



Introduction to News Media Law and Policy in Jordan

A primer compiled as part of the
Jordan Media Strengthening Program

May 2011



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A first edition of this primer was released in May 2009, as part of the Jordan Media Strengthening Program (JMSP), thanks to the generous contributions of several Jordanian and international experts. Several focus groups, with representatives from universities, associations, NGOs and state institutions, were convened to review successive drafts of the first edition.

Only two years later, the JMSP team felt that an update was in order. Although actual and substantial changes to legislation and regulation governing news media have been limited, the debate over media reform has picked up pace and widened in scope. This second edition of the Jordan media law primer seeks to capture at least the main trends in this on-going debate, fuelled by the winds of change that started blowing across the region as of January 2011.

The Center for Global Communication Studies was the main architect behind the very idea of this small publication, five years ago. CGCS consultant and JMSP Senior Legal Advisor Douglas Griffin produced most of the initial research, in close consultation with several Jordanian experts. Journalist and media freedom advocate Yahia Shukkeir was a constant source of information and inspiration all throughout. He edited both the first and second Arabic versions.

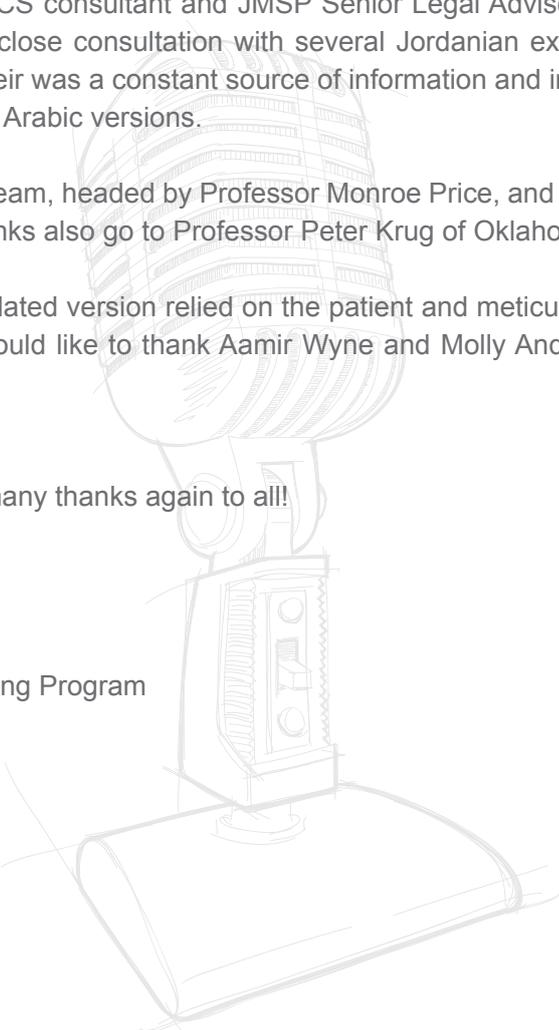
In addition to the entire CGCS team, headed by Professor Monroe Price, and to CGCS Associate Director Libby Morgan, our warmest thanks also go to Professor Peter Krug of Oklahoma University.

As with the first edition, this updated version relied on the patient and meticulous work of young lawyers, journalists and scholars. We would like to thank Aamir Wyne and Molly Anders for their dedication and contributions.

On behalf of the JMSP Team, many thanks again to all!

Francesca Ciriaci-Sawalha
Chief of Party
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Amman, May 2011





INTRODUCTION

The goal of this volume is to examine and assess the legal environment the institutions, laws, and practices in which news media operate in Jordan. It is designed for those in Jordan for whom information and communication is important: citizens, government officials, organizations of civil society, indeed, almost everyone. We seek to describe the system of laws and policies, including basic rights, that affect the way in which information and ideas about public affairs are selected, packaged, distributed, and received. We try to place rules and regulations in context, at least a public context. It is impossible, here, to describe the complex history, the religious institutions, the geopolitical events and other very considerable matters that affect how speech flows. We concentrate, therefore, on press and media laws and their implementation.

By “news media law,” we mean the set of institutions and rules that affect the activities resulting in the dissemination of information and ideas about public affairs to the general public. This includes not only those institutions and rules designed to advance the free exercise of such activity, but also those that are intended to protect other interests with which this exercise might conflict. Indeed, the essence of news media law lies in the inherent, continual need to strike the appropriate balance between press freedoms and competing public and private values and interests.

At the same time, our scope is closely defined. We do not seek to make this presentation comprehensive: an encyclopedic survey of all legal provisions affecting news media activity would be beyond the scope and space limitations of this volume. Therefore, most issues regarding the structural aspects of Jordan’s media regulation (for example, ownership of mass media) are not included here. Instead, we focus on the legal environment in which the news media operate, organizing our material according to a way of thinking about media in a society that is seeking to increase the participation of its citizens in the functioning of government. We emphasize the importance of the rule of law itself, and then the laws and policies governing journalists’ access to information and content regulation, as well as content-neutral rules that affect how the media perform.

Laws and policies are frequently looked at in isolation. Laws are also often analyzed and discussed with attention paid merely to their wording. However, each society has a cluster of activities, interactions of laws, and settings in which they exist that make those laws more or less effective. Different states, at different stages of development, require different strategies for thinking about the role of media and, as a result, for thinking about the design and structure of the environment in which they operate. We seek to explore the particular laws of Jordan, and the institutions which give them meaning.

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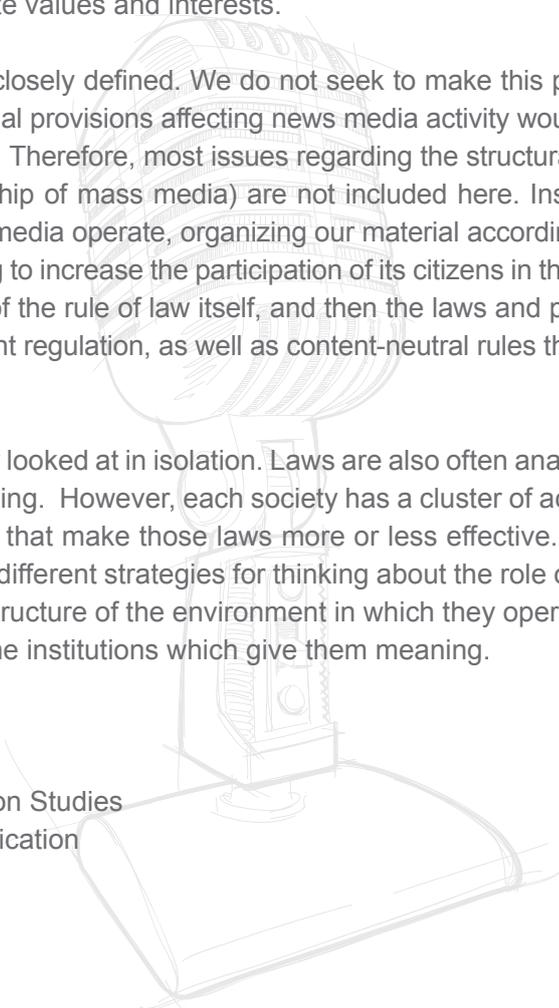


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A stylized, light-colored television set is centered in the lower half of the page. It has two thin antennae on top and two circular buttons on the right side of its frame. The screen of the television is white and displays the chapter title in a bold, dark font.

**Chapter 1:
A Legal
Enabling
Environment for
News Media
Activity**

News media do not operate in a political and social vacuum. In order to operate freely and in a publicly beneficial manner, they must carry out their activity within a favorable legal setting, which we will call a “legal enabling environment.”

Before we consider the core components of a legal enabling environment for news media activity, we must note that the development of such a setting requires the existence in a legal system of two preconditions: recognition of what we will call “free press values”; and a commitment to the values of the “rule of law.”

1. Preconditions for a legal enabling environment

I. Free Press Values

Recognition of press freedoms is viewed as essential for the well-being of systems of democratic governance. As stated by the European Court of Human Rights in its landmark 1986 decision in *Lingens v. Austria*, freedom of expression “constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual’s self fulfillment,” and “[t]hese principles are of particular importance as far as the press is concerned.”¹

News media rights are not absolute; the conduct of news media activity the gathering of facts and the various editorial tasks associated with the preparation of information and ideas for public dissemination is filled with individual and societal values. The legal enabling environment describes which governmental acts constitute an improper interference with a fundamental rights structure. For example, defamation laws represent a commitment to protection of individual reputation an important societal value inherent in recognition of the dignity of each person. At the same time, however, the imposition of legal sanctions for statements deemed defamatory will place burdens on the freedom of expression. A legal enabling environment will be sensitive to this dynamic, balancing both sets of interests.

