling Reform Efforts in Jordan”, op. cit. Page 17.

²⁶ “Mapping Digital Media: Jordan”, op. cit. Page 69.

²⁷ “Introduction to News Media Law and Policy in Jordan”, op. cit. Page 47.

²⁸ *ibid.* Page 55.

²⁹ “The Rule of Law in Jordan”, op. cit. Page 22.

6 .SWOT ANALYSIS

A SWOT analysis of the registration of journalists, licensing of publications and broadcasters, ownership of media outlets and content regulation in Libya.

6.1. REGISTRATION OF JOURNALISTS

According to a report of UNESCO's Amman office:

The Jordanian media environment is relatively diverse and pluralist, but often reporters lack adequate capacity, ignore professional standards, indulge in self-censorship because of biases, have their employers' affiliations, fear legal consequences, or sometimes even physical threats, in a context of impunity and lack of accountability by duty-bearers. Media professionals are also aware of 'red-lines-not-to-cross' (i.e. taboo topics), mostly related to the monarchy as well as to religious and ethnic issues. In Reporters Without Borders' 2012 World Press Freedom Index, Jordan was ranked 128th out of 179 countries, its rating having worsened since the previous year.³⁰

UNESCO suggests strongly that the Jordan Press Association's (JPA) legal status and the imposition of membership have not improved the professionalism or security of journalists.³¹ Joining the JPA provides entry to an "official" class of journalists enjoying statutory recognition

and benefiting from the JPA's rapport with government. Such membership may be critical for working journalists, smoothing access to bureaucracy and offering some protection from physical and legal threat, but it also endangers independence. Legal reform limiting authoritarianism and secrecy – and empowering journalists – would make membership largely unnecessary and thereby enhance the independence and reputation of the Jordanian press.

- **Strengths** – membership of a professional association can promote standards and help secure mutual interests.
- **Weaknesses** – mandatory registration is a restriction on journalism and free expression.
- **Opportunities** – voluntary membership and self-regulation accord with international best practice.
- **Threats** – registration with a legally regulated body exposes journalists to government control and influence.

6.2. LICENSING OF PUBLICATIONS

The licensing of publications serves little purpose other than to facilitate government control, provide a platform

for propaganda and impose content regulation. In the age of the internet, however, this is a policy of diminishing returns. The frequent references to Jordan's old or traditional media suggest that information containment is a losing battle and that Jordan is getting a bad press internationally for little return.

The internet allows controversial opinions to be expressed in relative safety. Issues of taste and decency aside, unfiltered and anonymous conversations are a valuable expression of public feeling and mood. The emergence of Jordanian websites provides vital space for discourse in a state-dominated media environment – not least in raising and airing issues of corruption.

The EU EOM noted: "The country's high penetration enabled a flourishing of online news media and led to a vibrant online media scene. News websites are playing an important role in the access of citizens to information and the fostering of public debate... Social media platforms are also freely accessible and very popular."³² Unsurprisingly, the blocking of hundreds of websites in June 2013 drew international concern and protest.

- **Strengths** – the licensing of publications is useful in ensuring accountability.
- **Weaknesses** – attaching substantial conditions for licensing undermines press freedom.
- **Opportunities** – online websites provide new public space for debate, which is vital for the reform process.
- **Threats** – licensing undermines the integrity of the press, freedom on the internet and national prestige.

6.3. LICENSING OF BROADCASTERS

There are complaints that the A-V Law, although it opened the market to privately owned radio stations, did not create a level playing field between prospective private and public licensees. One complaint is that spectrum allocation for broadcasting favours government-owned stations. The army and police have their own radio stations using government antennas and transmitters spread across the kingdom, creating artificial market entry barriers and unfair competition.³³

Licensing by the state allows control over broadcasters – including JRTV. The costs of licensing also disadvantage community media. Although the details of the merger of the Press and Publications Department and the Audio-visual Commission are still unclear, there is apprehension that it will facilitate closer surveillance of the press.

The Jordan Media Strengthening Programme observed that such a move was contrary to international best practice, where broadcasting is regulated and the press is not.³⁴ The striking feature of the AVC and TRC, as has been observed, is that they are essentially government agencies that operate against the international norm of independent regulation.

- **Strengths** – independent regulation of broadcasters is justified on the grounds of public interest and scarcity of spectrum resources.
- **Weaknesses** – government regulation,

with substantial conditions, promotes control and cronyism and restricts market entry.

