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License to Censor: The use of media regulation to restrict press freedom - Lebanon

Population: 3,876,000

Press Freedom Status: Partly Free

Licensing for print outlets: YES

Licensing of journalists: NO

Independent Regulatory Body(s): NO

Introduction

Lebanon has enjoyed a rather unique experience regarding freedom of expression and the press compared with other countries in the Middle East and North Africa region, with a diverse, privatized media landscape. With about 10 privately owned daily newspapers in four languages, and more than 1,500 weekly and monthly periodicals, Lebanon produces about half of the region's print publications.¹²² The country of four million people has nine television stations, two digital cable companies, and about 40 radio stations – five of which account for the majority of the 85 percent of the population reached by radio.¹²³ Also, access to satellite television has grown substantially over the last decade. Lebanese media workers continue to have more freedom than their Arab counterparts, though intimidation and self-censorship – which stem from local sectarian dynamics and interference by Syria and Israel, rather than actions by the Lebanese state – have led to some violations of, and restrictions on, media freedom.

Article 13 of the Lebanese constitution contains the standard rhetoric of freedom of expression and guarantees for free media.¹²⁴ But they are not absolute freedoms; rather, they are circumscribed by the interests of public order, national unity and security. Article 75 prohibits publishing news that "contradicts public ethics or is inimical to national or religious feelings or national duty," and violators face fines if found guilty. Journalists are also prohibited from insulting the head of state or foreign leaders, and those charged with press offenses may be prosecuted in a special publications court. In November 2009, for example, a reporter with *Al-Kalima* newspaper was charged with insulting President Michel Suleiman in an appearance on Murr Television, widely known as MTV. The penal code contains provisions related to content and journalists, and these provisions permit prison sentences for some transgressions, such as blasphemy, which can result in up to a year in prison under Article 473, though this article is rarely used. In general, legal restrictions are invoked far less often in Lebanon than in other Arab states, and the security services play a much smaller role in regulation and enforcement. Nevertheless, the Lebanese media watchdog SKeyes counted 50 cases of legal action, typically libel or slander accusations, against journalists in 2010 alone.

The impetus for institutionalizing legal and regulatory structures for the Lebanese media was the civil war, during which the completely unregulated media became an additional weapon in sectarian arsenals. The 1989 Taif Agreement ended the civil war and restructured the political system of Lebanon. The hybrid sectarian model of media regulation in Lebanon reflects the country's unique confessional system,¹²⁵ its liberal market leanings, and its reliance on cultural requirements for content and ownership. Reference to the Taif Agreement makes it clear how these limits should be conceived. It specifies that "information media" enjoy "responsible liberties" and that organization of the media must "serve the cautious tendencies and objective of ending the state of war."¹²⁶ While the second clause no longer holds today, the cautious tendencies are reflected in the current Audiovisual Media Law, which took more than a decade to pass because of disagreements about representation and preserving the confessional

balance. New legislation enacted in the lead-up to the June 2009 parliamentary elections required news outlets to "ensure equity, balance, and objectivity between all candidates and abstain from supporting or promoting any candidate." Blogs emerged in 2006 as a critical news source and communication tool during the Israeli invasion of Lebanon. Blogs are unregulated and rarely censored, and although bloggers have been targeted by the state, such incidents are relatively uncommon.

Laws Relating to the Regulatory Framework

The law governing the press dates back to 1962, when there were more than 400 newspapers. The licensing of newspapers is governed by this law, which differentiates licensing for political and nonpolitical publications and imposed a moratorium on new licenses. These licenses must be used within six months of issue or they will be revoked. The licenses, however, permit publishing only up to six days a week, so publications that wish to publish every day must obtain two licenses. But this can be difficult because the moratorium on the number of new political licenses increase the expense of obtaining this type of license. Foreign publications must be imported or else printed and sold in the country through a partnership with a Lebanese subsidiary that has the proper licenses, although foreign political publications also face difficulty obtaining licenses. A1953 Decree (No. 74) stipulated that as long as Lebanon had more than 25 dailies and 20 weeklies, no new political newspaper license would be issued.¹²⁷ At that time Lebanon had 45 licensed political papers, while today there are 110 licensed political papers.

Syndicates for journalists and editors, and for publishers, were established by the 1953 decree, with the cabinets of each syndicate joining to form the Lebanese Press Union (Itihad as-Sahafa al-Lubnaniah) that claimed to represent all Lebanese media workers. The Lebanese Press Syndicate (Nakabit as-Sahafa), for print owners and publishers, is traditionally headed by a Sunni Muslim, and for the past decade, Mohammad Baalbak has been the leader, with five Maronite Christians sitting on the council.¹²⁸ There is also the Editors' Syndicate (Nakabat-al-Muharireen) for journalists and editors, which was founded in 1941 and is typically headed by a Maronite Christian. Melhem Karam was the leader for 50 years until his death in June 2010. Although technically there are elections, both men led their respective syndicates for decades, resulting in allegations of nepotism and cronyism and a lawsuit in 2010 that barred elections for a new president until the bylaws were revised. Furthermore, Karam owned print publications, causing debate over whether press owners should be allowed to join the journalists' syndicate. According to journalism professor Magda Abu-Fadil, both Karam and Baalbak "had obstructed changes in their extremely exclusionary organizations and had barred many qualified journalists from membership."¹²⁹ There is no union or syndicate for broadcast journalists.