II. The Rule of Law

The effective implementation of that balance is not possible without a societal commitment to the “rule of law.” There are many formulations of this concept. Here, we use the phrase to describe a legal system that combines two essential attributes: the promise of legal certainty; and a commitment to fundamental fairness for all its participants.

Both of these attributes are essential to a legal environment that enables the exercise of news media activity and the accompanying public benefits. One of the gravest threats to the public benefits of functioning news media is the risk that journalists will engage in self-censorship if they perceive that the legal system is uncertain and unfair.

1- *Lingens v. Austria* (1986), par. 41.

Four essential components of the rule of law can be identified:

1. Clear and Accessible Legal Rules

The only enforceable legal rules must be those that have been adopted pursuant to systematic procedures, are clear as to their meaning, and are accessible to the public. If executive branch authorities are permitted to enforce non-transparent rules known only to themselves, the essential values of predictability and fairness will be lacking.

2. Public Authority Bound by Law

All administrative acts of public institutions must be based solely on legal norms, and consistent with them. In applying the laws, public officials must not act arbitrarily or outside the boundaries of the laws.

3. Fundamental Fairness in Administrative and Judicial Procedures

All participants in the administrative process must be subject to the same generally applicable rules and procedures. One source for a listing of fundamental fairness requirements is Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which is considered an international binding treaty.² It is of particular relevance to news media law in Jordan because of licensing requirements (for both print and broadcast media) and criminal sanctions (including procedures before the State Security Court).

4. An Independent, Effective Judiciary

The judiciary cannot be simply another branch of the state's administrative apparatus. Instead, judges must possess the independence, jurisdiction, and willingness to exercise meaningful review of the legality of governmental acts, and the legal culture must be one in which such decision-making is respected and obeyed.

2. Fundamentals of free media and journalism

Media freedom can thrive only in a democratic society where other relevant freedoms are secured, such as peaceful assembly and voluntary membership of organizations.

On a more basic level, the fundamentals of free and independent media and journalism can be described as follows:

1. Freedom of issuing newspapers and publications

If newspapers and publications are burdened with requirements such as prior licensing and statutory capital requirements, the press is not completely free. In most democratic countries, a newspaper or other publication can be established without acquiring a license or governmental approval.

2- The ICCPR was published in the Official Gazette on June 15, 2006.

2. Independence of broadcast licensing and regulation

Licensing requirements apply most everywhere for radio and television broadcasting. These requirements are justified by the need to ensure that scarce radio frequencies used for broadcasting are given to those broadcasters that comply with certain content, programming and technical requirements, and by the need to prevent technical interference among broadcasters.

In most democratic societies, broadcast licenses are granted and regulated by bodies independent of the government, meaning that their governance structures are appointed, and their financing is structured, in such a way as to prevent undue influence by any one part of the government.

3. Prohibition of all forms of pre-publication censorship

Prior censorship where the government determines what can and cannot be published in advance of publication is one of the most serious constraints on freedom of expression, in both broadcasting and print media. This prohibition does not preclude the possibility of prosecuting the media after publication or broadcasting.

4. Freedom of accessing, obtaining and circulating information

The right to access information, particularly from the government, has become a central element of freedom of opinion and expression and freedom of the press. In order to fulfill their role as government watchdogs and encourage discussion and deliberation on issues of public concern, journalists must have easy access to information.

Notwithstanding the above, there are exceptions to the right to circulate information. Many countries, for instance, prohibit publishing information that would undermine national security, would harm the country's international relations, or would expose military secrets during periods of war. Under international law, these restrictions are limited.

The Jordanian Press and Publications Law provides, though ineffectively, for journalists' right to access information. Furthermore, the Right of Access to Information Law provides additional assurance for implementing said right. Nevertheless, both laws have limitations, which will be discussed later on.



**Chapter 2:
The legal
Environment
Governing Media
in Jordan**

In all legal systems, the recognition of press freedom values creates a dilemma: to find the appropriate balance between the evident benefits and the anticipated threats of press freedom. The evolution of news media law in Jordan over the past 20 years reflects efforts to meet this challenge.

Since at least as far back as the watershed period of 1989-1993, against the backdrop of the termination of martial law and the movement toward parliamentary democracy and the rule of law, Jordan has been engaged in a search for rules and institutional structures that will provide a proper balance between freedom of the press and competing public and private interests. On the one hand, there has been a broad commitment to democratization and press freedoms; on the other hand, there has been an impetus toward controls, prompted by concerns that increasing democratization and openness will unleash expressive activity (particularly within privately-owned media) detrimental to Jordan's international relations, internal stability, and other interests.

1. The Constitution (1952)

The Constitution of Jordan is the fundamental law of the land, and all acts of public institutions legislative, executive, and judicial must be in conformity with it, or they can be deemed invalid.³ The Constitution provides for freedom of opinion and expression as well as freedom of the press. Article 15 of the Constitution states in full:

- (i) The State shall guarantee freedom of opinion. Every Jordanian shall be free to express his opinion by speech, in writing, or by means of photographic representation and other forms of expression, provided that such does not violate the law.
- (ii) Freedom of the press and publications shall be ensured within the limits of the law.
- (iii) Newspapers shall not be suspended from publication nor shall their permits be revoked except in accordance with the provisions of the law.
- (iv) In the event of the declaration of martial law or a state of emergency, a limited censorship on newspapers, publications, books and broadcasts in matters affecting public safety and national defence may be imposed by law.
- (v) Control of the resources of newspapers shall be regulated by law.

The Constitution explicitly prohibits imposing pre-publication censorship except in the event of martial law or the state of emergency.

3- In a historic ruling, the Higher Court of Justice declared the unconstitutionality of the Press and Publications Law no 27 of 1997. *Journal of the Bar Association*, Volume 1&2, January-February 1998, page 289.

The Constitution also provides for additional guarantees for freedom of the press.

- a. **Parliament deliberations:** The Constitution grants members of the Parliament immunity while in the Parliament or working with committees. This immunity extends to the media when quoting a deputy or senator during Parliamentary sessions or committee meetings.

Article 87 of the Constitution states that:

Every Senator or Deputy shall have complete freedom of speech and expression of opinion within the limits of the Internal Regulations of the Senate or Chamber of Deputies, as the case may be, and shall not be accountable for any vote cast, opinion expressed or speech made thereby during meetings of the House.

Therefore, senators or deputies cannot be liable for opinions expressed during meetings of the House or committees. Such permissibility extends to include the media; hence, there shall be no penalty for publishing or broadcasting such opinions. However, said permissibility does not include deliberations conducted in secret sessions, nor does it include the House's documents and statements unless listed on the relevant agenda or referred to the government.

Article 83 of the Internal Regulations of the Chamber of Deputies of 1996 states that:

- a. Documents and statements of the Chamber of Deputies, or any part thereof, shall be deemed confidential and may not be published unless listed on the agenda or referred to the government.
 - b. All means of Media must observe accuracy when covering public meetings of the Chamber.
 - c. Should any means of Media deliberately alter or misrepresent deliberations conducted in the Chamber, the Chairman may, as may be deemed appropriate thereby, take any disciplinary action there against.
- b. **Trials:** Article 101/2 of the Constitution of Jordan states that: "Sittings of the courts shall be public unless the court considers that it should sit in camera in the interest of public order or morals." This allows for media coverage of court proceedings (except those involving minors and family disputes). Sentencing is always public.⁴ No Jordanian law prohibits publication of final judicial rulings.

2. The National Charter

In 1990, in conjunction with the start of a new era in Jordan marked by termination of martial law and the holding of parliamentary elections, His Majesty King Hussein appointed a 60-member royal commission to draft guidelines for the conduct of political party activity in Jordan. The commission, which included representatives of all political groups in the country, produced a written consensus in the form of the National Charter. In June 1991, a national conference of 2,000 leading Jordanians adopted the Charter. According to a governmental website, "the National Charter, along with the Jordanian Constitution, provides a compass for the national debate on fundamental issues."⁵

4- Article (183/4) of the amended Criminal Procedures Law No. (9) of 1961 states that: "the presiding judge, or anyone authorized thereby, shall recite judgment in a public session and said judgment shall be dated as on the day of explanation thereof."