- **Opportunities** – self-regulation in line with international norms will provide cohesion and stimulate innovation in a developing market.
- **Threats** – separate broadcasting and telecommunications regulators ignore the reality of convergence and put plans for digital switchover at risk.

6.4. OWNERSHIP

The EU EOM noted that state-owned media played a major role in promoting the government rather than providing a public service, and that this was detrimental to the development of quality journalism. "Despite an increase in numbers and diversity of media outlets in Jordan in recent years, several factors such as a rigid regulatory framework as well as self-censorship and, at times, feeble professional journalistic ethics, curtail their capacity to become a reliable source of information and to provide a platform for a lively public debate."³⁵

- **Strengths** – public service broadcasting has an important democratic function.
- **Weaknesses** – state-controlled media have an inherent propaganda bias and discourage critical journalism.
- **Opportunities** – divestment of state interests and regulated state spending will help develop the media sector.
- **Threats** – significant state ownership of the media reduces source diversity.

6.5. CONTENT REGULATION

The Mission also reported:

Several interlocutors met by the EU EOM confirmed that soft containment measures by national security agencies towards media outlets and journalists are still applied. Self-censorship is widely practised and journalists rarely cross red lines, particularly concerning issues that could be perceived as harmful to national security, national unity or the royal family.³⁶ This is unsurprising.

Lawsuits are routinely brought against journalists on the basis of Articles 4, 5 and 7 of the Press and Publications Act. Between 2000 and 2006 a total of 114 lawsuits were filed against journalists, 92 against weeklies and 22 involving dailies. Of these lawsuits, 80 were filed for alleged violation of Articles 4, 5 and 7 of the Jordanian Press and Publications Law.³⁷

These articles, as noted, impose wide-ranging obligations on journalists to report "within the law and the framework of protecting public freedoms, rights and obligations and respecting the privacy of others", not to publish material "inconsistent with the principles of freedom, national obligation, human rights and Arab and Islamic values", and to "refrain from publishing anything that might incite violence or discord among citizens." However, the law also seeks to protect individual rights related to reputation, dignity and privacy. (The Penal Code and Contempt of Court Law provide a similar shield, particularly for government employees.)

Under the PPL, journalists must refrain from publishing anything that conflicts with "human rights". They must respect "public liberties", safeguard the "rights of others", refrain from encroaching on individuals' privacy and desist from disseminating material that "harms the dignity and personal freedoms of individuals" or includes "false information or rumours about them". The A-V Law requires broadcast licensees to "honour the human entity, freedom and rights of others." The problem is that the legislation does not identify any possible defences to charges so broadly couched and it is difficult to tell to what extent even the truth of a statement will serve as a defence.³⁸

The campaign for press freedom known as "Article 19" has expressed serious concern about the Protection of State Secrets and Documents Law for similar reasons. Article 19 found that the legislation conflicts with principles relating

³⁰ "Media in Jordan". UNESCO Office in Amman. 2013. [Q: PAGE?] Available at: www.unesco.org/new/en/amman/projects/enhancing-professional-and-accurate-media-on-the-electoral-process-in-jordan

³¹ "Introduction to News Media Law and Policy in Jordan", op. cit. Page 37.

³² "Final Report, 2013 Jordan Parliamentary Elections", op. cit. Page 17.

³³ "Mapping Digital Media: Jordan", op. cit. Page 52.

³⁴ "Introduction to Media News and Policy in Jordan", op. cit. Page 60.

³⁵ "Final Report, 2013 Jordan Parliamentary Elections", op. cit. Page 17.

³⁶ *ibid.* Page 18.

³⁷ "Introduction to News Media Law and Policy in Jordan", op. cit. Page 33.

³⁸ *ibid.* Page 71.

to the restriction of free expression endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression and used as a reference tool by the UN Commission on Human Rights.³⁹

Article 19 found the criminal sanctions for accessing or attempting to access protected information – as set out in Articles 14–16 – excessively severe (hard labour and death) and proposed that such harsh sentences in and of themselves constitute a violation of the right to freedom of expression.⁴⁰ Despite calls for the removal of the State Security Court’s mandate over the application of the State Secrets and Documents Law,⁴¹ the 2013 amendments retain the court’s jurisdiction over the “espionage crimes” proscribed by Articles 14–16. Media freedom monitors have also criticised overly broad and vague definitions of offences under the Penal Code as unwarranted restrictions on free speech.⁴² The International Press Institute has called for the repeal of the new anti-terrorism provisions.⁴³

The legislation affecting the media is both ambiguous and inconsistent. Article 38 of the PPL makes it an offence to publish material that offends the religious beliefs of others, and provides for substantial fines. Article 273 of the Penal Code contains a similar prohibition, but allows for imprisonment for up to three years. For publishing material or making a speech offensive to other people’s religious feelings, Article 278 stipulates imprisonment for up to three months or a fine not exceeding 20 dinars.

- **Strengths** – it is accepted that a number of restrictions on what may be reported are justified by public interest considerations such as national security, the right to a fair trial, public morals and the protection of minors and privacy.
- **Weaknesses** – many of the restrictions do not meet the test of rationality, necessity or proportionality and simply abuse the exceptions allowed under the ICCPR.

- **Opportunities** – harmonising domestic law will provide consistency; integrating it with international norms will discharge treaty obligations; rendering it more precise is essential for the sustainability of the rule of law and its organic development.
- **Threats** – laws couched in vague terms undermine the integrity of the Jordanian legal system because they are open to, at best, inconsistent and, at worst, politically opportunistic interpretation.



“Self-censorship is widely practised and journalists rarely cross red lines, particularly concerning issues that could be perceived as harmful to national security, national unity or the royal family.”

³⁹ “Memorandum on Jordan’s Protection of State Secrets & Documents Provisional Law No. (50)”, by Article 19. London. 2005. Page 7.

⁴⁰ *ibid.* Page 16.

⁴¹ “Introduction to News Media Law and Policy in Jordan”, *op. cit.* Page 41.

⁴² “World Report 2014”. Human Rights Watch. 21 January 2014.

⁴³ “Press Freedom in Jordan”, *op. cit.* Page 7.

7. INTERNATIONAL PERSPECTIVES

Jordan has signed a number of international legal agreements on the freedom of expression, yet Jordanian journalists operate in a restrictive environment where self-censorship is the norm. Nevertheless, they are better off than many of their colleagues in other Arab nations

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The methodology for the MedMedia assessment reports included an analysis of the key differences and similarities between media laws in the partner countries and those in the MENA region or the EU. The object of this exercise was to highlight instances in which the application of international best practice had been successful and those in which a culturally specific approach had achieved the desired results.

7.1. COMPARISONS WITH THE EUROPEAN UNION

Jordan is signatory to a number of legally binding international agreements and treaties entrenching the right to freedom of expression. These include the Universal Declaration of Human Rights, the Arab Charter on Human Rights, the Convention on the Rights of the Child, the Euro-Mediterranean Association Agreement between Jordan and the European Union and its Member States and the International Covenant on Civil and Political Rights.

The freedom “to seek, receive and impart information of all kinds” may be restricted only for the protection of national security, public order, public health or morals, or for ensuring that the rights or reputations of others are respected. Laws effecting such restrictions must be sufficiently precise to enable individuals to regulate their conduct accordingly.⁴⁴

The special rapporteurs on the freedom of expression of several international organisations, including the United Nations and the Organisation for Security and Co-operation in Europe,

have offered guidance in helping to define the balance between combating terrorism and the protection of freedom of expression and the media: “The criminalisation of speech relating to terrorism should be restricted to instances of intentional incitement to terrorism, which is understood to be a direct call to engage in terrorism that is directly responsible for increasing the likelihood of a terrorist act occurring, or actual participation in terrorist acts...”.⁴⁵

The Jordanian Constitution does not explicitly accord international agreements and treaties a higher status where they conflict with national law. It merely states that treaties and agreements affecting the public or private rights of Jordanians must be approved by parliament.⁴⁶ But the Court of Cassation (Jordan’s highest court) has adopted this approach in several rulings. In 2010 the Court invoked the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights when overturning a verdict by the Amman Court of “First Instance” against a columnist and a weekly newspaper.⁴⁷

The latest UN *Universal Periodic Review* noted that Jordan supported recommendations calling for cancelling or amending articles in the Penal Code and for amending the PPL in line with the provisions of Article 19 of the ICCPR.⁴⁸ This is a positive response, affirming Jordan’s continued commitment to reform. It is also pragmatic. Clearly the US, UK, Germany, Spain, France and Italy, among others, regard the restrictions as a less than rational, necessary and proportional means for achieving legitimate objectives.