5- Background information about the Charter, and the text of the Charter itself, are found at [<http://www.kinghussein.gov.jo/charter-national.html>].

Although it was not a binding law, the National Charter demonstrated Jordan's commitment to freedom of expression and freedom of the press. In the section entitled "Information and Communication," the National Charter states that the mass media "play an important role in strengthening democratic processes":

Freedom of thought and expression, and access to information, must be viewed as a right of every citizen, as well as of the press and other mass media. It is a right enshrined in the Constitution and should under no circumstances be abridged or violated.

The circulation of news and data must be regarded as an indivisible part of the freedom of the press and information. The state must guarantee free access to information to the extent that it does not jeopardize national security or the national interest. It must enact legislation to protect journalists and other information personnel in the fulfillment of their duties and to provide them with material and psychological security.

3. International agreements and treaties

Jordan is signatory to several legally binding international treaties protecting and guaranteeing media freedoms.

Although the Constitution (in article 33) does not explicitly determine the status of treaties and agreements in the Jordanian legal system, the Jordanian Court of Cassation has issued several rulings granting international treaties a higher status than Jordanian laws and legislations to the contrary.⁶ One example is the Court of Cassation's ruling in case No. 38/91 on May 18, 1991, which reads:

"It is judicially agreed upon and established that effective local laws are applicable unless there is a provision to the contrary in an international treaty or agreement. This rule is not affected by a given domestic law being precedent to, or more recent than, International Law."

The Cassation Court set a very important precedent on May 19, 2010, by basing on the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights a decision to overturn a verdict by the Amman Court of First Instance against a columnist and a weekly newspaper.

The Amman Court of First Instance had found Moussa Dweikat and Al Marah weekly newspaper guilty of violating Articles 5 and 7 of the Press and Publications Law and Article 15 of the Contempt of Court Law for publishing a story in November 2008 on a Sharia judge's decision to allow a couple to divorce because they had both been breastfed by the same woman. In the Cassation Court verdict, Judge Mohammad Tarawneh said "journalists have the right to report the news, as this right is guaranteed by the Constitution and relevant legislation, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, after ensuring the credibility of the news, its social nature and objectivity and that it was written in good faith." The verdict also recognized that the article was "edited and structured as a news story," included sources and opinions by experts in Sharia, "which means that the role of the defendant was limited to reporting information for the sake of public interest, as stipulated by Article 15 of

6- The binding force of international treaties and agreements on human rights/ UNICEF publications.

the Constitution... What the journalist did is within the framework of investigative reporting as stipulated by Article 19 of the ICCPR and is in the public's interest and a legal duty based on the fact that the media has an important role in disseminating culture, science and news... from different sources and in line with Article 6 of the Press and Publications Law.”

This Cassation Court decision set a precedent in the history of the judiciary by ruling on the basis of international laws and inferring that they supersede domestic legislation.

Despite the Court of Cassation's rulings, disagreement between Jordanian laws and international treaties to which Jordan is a signatory, particularly with regards to the media, is still problematic.

1: The Universal Declaration of Human Rights⁷

Article 19 of the Universal Declaration of Human Rights (UDHR) states that: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Although the UDHR is not a legally binding document, it has influenced international common law, and has inspired many covenants and other legally-binding human rights instruments, including the International Covenant on Civil and Political Rights.

2: The International Covenant on Civil and Political Rights⁸

The International Covenant on Civil and Political Rights has been integrated into Jordanian national legislation by being published in issue N. 4764 of the Official Gazette on June 15, 2006, hence gaining the force of law. However, Jordan did not ratify the ICCPR's First Supplementary Protocol, which allows individuals to file complaints before the UN Human Rights Council against signatory states for alleged violations of the rights stipulated in the Covenant.

The International Covenant on Civil and Political Rights binds every state that is party thereto to respect rights recognized in the Covenant, and to enshrine said rights for all individuals subject to its jurisdiction. Where not already provided for by existing legislative or other measures, each state party to the Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant. According to article 2 of the Covenant, being party to this Covenant shall be construed as a state's undertaking:

- To adopt legislation that guarantees rights provided for in this Covenant, and to amend existing legislations accordingly.
- To ensure that any person whose rights are violated by anyone acting in an official capacity shall have an effective remedy and that violators are prosecuted.

7- Adopted by UN General Assembly resolution No. 217 (d-3) on December 1948. <http://www.un.org/Overview/rights.html>

8- Adopted and presented for signing and ratification by UN General Assembly resolution No. 2200 on December 16 1966. Entered into force as of March 23, 1976. The ICCPR was published in Jordan's Official Gazette on June 15, 2006.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) enshrines freedom of opinion and expression, providing that:

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.

This article does not recognize freedom of expression as being absolute, and imposes certain legal restrictions on the right in paragraph 3:

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 the protection of national security, public order, public health or morals.
 - b. For respect of the rights or reputations of others.

Moreover, article 20 of the Covenant imposes two further restrictions on freedom of expression, prohibition of propagating war and incitement to hatred, stating that:

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or sectarian hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

3: The Arab Charter on Human Rights

The Arab Charter on Human Rights was approved at the 2004 Arab Summit in Tunis. Jordan was the first Arab country to ratify this Charter,⁹ which came into force in 2008, after being ratified by seven Arab countries.¹⁰

Article 32 of the Charter states that:

1. The present Charter guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.
2. Such rights and freedoms shall be exercised in conformity with the fundamental values of society and shall be subject only to such limitations as are required to ensure respect for the rights or reputation of others or the protection of national security, public order and public health or morals.

9- This Convention was published in the Official Gazette twice: in issue No. 4658 on May 16, 2004 and in issue No. 4675 on September 16, 2004 due to errors in wording.

10- Article 3/a.

4: The Convention on the Rights of the Child:

Jordan is also party to the Convention on the Rights of the Child. Article 13 of this Convention states that:

1. The child 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 the child's choice.
2. The exercise of this right may 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; or
 - (b) For the protection of national security, public order, public health or morals.

5: The Euro-Mediterranean Association Agreement between Jordan and the European Union and its Member States¹¹

The Jordanian Parliament ratified the Association Agreement in 1999. The agreement, which entered into force in 2002, is a binding treaty. Article 2 of the Association Agreement states:

Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect of democratic principles and fundamental human rights as set out in the Universal Declaration on Human Rights, which guides their internal and international policy and constitutes an essential element of this Agreement.

11- The Euro-Mediterranean Agreement establishes association between the European Union and its member states on one hand and the Hashemite Kingdom of Jordan on the other. <http://europa.eu/scadplus/leg/en/lvb/r14104.htm>



**Chapter 3:
Laws Directly
Governing
Media Work**

Press and publications 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.”¹²

1. The Press and Publications Law

(i) Historical overview

The Press and Publications Law (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 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.¹³

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,¹⁴ 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 rumor; anything promoting perversion or moral turpitude; 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 provisional law unconstitutional, nullifying all decisions issued pursuant to it, including the closure of the weekly newspapers.¹⁵

12- See: Mohammad A'yesh, (Jordanian Press Laws 1993-2000 and compliance with international human rights standards” in “Studies on Human Rights” – Amman Center for Human Rights Studies, 2003, p 82.

13- 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).

14- 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.

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

In 1998, the Parliament approved the Press and Publications Law No. 18 of 1998,¹⁶ 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.

Amendments to the Press and Publications Law No. 8 of 1998 were introduced in 2007 by the Amended Press and Publications Law No. 27 of 2007, which came into force in May 2007.¹⁷ Another set of amendments was issued in 2010 to Article 42, issuing specifications for the establishment of special offices in district and central courts to deal with cases related to press and publications. Before the 2010 amendments, these cases were assigned broadly to the State Security Court Chief Prosecutor.

(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.”¹⁸ Article 5 of the JPA Law sets out the qualifications necessary for JPA registration, including Jordanian citizenship, a record free of misdemeanors and felonies, full-time work in journalism and a series of educational/professional requirements.¹⁹

The term “journalism” is defined in both the PPL²⁰ and in the JPA Law.²¹

Press organizations in the Kingdom may employ as journalists only those individuals listed in the Jordan Press Association’s practicing journalists list.²² 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.

16- Published in the Official Gazette on September 1, 1998.

17- Published in the Official Gazette on May 1, 2007

18- 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.

19- See: www.jpa.jo/arabic/JPALaw.aspx

20- 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.

21- 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; and
- 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.”

22- Article 16/a of the Press Association Law.

(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,²³ 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.²⁴ 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 15 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 1999 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.”²⁵

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.²⁶

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.”²⁷

With the Amended Press and Publications Law of 2007, publications became subject to capital requirements provided for in the Companies Law.²⁸

23- Article 11/a of the Press and Publications Law.

24- 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).

25- Higher Court of Justice decision No. 238/1999 on November 24, 1999.

26- 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#

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

28- 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.

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.²⁹

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.³⁰

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.³¹

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.³² 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.

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 "provided that he should urgently request the Court to issue an urgent decision to prevent its entry or distribution or restrict the number of copies distributed until a final decision is issued in this regard."

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."

29- Article 12/a, d, e and f.

30- Article 19/b.

31- Article 35.

32- Article 37.

(iv) The right to access information

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 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.

The 2007 amendment to the Press and Publications Law 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. Journalists, 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.
- e. It is prohibited to interfere in any work practiced by the journalist in the limits of his profession, or influencing him or forcing him to disclose his sources of information, this includes depriving him from performing his work or writing or publishing, with no legitimate cause or justification, this is without prejudice to the recognized authority of the Editor-in-Chief to make the decision to whether or not to publish.

Despite the laws, 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.³³

This is due in part to The Protection of State Secrets and Documents Law, as many government documents that journalists should have access to are automatically classified as confidential. The interplay between these three laws is discussed below in Section 4 on the Protection of State Secrets and Documents Law.

(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, discussed below in Section 2, require journalists to protect the confidentiality of their sources.

(vi) Publishing court news

The Press and Publications Law grants journalists the right to publish court news, however, various limitations on this right are imposed by other Jordanian laws, including the Penal Code (discussed in more detail in Section 3 of this chapter) and the Contempt of Court Law No. 9 of 1959 (discussed in more detail in Chapter 4, Section 3).

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.

33-http://www.hmc.or.jo/HMC_Public/Nws_NewsDetails.aspx?lang=1&site_id=4&page_id=94&nNewsID=153&Type=P

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/c 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.”

In 2002, 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 be 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.”³⁴

(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 2003 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.”³⁵

34- Amman Court of First Instance decision No. 1349/1999 on May 8, 2002.

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

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.

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.³⁶

The Juvenile Law³⁷ 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.

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 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."

(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(d-e) 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.

36- Amman Court of First Instance decision No. 1346/1999.

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

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.³⁸

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.

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; and
- f. Compliance with the provisions and principles of the Journalists' Code of Ethics issued by the Association.

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.³⁹ A violation of article 7 shall be penalized by a fine of up to 500 dinars.⁴⁰

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, Jordanian media law expert Yahia Shukkeir estimated that some 114 lawsuits were filed against journalists, 92 of which were against weekly newspapers and 22 of which were against daily ones. Eighty of these lawsuits were filed for alleged violation to articles 4, 5 and 7 of the Jordanian Press and Publications Law.

38- Article 22 of the effective Jordanian Penal Code No. (16) of 1960.

39- Article 45/a.

40- Article 47/b.

In 2003, 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.⁴¹ In other words, a journalist must verify the underlying facts of a story before publication or face punishment, even if a source is accurately quoted or paraphrased, if the source is mistaken.

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

(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.

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 some jurisdictions, including the United States, requiring media to provide the right of reply has been deemed unconstitutional.

41- Amman Court of First Instance decision No. 494/2003.

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. Amendments to the Law were being discussed in 2010: At the time of drafting this primer, in early 2011, such amendments were still awaiting endorsement. If and when endorsed by the government, the revised Law will be sent to Parliament for modification, ratification or rejection. The amendments under discussion would mainly expand the umbrella of the JPA to include not only print journalists, but also TV, radio and online journalists.

The current 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.

One of the amendments under discussion would allow journalists having practiced the profession for eight years to become members in the JPA, even if they don't possess any of the above-mentioned degrees and certifications.

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, both the Law and the Code of Ethics bar journalists from accepting any funds, financial or symbolic donations, or any help of any shape or kind.⁴²

The JPA Law stipulates that only JPA members can be considered journalists. Upon a ruling from the JPA Board, illegal practitioners journalists practicing the profession without being members in the JPA can be referred for legal action and fined no less than five hundred dinars and no more than one thousand dinars, and can be imprisoned for not less than one month and no more than three months. As part of the debate over possible amendments to the Law in 2010-2011, some prominent JPA members suggested that these fines be increased significantly.

It is estimated, however, that there are currently 600 journalists or correspondents working for media outlets who are not members of the JPA.⁴³ 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, 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."⁴⁴

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

43- Interview with Yahia Shukkeir, February 2011.

44- Sa'eda Kilani, Press Freedoms in Jordan, Euro-Mediterranean Human Rights Network (2002).

The Law prohibits journalists from practicing any profession other than journalism, including commercial business and representation of commercial or industrial companies, belonging to any political party, 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.⁴⁵

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 a key element in maintaining an enabling environment supportive of press freedoms.

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 work and prohibits detention or harassment. 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.⁴⁶ 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. Discussed amendments to the JPA Law would entitle journalists to choose between the benefits being offered by the JPA or by their employers, while currently JPA members are obliged to accept the benefits offered by their media outlets.

All media journalists, as members of the JPA, are also bound by the JPA's Code of Ethics, which was adopted in 2003.⁴⁷ The Code of Ethics stresses journalists' commitment to objectivity, accuracy, professionalism, integrity, respect for privacy and human dignity, avoiding sensationalism, observing religious and moral values, separating information from advertisements, protecting confidentiality of sources, verifying news prior to publication, avoiding unethical and illegal ways of obtaining news and information, refraining from using foul or obscene language, and refraining from fabricating or using fabricated sources, information, or doctored pictures that would degrade anyone or undermine anyone's reputation.

The Code 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. 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.⁴⁸ The Code also has been codified into law, as part of the 2007 amendments to the PPL.

46- A source on this topic in regard to the Middle East generally is the Arab Archives Institute website: [<http://www.alarcheef.com/IFEXReports/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.

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

48- JPA Law, Articles 48-49.

A decision by the Disciplinary Committee 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.

Amendments to the PPL in 2010 stipulate that rulings by the JPA Disciplinary Committee can be appealed to the Special Chamber for Press and Publications within the new media-specialized chambers in the courts. The ultimate punishment can be a ban from practicing journalism.⁴⁹

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 promote the observance of high professional standards. 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.⁵⁰ Around the world, licensing requirements for journalists are increasingly out of favor. For one thing, as the line between online journalism and blogging blurs, 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.

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, and it is therefore a crucial element in Jordan's overall system of content regulation. In 2010, the Council of Ministers passed as temporary law a host of amendments to the 1960 Penal Code, including revisions to articles related to libel and slander.

Public slander and libel crimes committed by publications count for most cases filed against journalists. Articles 188-199 of the Penal Code provide for slander and libel crimes, relevant penalties and exclusions.

(i) Libel, Slander and Defamation

Libel is a disseminated written or verbal assertion of fact that injures another person's reputation.⁵¹ 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.⁵² 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.⁵³

49- 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>.

50- 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 media lawyer Mohammad Qtaishat, Director of the Media Legal Aid Unit at the Center for Defending Freedom of Journalists, CDFJ).

51- 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."

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

53- Penal Code, Article 192(1) and (2).

Slander is a disseminated statement that, while not asserting specific facts, injures the reputation or dignity of another person because it suggests that the person has engaged in socially inappropriate conduct.⁵⁴ 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 a public employee or official engaged in 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.⁵⁵ 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.⁵⁶

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.

Criminalization of libel under the Penal Code had long been cited by media freedom advocates as one of the factors having a chilling effect on free speech in Jordan. The 2010 amendments did represent a step forward as they abolished imprisonment for libel committed against private individuals (ordinary citizens), although they raised the fines for the same crime. However, the amendments (by Provisional Law no 12 for the Year 2010) run contrary to international best practices with regard to penalties for libel committed against officials and former officials, increasing the fine and the minimum jail sentences for such crimes (see section iv, below, for more on slander and libel of state institutions and public servants). International best practice demands that elected and appointed officials be subject to higher levels of scrutiny and criticism than ordinary citizens.