7.1.1. Registration and licensing

Licensing and registration requirements limiting the practice of journalism are not permitted under international law. Journalism is distinguished from other professions in that it is essentially the exercise of freedom of expression, a guaranteed right. Licensing deprives those who are not members of that right. The argument that regulation contributes to the protection of public order by enhancing the profession, that it fosters the independence of journalists and ensures the quality of information received by the public, has been

⁴⁴ “Handbook on International Standards and Media Law in the Arab World”. Centre for Law and Democracy. May 2013. Pages 6–10. Available at: www.law-democracy.org/live/wp-content/uploads/2012/08/Handbook.IFJ-CLD-MENA-region.13.08.pdf.

⁴⁵ “Press Freedom in Jordan”, *op. cit.* Page 9.

⁴⁶ Article 33.

⁴⁷ “Introduction to News Media Law and Policy in Jordan”, *op. cit.* Page 19.

⁴⁸ “Report of the UN Working Group on the Universal Periodic Review: Jordan”. UNHRC. 6 January 2014. Pages 19–20. Available at: www.refworld.org/docid/52f8c2904.html.

consistently rejected. Such a system of control is unnecessary and potentially a source of great abuse.⁴⁹

The United Nations Human Rights Council has also commented that licensing is an unwarranted restriction and is not justified on the basis of the specific and exhaustive exceptions identified in Article 19 (paragraph 3) of the International Convention on Civil and Political Rights.

“Journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere, and general state systems of registration or licensing of journalists are incompatible with paragraph 3.”⁵⁰

Three special mandates for protecting freedom of expression have declared “individual journalist should not be required to be licensed or to register” and “there should be no legal restrictions on who may practice journalism”.⁵¹

The blocking of websites is an extreme measure by international standards. A Joint Declaration in 2011, by the four special international mandates⁵² on freedom of expression, states:

Filtering and Blocking

a. Mandatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure – analogous to banning a newspaper or broadcaster – which can only be justified in accordance with international standards, for example, where necessary, to protect children against sexual abuse.

...

The imposition of disproportionately harsh sanctions for prohibited expressive activity is broadly recognised in

international law to be a violation of the right to freedom of expression – even if the restriction is otherwise legitimate.

...

In Article 49(g) blocking orders are imposed by the director of Jordan’s Press and Publications Department. Although Article 42 of the amended law designates a specialised court to deal with publication-related offences such as civil defamation suits and security-related crimes, the court appears to have no role in determining whether or not the blocking of websites is legitimate. This breaches the international norm requiring regulation to be independent of government.⁵³

The treatment of “user-generated content” as “press material” is also problematic. A 2011 Joint Declaration by the special international mandates on freedom of expression states:

Intermediary Liability

a. No one who simply provides technical internet services such as providing access, or searching for, or transmission or caching of information, should be liable for content generated by others which is disseminated using those services, as long as they do not specifically intervene in that content or refuse to obey a court order to remove that content, where they have the capacity to do so (“mere conduit principle”).⁵⁴

Without “safe harbour” protections, many websites would suffer under the liabilities imposed and huge parts of the web would not be able to operate. The 2012 amendments undermine this principle by treating all hosted material as journalistic and therefore applying the same publication standards.

The requirement that electronic publications keep records of comments posted also conflicts with international norms

on communications surveillance.⁵⁵

The Council of Europe’s *Declaration on Freedom of Communication on the Internet* states: “In order to ensure protection against online surveillance and to enhance the free expression of information and ideas ... states should respect the will of users of the internet not to disclose their identity.”⁵⁶

7.1.1.1. Licensing of publications

International law distinguishes between licensing systems such as Jordan’s that require the prior authorisation of a regulatory authority and registration requirements that simply oblige newspapers to provide certain information to the regulator.

In 2003 three special international mandates for protecting freedom of expression explicitly declared: “Imposing special registration requirements on the print media is unnecessary and may be abused and should be avoided... Registration systems which allow for discretion to refuse registration, which impose substantive conditions on the print media or which are overseen by bodies which are not independent of government are particularly problematical.”⁵⁷

The UN Human Rights Council (UNHRC) has said, with reference to the ICCPR: “It is incompatible with Article 19 to refuse to permit the publication of newspapers and other print media other than in the specific circumstances of the application of paragraph 3. Such circumstances may never include a ban on a particular publication unless specific content, that is, not severable, can be legitimately prohibited under paragraph 3.”⁵⁸

Jordan’s licensing and registration requirements for publications – broadly applied and with substantive conditions attached – clearly restrict freedom of expression, which is contrary to constitutional guarantees and treaty obligations.