The amended Article 196 of the Penal Code stipulates fines up to ten thousand dinars and jail sentences of three (3) months to one (1) year for libel committed against an official while performing his/her duties or against an ex-official.

Some journalists refrain from mentioning names or publish initials in order to avoid being charged with libel or slander. 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.⁵⁷

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.⁵⁸

54- 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.

55- Penal Code, Article 194.

56- Penal Code, Article 362.

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

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

As for defamation, it is generally defined as any act of insulting, offending 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).

(ii) Permissible Criticism

It should be noted here that Jordanian jurisprudence has upheld permissible criticism, and the line between libel and permissible criticism has been well defined. 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 non-criminal 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.”⁵⁹

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 be 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 faith⁶⁰

(iii) Religion

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

59- Decision No. 3139/2006.

60- Case No. 2256/2007 acquitting Al-Majd weekly of defaming the government of Marouf Al Bakheet.

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

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 to 20,000 dinars would be imposed.⁶¹

(iv) Slander and Libel Directed to State Institutions

Article 191 of the Penal Code, as amended by provisional law in 2010, penalizes by imprisonment for a period of three months to two years or a fine of two thousand to ten thousand dinars⁶² 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. For repetition of the crime, the punishment will be imprisonment from three months to two years.

Article 193 of the Penal Code penalizes slander with imprisonment for a period between one to six months or a fine between five hundred to one thousand⁶³ 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.

61- 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.”

62- The listed fine was added in 2010 amendments to the Penal Code.
63- This fine was increased in the 2010 amendments to the Penal Code

4. 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.⁶⁴

This provisional law was introduced 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. Media freedom advocates have long raised questions about its constitutionality.

Under said Law, state 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.

Media freedom activists have long lamented that Provisional Law No. 50 of 1971 contradicts and pre-empts application of both the Press and Publications Law and the Access to Information Law. Vaguely and broadly worded, this legislation may unnecessarily repress speech and right to access information, activists have warned. Amongst the arguments raised against this Law is its inefficiency in protecting Jordan's state secrets: critics pointed out that the law provides no method for reviewing the classification of documents, hence documents that accidentally remain unclassified are in danger of being exposed, while unnecessary restrictions on the disclosure of other documents may cause judicial inefficiency. The issues of a lack of proportional punishments and potential contradictions with international principles and treaty commitments (UDHR, ICCPR, Arab Charter, and Siracusa Principles) have also been raised.

Activists have been calling for a new law that would uphold the principle of maximum disclosure and that would narrowly tailor limitations to disclosure, decreasing the current list of exceptions and clearly codifying them. Specifically, calls have been made for the removal of the State Security Court's mandate over the application of the Law.

Under the current Law, not all protected information touches upon national security. For example, Article 8/f, refers to "any protected information or documents that would harm the reputation of any official figure or undermine the State's prestige" as restricted. The use of such broad language could become a tool against freedom of expression and political opponents.

Responding to questions by a deputy in a parliament session on January 25, 2006, the government provided a report prepared by the Audit Bureau on alleged irregularities at 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."

64- 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>].

The Protection of State Secrets and Documents Law has been used by the Prime Minister to classify administrative decisions as 'Strictly Confidential,' allowing the government to refuse to submit information on administrative proceedings to the judiciary according to article 110 of the Civil Procedural Law No. 42 of 1952. Many of these administrative proceedings have little bearing on national security and do not merit a 'Strictly Confidential' designation. For example, the decision to terminate 12 professors and administrative employees from Yarmouk University in 1986 was deemed to be 'Strictly Confidential.'

In a similar case, reports and decisions related to the termination of Mrs. Muna Akram Mihyar from the Ministry of Industry and Trade, were also classified as 'Strictly Confidential'.⁶⁵

The trend towards unnecessary secrecy has been actively reinforced by successive governments, who have warned officials against disclosing information of administrative and economic nature to the press.⁶⁶ Periodically, other officials warn public servants to refrain from giving information to the press unless approved by the Minister of the chief-person-in-charge.⁶⁷ Article 66 of the Civil Service Statute of 2002 prevents under threat of disciplinary liability public servants (Officers) from giving any information to the press, magazines, or news agencies, unless authorized to do so.⁶⁸

In yet another example of broad interpretation and application of the Law, in 2008 the questions for Jordan's final secondary school examinations were leaked before the test took place. The media exposed the leak, and the government issued new questions. Because the exam questions were issued as government documents, the State Security Court decided to declare them as state secrets, and prosecuted the journalists. The case was eventually thrown out.

Media freedom advocates have recommended that the State Secrets and Documents Law be at least amended to be compatible with the 2007 Access to Information Law.

Finally, the fact that all violations of the State Secrets Law are handled by the State Security Court both actively chills speech and reduces judicial efficiency. According to Law No. 17 of 1959, the State Security Court has competence to adjudicate prosecutions involving crimes violating the provisions of the Law on Protection of State Secrets and Documents. Over the years, the State Security Court has used the broad language of the State Secrets Law to expand its influence over any case involving government documents. Since the State Security Court Law allows for mandatory pre-trial detention for even misdemeanor offenses, the wide reach of the State Security Law actively chills any kind of media coverage involving government documentation.

65- Human Rights in Jordan, Advocate: Ibrahim Baker, 1995, pages 556, 558, 572.

66- Circular from the Prime Minister, No. 13-11-1-2776, 13 February 2008.

67- Circular from the Prime Ministry, dated 13/2/2008, warning public servants from giving information to the press, specifically, weekly newspapers.

68- Article 66 of the Civil Service Statute of 2002 states: "The officer is prohibited to engage in any of the following activities subject to the disciplinary penalty: [...] To hold any official document, communication, or copy of it, or to provide it to newspapers, magazines, and press agencies or provide any information about it if such an activity is not of his/her authorities; To take advantage of his/her office for any factional goals or interest or to participate in any demonstration, strike or sit-in; To distribute any publication or political materials; write any petitions or letter that may cause damage to the state's credit or prestige or sign them; To work as an editor in any periodical or temporary publication, or to involve in managing it directly or indirectly but if it's issued by a certain department."

5. Audio-Visual Law

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 2:⁶⁹

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 established the Audiovisual Commission (“AVC”).

A government decision in March 2011 called for the merger of the AVC and the Press and Publications Department (PPD). This proposal is discussed in more detail in Chapter 5, Section 1. A new law establishing the responsibilities of this combined agency (the Media Sector Regulatory Commission) has yet to be introduced. Because details on this new structure have yet to emerge, this section provides detail on the AVC as originally established.

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.⁷⁰

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, 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,⁷¹ upon recommendation of the AVC.⁷² 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.

69- 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.)

70- 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.

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

72- 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.

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.”⁷³ 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 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.”⁷⁴

Before obtaining a license from the AVC, an applicant must obtain a spectrum frequency license from the TRC, which will award a frequency allocation to a successful applicant.⁷⁵ 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,⁷⁶ 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,⁷⁷ to consider complaints against broadcasters, and to take action against broadcasters who breach their license conditions.⁷⁸ In addition, the AVC ByLaws give the AVC responsibility for hearing and deciding complaints of the public about broadcasters, as well as disputes between licensees. As for print media, the licensing process 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.

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

74- (22/2008, Radio AmmanNet and Daoud Kuttub),

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

76- Article 11 of the Press and Publications Law.

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

78- A-V Law, Article 8.

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,⁷⁹ recommend license revocation to the Council of Ministers in the case of continuing or repeated violations,⁸⁰ and recommend to the First Instance Courts that they impose substantial monetary fines.

Article 12 of the AVC Instructions No. 1 for the Year 2006 sets forth the basics of a mechanism for resolving complaints against broadcast licensees.⁸¹ 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.

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.⁸² In light of the broad nature of the A-V Law's content regulation provisions⁸³ 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.

6. Law on Crimes of Information Systems

With the proliferation of news websites as of 2007, successive governments and parliaments as well as media circles have been debating the need for regulation of electronic media.

In 2007, the Press and Publications Department asked the Legislation and Opinion Bureau at 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.