7.1.1.2. Broadcast and spectrum licensing

In the Jordanian system for spectrum allocation and the licensing of broadcasters, the regulatory function is comprehensively controlled by government at every stage. The directors of the AVC and TRC are essentially government appointees directly supervised by the Council of Ministers and both commissions are entirely dependent on government funding in the discharge of their duties. The AVC’s lack of final authority in broadcast licensing is in conflict with the need for independence expressed by three special international mandates for freedom of expression in a 2003 joint declaration: “All public authorities that exercise formal regulatory powers over the media should be protected against interference, particularly of a political or economic nature, including by an appointments process for members which is transparent, allows for public input and is not controlled by any particular political party.”⁵⁹

Recommendation (2000) 23 of the Council of Europe states: “Member States should ensure the establishment and unimpeded functioning of regulatory authorities for the broadcasting sector by devising an appropriate legislative framework for this purpose. The rules and procedures governing or affecting the functioning of regulatory authorities should clearly affirm and protect their independence.”⁶⁰

7.1.2. Media ownership

The need to prevent undue concentration of media ownership and to preserve source diversity is well established under international law. The UN Human Rights Council has said, “The state should not have monopoly control over the media and should promote plurality of the media. Consequently, the state’s parties should take appropriate action, consistent with the covenant, to prevent undue media dominance or concentration by privately controlled



Jordan’s licensing and registration requirements for publications – broadly applied and with substantive conditions attached – clearly restrict freedom of expression, which is contrary to constitutional guarantees and treaty obligations.



media groups in monopolistic situations that may be harmful to a diversity of sources and views.”⁶¹

The Jordanian government flouts this norm by effectively retaining control of JRTV, acquiring considerable stakes in newspapers, supporting police and army radio stations, buying media influence through advertising spending which it is not required to disclose, and by usurping the regulatory function.

7.2. COMPARISONS WITH THE MIDDLE EAST AND NORTH AFRICA REGION

In 2013 the International Press Institute reported: “Jordanian journalists operate in a restrictive environment where self-censorship is the norm. Nonetheless, they are better off than many of their colleagues in other Arab nations.”⁶²

Reporters Without Borders ranked Jordan 134 out of 179 countries in its Press Freedom Index, ahead of Morocco (136), Tunisia (138), Oman (141), Palestine (146), Iraq (150), Egypt (158), Saudi Arabia (163), Bahrain (165), Yemen (169), Sudan (170) and Syria (176). Jordan was, however, behind Libya (131), Algeria (125), the Emirates (114), Qatar (110), Lebanon (101) and Kuwait

(77) in the 2013 ranking. In 2014 Jordan ranked 141 out of 180 countries, behind Morocco, Tunisia and Palestine. Jordan has slumped in all press freedom indexes since 2011.⁶³

Freedom House reports that in 2013 “global press freedom fell to its lowest level in over a decade, as hopes raised by the Arab Spring were further dashed by major regression in Egypt, Libya and Jordan...”.⁶⁴ The Freedom House Index assigns a score out of 100, in which lower scores indicate greater press freedom. Jordan and Egypt each have a score of 68 compared with 53 for Tunisia and 30 for Israel. These scores include a component for the legal environment based on an examination of laws and regulations that restrict the media’s ability to operate. For this measure, Jordan and Egypt have the same score of 22; Tunisia scores 18 and Israel 7.

In its 2013 report on Jordan, Freedom House said: “Criminal charges against journalists are often withdrawn before they get to trial, but the government routinely uses the justice system to stifle dissent.”⁶⁵ The imposition of licensing requirements and content regulation on websites has further dented Jordan’s ratings.

⁴⁹ “Handbook on International Standards and Media Law in the Arab World”, op. cit. Page 25.

⁵⁰ *ibid.* Page 24.

⁵¹ Joint Declaration 2003: United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression; Organisation for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media; Organisation of American States (OAS) Special Rapporteur on Freedom of Expression.

⁵² The three cited at note 56 and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information.