At the end of 2009, a Court of Cassation decision ruled that the PPL was applicable to electronic media implying that online journalists would fall under the Press and Publications Law. Members of Jordan's online community immediately became concerned that they would have to comply with the registration requirements and rules of liability for journalists and news outlets. The debate in 2009 and 2010 over possible amendments to the JPA Law, to include online journalists, further reinforced the perception that a new policy was being formulated, to rein in the often "unruly" websites and place them under the umbrella of existing regulation.

In August 2010, the Council of Ministers passed the Temporary Law for Crimes of Information Systems.⁸⁴ Like all temporary laws, the Law for Crimes of Information Systems must be endorsed by Parliament, according to the Constitution. The Temporary Law for Crimes of Information primarily regulates security and morality in an electronic communication context. Some articles in the Law have been viewed due to their vague wording as directly targeting online news media, although the government insists that was not the purpose.

⁷⁹- A-V Law, Article 29(b)(1).

⁸⁰- A-V Law, Article 29(b)(2).

⁸¹- Apparently, a similar complaint mechanism does not exist regarding print media licensees. However, the PPL does contain rights of reply and correction.

⁸²- 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.

⁸³- For example, provisions in Articles 20(l), (n), and (o). See discussion in section VI.C.1, above.

⁸⁴- Law No 30 for the Year 2010, published in the Official Gazette on September 16, 2010.

As introduced on August 29, 2010, the temporary law presented a few improvements compared to an earlier draft that drew criticism at home and abroad. The first text, in early August, came under fire from local news websites and media organizations, as well as international watchdogs, for penalizing, in Article 8, crimes of defamation, slander or contempt committed online without defining them. With the removal of Article 8 from the initial draft, punishment of defamation-related offenses fell back to the Penal Code, which stipulates harsh penalties, including imprisonment.

Another change introduced amidst the wave of criticism was the requirement that law enforcement agencies obtain a warrant prior to searching equipment and offices of alleged violators (Article 13).

Articles 3-7 deal with hacking, data theft, financial crimes, and government corruption, assigning a system of fines and imprisonment for each of the offenses. For example, Article 4 states:

“Anyone introducing, publishing, or intentionally using a program via the Internet or using an information system aiming at cancelling, deleting, adding, destroying, disclosing, damaging, concealing, altering, changing, transferring, copying data, receiving, or enabling others to access data or information, or stopping or obstructing the functions of an information system or altering, cancelling, changing the contents, invading, assuming the character for, or impersonating the owner of an electronic website, without permission or in a way that exceeds or contravenes authorization, shall be punished by imprisonment for a period of not less than three months and not more than one year, or by a fine of not less than 200 Jordanian dinars and not more than 1,000 Jordanian dinars, or both.”

Articles 8-10 condemn the use of electronic means in pursuit of immodest materials, pornography, prostitution, and terrorism.

Articles 11 and 12 have been viewed as directly targeting online news media, although the government insists that was not the purpose of this Law. Article 11 stipulates a penalty for accessing websites and information systems without a license though it does not specify where such license would be acquired or what such a licensing process would entail. Article 12 provides for the search and seizure of equipment, stating:

A. Taking into consideration the conditions and provisions stipulated in related legislation, and the rights of the plaintiff, judicial police officers, after obtaining a warrant from the appropriate public prosecutor or appropriate judicial body, are allowed to enter any place suspected of being used to commit crimes stipulated in this law. They are also permitted to search equipment, tools, programs, systems, and means when the authorities have evidence of the materials' use in the committing of any of these crimes. In all cases, the officer who conducts the search has to organize minutes and hand them to the specialized prosecutor.

B. Taking into consideration the stipulations in paragraph A, and taking into consideration the rights of the plaintiff, as well as the bona fide exceptions and excepting those licensed according to the rule of the Communications Law and who have not participated in any of the crimes stipulated in this law, judicial police officers are allowed to confiscate equipment, tools, programs, systems, and the means used in committing any of the crimes stipulated in or covered by this law, money obtained from them, and seize information and data related to the committing of any such crimes.

C. The specialized court has the right to order the confiscation of equipment, tools, and means and stop or obstruct the function of any information system or electronic website used in committing any of the crimes stipulated above, or covered by the law, seize monies obtained through such crimes, and order rectification of the violations at the expense of the perpetrators of the crime.

Many aspects of the Law remain unclear, and many provisions are seen as overlapping with other legislation. For example, experts are debating whether instant messaging would fall under the ambit of the Temporary Law for Crimes of Information. If so, it would be possible for someone sending an instant message to be prosecuted for defaming a public figure under the Penal Code. Someone sending “unlicensed” government data, as classified under the Law on State Secrets and Documents, could face liability under Article 11 of the Temporary Law for Crimes of Information, penalties for harming state standing under Title 1 of the Penal Code, and Articles 13-15 of the Law on the Protection of State Secrets and Documents for disclosing government materials.

Legal experts have noted that several aspects as well as the language of the law must be clarified to ensure fair implementation and effective legal oversight, including definitions of access, computer and incitement; a clear review mechanism; and overlap with other Jordanian laws, including the Penal Code and the Press and Publications Law.

Media professionals have criticized the overbroad description of “incitement” in Article 14 and called for the deletion of Article 16, which extends the jurisdiction of the Jordanian judiciary to any case in which a Jordanian national or a resident of Jordan are involved, either as defendants or as plaintiffs.

Article 12, which allows for the search and seizure of materials appurtenant to cyber crimes investigations, also presents questions of criminal procedure, observers have said.

Finally, legal experts and media freedoms advocates have charged that the Law deviates from international best practices. According to the Council of Europe, “Member States shall not subject internet content to restrictions beyond those applied to other means of content delivery.”⁸⁵ Under international best practices, States should also refrain from adopting separate rules limiting internet content.⁸⁶

85- Council of Europe, Declaration of the Committee of Ministers on Freedom of Communication over the Internet, May 28, 2003.

86- Joint London Declaration, 2001, UN Special Rapporteur, OAS, OSCE.



**Chapter 4:
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 2010, 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 or 2010. 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 is 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 it 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.⁸⁷

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

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.⁸⁸ The law outlines a process for review, by the Higher Court of Justice, of requests that have been refused.⁸⁹ 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."⁹⁰ At the same time, as mentioned above, the State Secrets and Documents Law (Provisional Law No. 50 of 1971) contradicts and preempts application, in many cases, of the Access to Information Law

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,⁹¹ 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.

(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 restrictions must be "proportionate to the aim pursued."⁹²

88- 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.

89- 2007 Right of Access to Information Law, Article 17(A).

90- 2007 Right of Access to Information Law, Article 7.

91- 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.

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

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 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 by 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.⁹³

2. State Security Court Law

The State Security Court (“SSC”) is one of the “Special Courts” in the Jordanian legal system.⁹⁴ 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.⁹⁵

93- Article 10.

94- 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.

95- 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

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.⁹⁶ 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 the Minister of Justice.⁹⁷ 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.⁹⁸

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.⁹⁹ A defendant may appoint a defense attorney for his or her representation “before the court.”¹⁰⁰ As stated above, an SSC verdict may be appealed to the Court of Cassation.¹⁰¹

In a number of cases, the Court of Cassation has addressed the question of the hierarchical status of 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.¹⁰²

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.

Provisional Law No 5 for the Year 2010, amending the PPL, stipulated that cases involving publications or licensed audio-visual media be tried in special “media chambers” at the Court of First Instance.

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.

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

97- *Id.*

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

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

100- The textual phrase “before the court” makes it unclear whether a defendant may invoke this right during the pre-trial phase, or only at the trial itself.

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

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

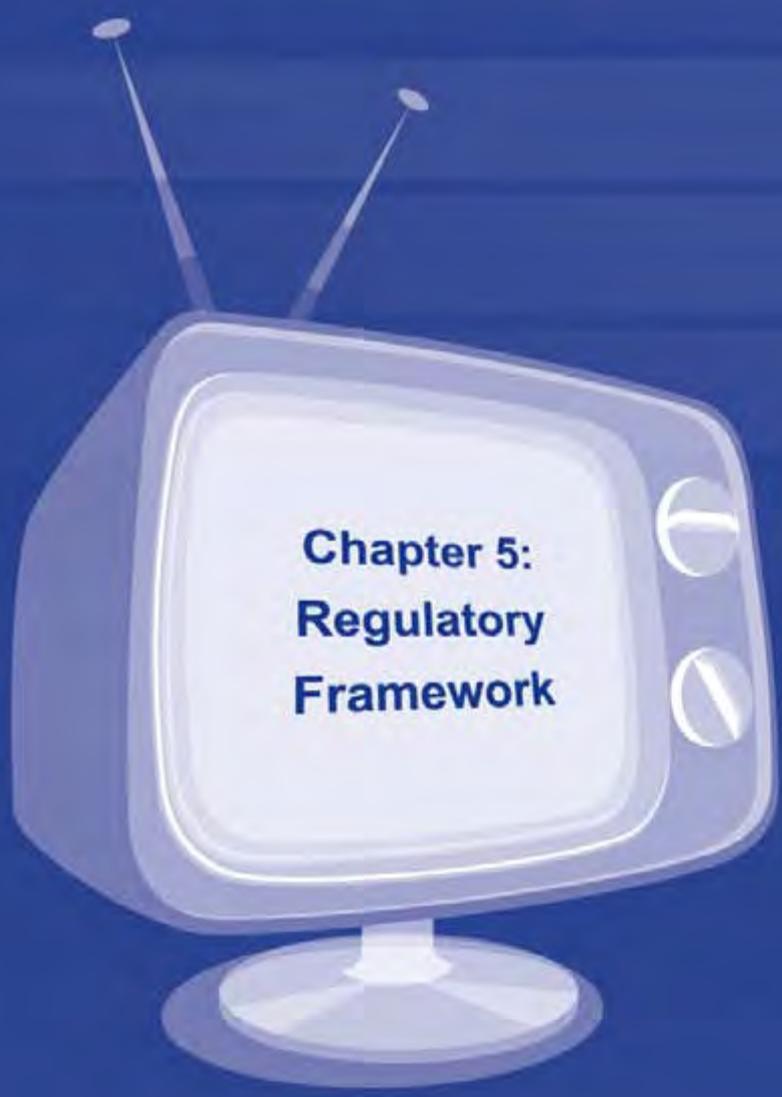
3. Contempt of Court Law

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.¹⁰³

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.

103- 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-Yawm" 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 5:
Regulatory
Framework**

1. To Converge or Not to Converge?

The regulatory framework for news media has been at the center of a very intense debate over the past 10 years, with various regulatory bodies being formed and empowered, merged and re-structured, dissolved and then resuscitated.

In 2001, the government abolished the Ministry of Information, which had long served as the focal point of media regulation in the Kingdom, and established two new institutions: the Audio-Visual Commission (AVC), responsible for the exercise of regulatory authority over the newly liberalized broadcast media sector, and the Higher Media Council (HMC).

The HMC was mandated to serve 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.”¹⁰⁴ In 2004, Parliament promulgated the Permanent Law No. 26 of 2004 for the Higher Media Council. In November 2008, however, Parliament issued another law, this time abolishing the HMC, upon the recommendation of the Council of Ministers.

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.”¹⁰⁵ Specifically, it called for the establishment of a commission “to regulate the media sector, and serve as an umbrella organization for the Audio-Visual Commission and Press and Publications Department.”

The 2007 Policy Statement for the Information and Communications Technology declared “the Government’s intention to create a single Communications Regulator, which would subsume the functions, although not the structures, of the Telecommunications Regulatory Commission (TRC) and AVC.”

Between 2008 and 2010, discussions on a possible merger of the AVC and TRC, reflecting a global trend towards convergence, reached a rather advanced stage, notwithstanding the tenacious resistance of some circles, including the AVC itself. A new “converged” law, to combine telecom and broadcast regulation, had been in the drafting process for more than two years. In late 2010, the Ministry of Information and Communications Technology issued an international tender for the legal review of existing legislation and advice on necessary amendments to existing and draft legislation.

However, a government decision in March 2011 called for the merger of the AVC and the Press and Publications Department (PPD), seemingly making regulatory convergence a more distant prospect.

The plan outlined in the National Agenda and apparently adopted by the government of Marouf Bakhit at the time of printing this primer bringing the regulation of print and audiovisual media under one body runs contrary to the way broadcasting and print media are normally regulated under international 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 body could make it more likely that print media will remain subject to licensing requirements and more

104- HM King Abdullah’s Letter of Designation to Prime Minister Ali Abul Ragheb, Dec. 2, 2002: [http://www.kingabdullah.jo/main.php?main_page=0&lang_hmka1=1].

105- <http://www.nationalagenda.jo>.

stringent regulation. Furthermore, in 2005, when the National Agenda was published, it must be remembered, converged technology was not yet part of everyday life, and no one yet checked the news on their mobile phones.

While there is some precedent, internationally, for agencies that have some common jurisdiction over broadcasting and aspects of print, this decision elevated, rather than diminished, the role of the government in print regulation, and left the broadcasting sector under the authority of two distinct regulators (AVC and TRC), at a time when the general international trend is toward convergence of the broadcasting and telecoms regulators. 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 announced the merger of the AVC and PPD, Jordan did not seem inclined to follow this global trend. At the time of publication, the actual effect of the announced AVC-PPD merger is unknown. Regardless of what is ultimately decided, the continued indecision and regulatory change in this matter is negatively affecting the industry. Operators are unsure of which body will license and regulate new technologies and how such regulation will be carried out. These regulatory ambiguities cause uncertainty in the marketplace, which hampers economic development in this dynamic and potentially high-growth sector. Furthermore, digitalization of broadcasting platforms in Jordan is set to occur by 2015 under a schedule and guidelines established externally through the International Telecommunication Union. If the AVC and TRC remain as distinct entities, clear coordination will be required throughout the digitalization process, as the TRC will license and regulate platforms and the AVC will regulate content. The current regulatory framework does not provide adequately for such coordination. Without some clarity, the development of Jordan's communications sector will suffer.

2. Regulatory Bodies and Media Institutions

(i) 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.¹⁰⁶ 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 1964.¹⁰⁷ Since the Ministry's abolition in 2001, it has been returned to the direct administrative supervision of the Council of Ministers. As of February 2009, the Cabinet was discussing plans to incorporate the PPD into the Ministry of Culture. That was until the Cabinet's decision in March 2011 to merge it with the AVC and create a new Media Sector Regulatory Commission a decision that will require legislative amendments and that experts and academics immediately questioned.¹⁰⁸

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

107- Id.

108- The Jordan Times, March 13, 2011.

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.¹⁰⁹ 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.¹¹⁰ 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.¹¹¹ 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.¹¹²

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."¹¹³ The department reportedly banned more than 1,200 books between 1955 and 1987.¹¹⁴

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.

(ii) Audio-Visual Commission

As mentioned earlier, the Audiovisual Commission (AVC) was established by the 2002 A-V Law.

Placed under the Council of Ministers, the AVC consists of a Director appointed by the Council of Ministers upon recommendation by the Prime Minister.¹¹⁵

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,¹¹⁶ rather than 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. Moreover, these government funds are not guaranteed, but rather the Council of Ministers must approve any donations or grants.¹¹⁷

(iii) 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.

109- 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>].

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

111- PPL, Article 35(B).

112- PPL, Article 31(B).

113- 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, published by the Jordanian newspapers on the following day.

114- Al Arab Al Yawm, 20/2/2006, the seventh day appendix.

115- 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.

116- A-V Law, Article 12.

117- A-V Law, Article 10.

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.¹¹⁸

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 is also 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.

(iv) 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.¹¹⁹

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:¹²⁰

- 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.

118- TRC Law, Articles 7 and 8(a).

119- 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.

120- Article 6 of the Jordan Radio and Television Corporation Law.

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 mechanism¹²¹ give the government a significant degree of control over JRTV.

(v) The Higher Media Council

As mentioned earlier in this chapter, this institution was short-lived. 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”).