⁵³ “Comments on the Law Amending the Press and Publications Law 2012”. Centre for Law and Democracy. June 2012. Pages 5–6.

⁵⁴ *ibid.* Page 6.

⁵⁵ *ibid.* Page 8.

⁵⁶ *ibid.* Page 9.

⁵⁷ “Handbook on International Standards and Media Law in the Arab World”, op. cit. Page 31.

⁵⁸ *ibid.* Page 30.

⁵⁹ *ibid.* Page 13.

⁶⁰ *ibid.* Page 11.

⁶¹ *ibid.* Page 19.

⁶² “Press Freedom in Jordan”, op. cit. Page 4.

⁶³ “World Press Freedom Index 2014”. Reporters Without Borders. Available at: <http://en.rsf.org/Jordan.html>.

⁶⁴ “Freedom of the Press 2014”. Freedom House. Available at: www.freedomhouse.org/report/freedom-of-the-press/freedom-of-the-press-2014#U682YJT4ezl [Q: PAGE?]

⁶⁵ “Jordan: Freedom of the Press 2013”. Freedom House. Available at: www.freedomhouse.org/report/freedom-of-the-press/2013/jordan#U6_phpT4ezk

8. RECOMMENDATIONS

Legal changes are crucial to the development of a media capable of playing a democratic role in Jordan. This includes the lifting of licensing requirements, allowing full access to information and installing independent industry regulators.

For many organisations and agencies, legal reform is critical for the development of media capable of playing a democratic role in Jordan. The Jordan Media Strengthening Programme, in its 2011 introduction, provided a comprehensive list of specific goals, which provides a useful checklist. All of the following are yet to be achieved.⁶⁶

8.1. JOURNALISM

- Lifting any licensing and association membership requirements for journalists and 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 trials of journalists yet to be heard take place in the civil courts only.
- Making libel and slander civil, and not criminal, offences, in line with international standards.
- 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.

8.2. 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).

8.3. ACCESS TO INFORMATION

- Amending the Protection of State Secrets and Documents Law No. 50 of 1971 and the Access to Information Law No. 47 of 2007 in line with Article 19 of the International Covenant on Civil and Political Rights, based on the principles of "maximum disclosure" and "fewer exceptions".
- 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 those documents currently

classified merit continuing classification'.

- Encouraging public bodies to become more open and transparent and, to this end, publishing their rules and decisions online.

8.4. AUDIO-VISUAL MEDIA

- Amending the Jordan Radio and Television Corporation Law No. 35 of 2000, abolishing government control of JRTV and starting the transition to public service broadcasting.
- 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 broadcasting code of content in consultation with the industry, to establish a monitoring and compliance mechanism based primarily on complaints from the public, and to institute a sanctions system based on proportional sanctions applied on an escalating scale.
- Establishing a transparent licensing system, and transferring the authority to grant licences to an independent regulator. To promote its independence, this 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 licences should be justified and appealable before the judiciary.

- Encouraging investments in the audio-visual sector by streamlining licensing procedures.

The EU EOM endorsed these goals broadly, recommending a self-regulatory system that would guarantee full independence to online media outlets, the elimination of licence requirements that affect the operational independence of print and broadcast media, an independent media regulatory body to supervise broadcast and print media and a self-regulatory body enacting a voluntary code of conduct for journalists. All these bodies would need to be recognised by the government and its relevant agencies.⁶⁷

In the wake of the amendments enabling regulation of news websites the Centre for Law and Democracy added: "Article 49(g) of the 2012 amendments, which imposes blocking as the mandatory penalty for any breach of the law, should be repealed. Any imposition of sanctions for breach of registration rules should be imposed only by a body which is independent of government. Articles 49(c) and (d), which impose moderation requirements, should be repealed. Article 49(e), which requires websites to retain information about any user who submits comments, should be repealed."⁶⁸

All these recommendations address breaches of international norms and are to be supported.

Against this background it is further recommended that:

1. International agencies press the Jordanian government to align its media laws with the international norms to which it subscribes; or to explain its abuse of the restrictions on freedom of expression allowed under Article 19(3) of the ICCPR.