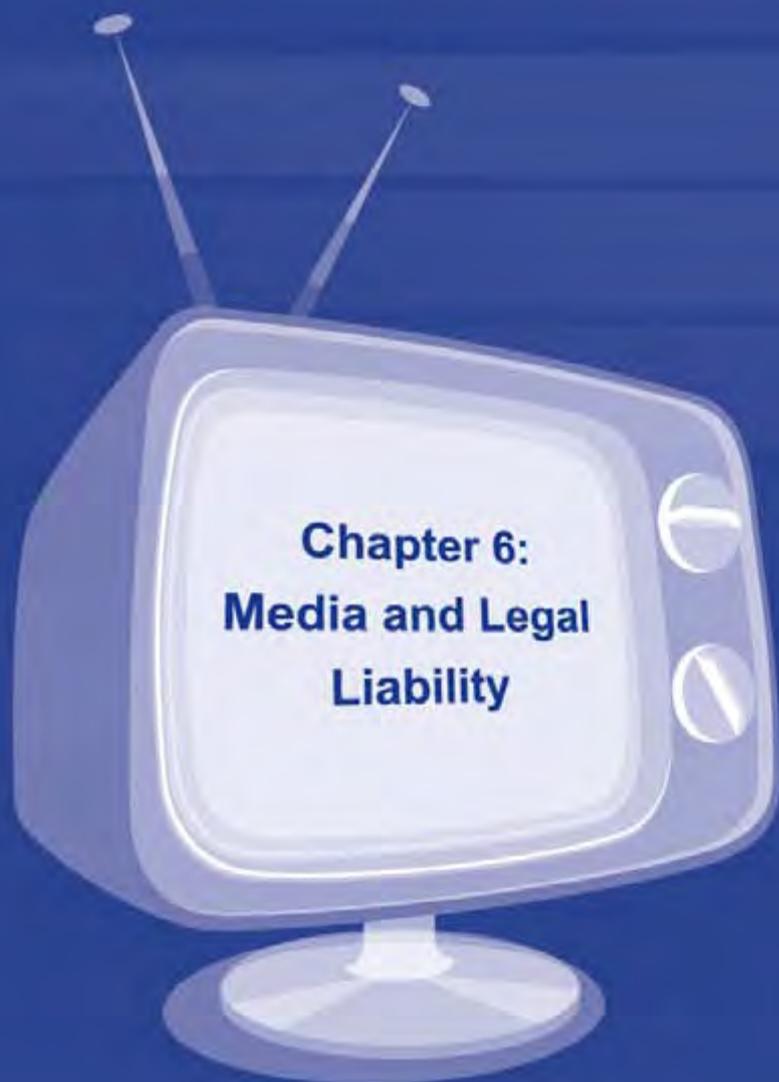
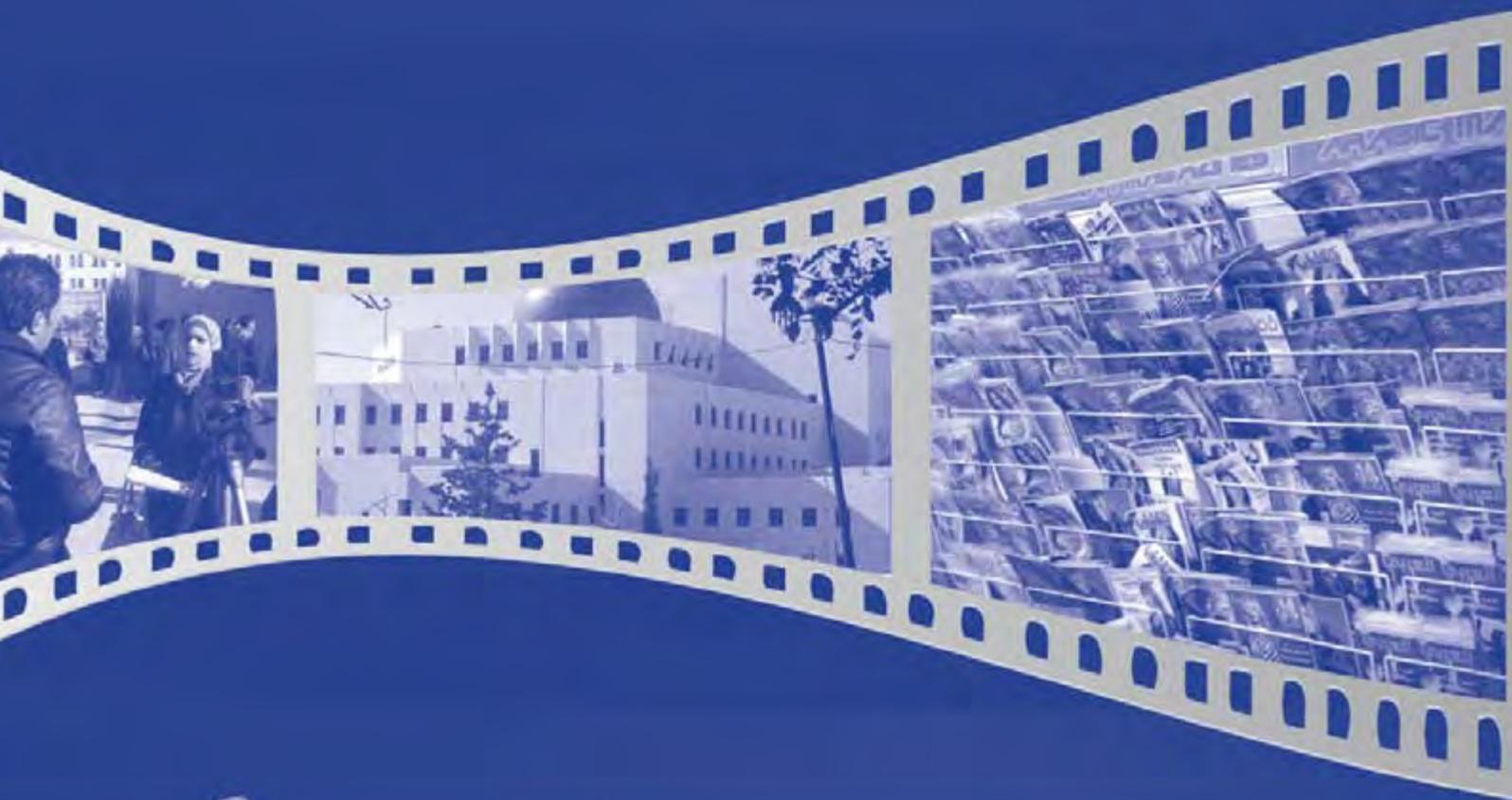
In October 2008, the Council of Ministers announced the intention to abolish the Higher Media Council,¹²² and a draft law for the cancellation of the HMC was submitted to Parliament in November 2008. The law annulling the Higher Media Council was published in the Official Gazette in December 2008.

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 the 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.

121- 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.

122- The Council of Ministers made the relevant resolution in a session held on Tuesday October 21, 2008.



**Chapter 6:
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,¹²³ confiscate books,¹²⁴ ban circulation of foreign periodicals¹²⁵ and more. Prior to this amendment, the Director of the Press and Publications Department had the sole power to make such decisions.

The 2010 amendment to the PPL established special chambers in the Court of First Instance for media cases.¹²⁶

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 PPL 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.

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.¹²⁷

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.¹²⁸

123- Article 19/b.

124- Article 35/b.

125- 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.

126- Provisional Law No 5 of 2010, amending the PPL.

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

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

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 the 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.¹²⁹

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.

(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. Under Article 23(c) of the PPL, 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. **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.

¹²⁹- 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.

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.¹³⁰

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.

(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 therefore 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 the 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.¹³¹ 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.

130- 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.

131- Penal Procedure Code, Article 114.

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.¹³² 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.¹³³

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.¹³⁴ 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,¹³⁵ 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";¹³⁶ 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."¹³⁷ 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."¹³⁸

132- State Security Court Law, Article 7(1)(b)(1).

133- 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.

134- 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.

135- Penal Code, Article 195.

136- 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.

137- 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]

138- 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.”¹³⁹

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.¹⁴⁰

(ii) Revocation of publication licenses

A periodical publication license shall be deemed revoked by law in any of the following conditions:¹⁴¹

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.

¹⁴⁰- Details provided by Mohammad Qtaishat, in possession of author.
¹⁴¹- 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.”¹⁴²

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.¹⁴³ 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.¹⁴⁴

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

144- 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.¹⁴⁵ 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.¹⁴⁶

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."¹⁴⁷ 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.

145- Article 20(n).

146- Article 29(b).

147- Article 150 of the Penal Code.



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, and 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 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 in Jordan, 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, and 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 creating 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 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 remaining trial of journalists occurs exclusively before civil courts
- Making libel and slander civil, and not criminal, offenses, in line with international standards¹⁴⁸
- 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 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”¹⁴⁹
- 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

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, 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

¹⁴⁸ <http://www.article19.org/advocacy/defamationmap/overview.html>.

¹⁴⁹ These principles are a result of long studies, analyses 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).

- 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.



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