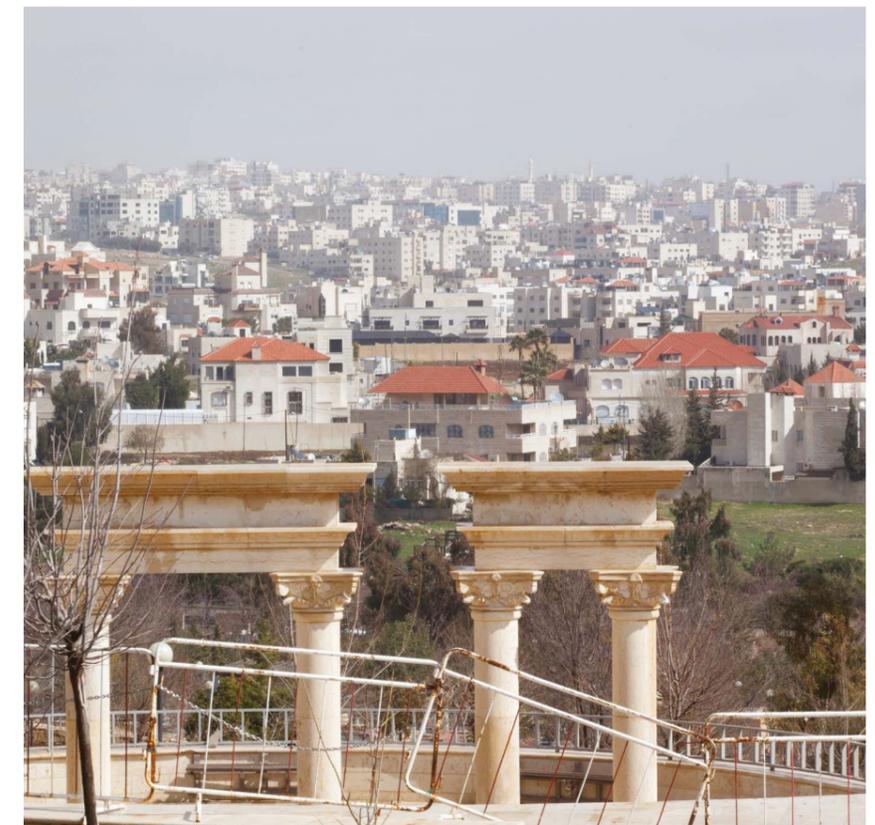
2. Independent media and CSOs are supported in calling for a review of ambiguous, overly broad and conflicting legislation which compromises accurate and fair reporting, encourages self-censorship, prevents the exposure of corruption, bars access to information and promotes a culture of secrecy.
3. Support is extended to Jordanian websites to keep them operating as freely as possible as part of a strategy to defend internet freedom in common.
4. Training, scholarship and regional journalist forums continue to be facilitated by international agencies and press organisations.
5. State dominance of the media sector is reduced by the introduction of appropriate legislation limiting state investment and providing for the

transition of JRTV to a public broadcaster:

6. Independent and self-regulatory press, broadcasting and telecommunications institutions are introduced.

8.5. MEDIA LEGISLATION DURING ELECTORAL PERIODS

One of the EOM's priority recommendations in its 2013 report on the parliamentary elections was: "Election campaign media regulations could be improved by extending to private media the obligation for an equitable and neutral treatment of the contestants by including specific violations and sanctions for the election campaign period and a provision for allocation of free airtime to contestants on the public broadcast media, particularly for contestants running at national level. Procedures regarding the allocation and format of the free airtime need to be timely and clearly outlined."⁶⁹



⁶⁶ "Introduction to News Media Law and Policy in Jordan", op. cit. Pages 77–79.

⁶⁷ "Final Report, 2013 Jordan Parliamentary Elections", op. cit. Page 30.

⁶⁸ "Jordan: Comments on the Law Amending the Press and Publications Law of 2012". Centre for Law and Democracy, June 2013. Available at: www.law-democracy.org/live/wp-content/uploads/2013/06/Jordan.PPLamendments.pdf.

⁶⁹ "Final Report 2013 Jordan Parliamentary Elections", op. cit. Page 27.

9. CONCLUSION

A series of regressive legislative amendments and heightened security concerns underline the grave limitations of media reform in Jordan. New media and access to satellite TV could, however, stimulate a greater openness in the country.

A SWOT analysis taking into account the broader socio-political environment suggests that the reform process to which Jordan is committed is contingent on a number of factors and progress, if any, is likely to be lacklustre.

9.1. STRENGTHS

King Abdullah II has explicitly called for reform. The Constitution required that laws conflicting with its guarantees of freedom of expression be amended or repealed by October 2014. There is formal acknowledgment of the democratic role of journalists and opposition to their detention for political reasons. Internet penetration is high and the growth of the ICT sector and websites offering critical political comment are challenging a sanitised media culture and holding it to account. These websites also play an important role in highlighting corruption. Media activism is supported by a number of international agencies and programmes. There is a high degree of judicial independence.

9.2. WEAKNESSES

There are entrenched elite groups resistant to change and to an effective “watchdog” press. The EU EOM recommended reconsideration of the current electoral system of “the single non-transferable vote” as individual candidates benefit from it at the expense of political parties.⁷⁰ “The Elections Law, which effectively identifies citizens by tribal, religious, or racial affiliation, naturally encourages loyalty to tribes or racial and religious sects at the expense of loyalty to the state.”⁷¹ The Jordanian delegation to the Universal Periodic Review defended the introduction of amendments to bring websites under the ambit of the PPL by imposing licensing and content regulation requirements. It also said that there had been unprecedented progress in terms of reform and the promotion of fundamental freedoms. This suggests insensitivity to international criticism.⁷² The delegation said a review of major legislation affecting the media had been completed. Although the

details of changes under consideration remain unknown, the tenor of the new anti-terrorism legislation suggests that any amendments will be modest and conservative.

9.3. OPPORTUNITIES

The growth of the ICT sector and the emergence of a relatively vibrant internet news domain could lead to a new media culture in which official news and the promotion of vested interests is exposed to greater scrutiny. This new space for public debate could stimulate a greater openness in Jordanian society. Access to satellite television channels with broader coverage of the Middle East is likely to accentuate this development and make government efforts to control the flow of information counterproductive.

9.4. THREATS

The country’s economic situation, characterised by widening budget deficits and rising debt, is dire, despite huge loans and grants from

international donors on which Jordan is increasingly dependent.⁷³ Increasing political tensions raised by the conflict in Syria and Iraq and an influx of more refugees will heighten security concerns. These factors – together with other regional insecurities such as the Israeli occupation of Palestine – could prove decisive in reversing a reform agenda whose accomplishments so far have been limited.

9.5. OUTLOOK

In late 2007 King Abdullah II pledged that journalists would not be detained in Jordan for carrying out their duties or expressing a view. Weight was given to the king’s declaration by amendments that year prohibiting detention under the PPL.

Journalists can still be imprisoned under a number of laws. Many journalists have been fined for breaches of the Contempt of Court Law, but equally under Article 15 they could have been sentenced to a year in prison. Pre-trial detention is also a possibility, notably for offences under the States Secrets Law, which are tried in the State Security Court. However, no judge in a regular

court in Jordan has ever sent a journalist to jail, although three journalists have been jailed in cases before the State Security Court.

The king’s remarks, quoted often even if sometimes sceptically, remain an important acknowledgment that Jordanian journalists have a democratic role to play. This is all the more significant in a region where the abuse and detention of journalists is common.

Jordan’s commitment to journalism is also reflected in the legal recognition given to the right of journalists to protect the confidentiality of their sources. Both the JPA Law and the JPA Code of Ethics require journalists to protect the confidentiality of their sources.

This commitment to journalism is supported by a relatively high degree of judicial independence in Jordan. The government lost 90% of the 300 cases it brought in the regular courts under the PPL and Penal Code against media professionals and outlets between 1993 and 2005. In the 10% of cases where the government won, the minimum fine of 5 dinars was imposed in most cases.⁷⁴

“The growth of the ICT sector and the emergence of a relatively vibrant internet news domain could lead to a new media culture in which official news and the promotion of vested interests is exposed to greater scrutiny. This new space for public debate could stimulate a greater openness in Jordanian society.”

⁷⁰ “Final Report, 2013 Jordan Parliamentary Elections”, op. cit.

⁷¹ “The Rule of Law in Jordan: Prospects and Challenges”, op. cit. Page 20.

⁷² “Report of the Working Group on the Universal Periodic Review, Jordan”, op. cit. Pages 2–3.

⁷³ “BTI 2014 Jordan Country Report”. Gutersloh: Bertelsmann Stiftung, 2014, Page 3.

⁷⁴ “Introduction to News Media Law and Policy in Jordan”, op. cit. Page 68.



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