The Press Law created a Higher Press Council charged with drafting the Lebanese Press Union bylaws and handling "all problems of common interest to journalism and journalists in general."¹³⁰ The council includes executives of the two main syndicates, an elected member from each syndicate, and two representatives of the Ministry of Information. The Press Law also defines the requirements for becoming a journalist, which include being least 21 years of age, holding the equivalent of a Lebanese baccalaureate degree, having practiced the profession for at least four years after applying for apprenticeship or holding a journalism degree, having no criminal record, and practicing journalism as one's only profession.¹³¹ Although the law defines who is considered a journalist, it is vague as to whether journalists must register in order to practice journalism in the country, though in any case these requirements are not enforced.

Lebanon's Audiovisual Media Law (n.382 of 1994) was passed in 1994, after challenging three successive governments to deal with the problems of liberalizing an arena that is especially contentious given the fractious sectarianism of Lebanese politics.¹³² The impetus for the law was the end of the civil war, during which more than 50 television and 100 radio stations – most unlicensed – bloated the spectrum as each political faction vied for political advantage.¹³³ During the war, "political factions believed a radio voice to be almost as important as guns," and thus a station was necessary both to be considered a powerful organization and to triumph over one's enemies.¹³⁴ They were also targets in the war. But just as the balkanization of radio demonstrated the breakdown of government authority, in today's era of global media the government is once again in crisis and the airwaves are once again an important front in the battle for public opinion. The proliferation of satellite news channels controlled by factional heads echoes the use of broadcast media during the civil war.

The Audiovisual Media Law was implemented in 1996, making Lebanon the first Arab state to authorize private radio and TV stations to operate within its borders. The law is an ideologically convoluted document that seeks to create a liberal model of broadcast regulation but is held captive by sectarian political interests and nationalist imperatives. The law created four categories of licenses, detailed the requirements for obtaining a license, and set up the National Council of Audio Visual Media (Conseil National de l'Audiovisuel or CNA) under the purview of the executive branch, with an advisory committee of nongovernmental experts. A presidential decree stipulated some disturbing requirements and restrictions for content that proved highly contentious among professionals and the public. These include requirements that some content be produced locally, limits on controversial programming, and obligatory public service announcements to be provided by the government. The decree that clarified some of the law's provisions limits newscasts to 280 hours per year, with no more than 15 minutes of

the law's provisions limits newscasts to 200 hours per year, with no more than 15 minutes of news at a time.

Furthermore, the law divides the media (both radio and television) into two categories with different purposes and rights: Category One stations are allowed to broadcast news and political programming, while Category Two are not. Those granted Category One licenses pay significantly more and are subject to limits on newscasts, prohibitions on coverage of live political content, and restrictions on religious programming. Such policies infringe on the rights of citizens "to receive and impart information" and to participate in their government as guaranteed by the Universal Declaration of Human Rights, which Lebanon added specific reference to in a 1990 addition to its constitution. Limited access to information about the government makes it difficult for the people to fully participate in it. Such strictures also seem to go against the spirit of the constitutional provision requiring that meetings of the National Assembly, Lebanon's legislative body, be public, since the public most often gains access to the government indirectly via the media's coverage of legislative sessions rather than directly by attending them.¹³⁵ The law is preoccupied with foreign interference, reflecting Lebanon's concerns about the nationality of owners and content producers stemming from its experience as an occupied country under Syrian influence. Thus the law requires that owners and shareholders be Lebanese citizens and mandates that news programs be produced locally. Such cultural protections and interference by the state conflict with liberal market imperatives, putting the Audiovisual Media Law at odds with the major thrust of the Telecommunications Law, described below.

The government made a stumbling effort to ban satellite television until 1998, by which time LBCI (the satellite version of the Lebanese Broadcasting Corporation, or LBC) and Qatari-based Al-Jazeera had already shown that this medium was going to become popular quickly. But there was no regulatory framework for the telecom sector at a time when competitiveness was becoming ever more important. Thus in 2002 Lebanon enacted its Telecommunications Law as part of an attempt to liberalize and privatize the telecommunications industry, including radio and television. The defining principle in the law is competition, revealing a public sphere conceived of as a marketplace. Both private and public providers of services are required to adhere to competitive behavior or the government can intervene to facilitate or impose competitiveness. It prevents geographic discrimination and requires that all nationals and districts be served by the telecom sector, a requirement that is especially important given the sectarian nature of Lebanese society. Sectarian groups tend to live in geographically distinct areas, and thus this comprehensive service obligation can be seen as a legacy of Lebanon's sectarian history. Although many other countries also have similar provisions, it is useful to understand how Lebanon's sectarianism makes equal provision especially sensitive.

The law lays out the competitive design for the telecom sector, describing how competitiveness is to be ensured through preventing monopolies and cartels, and set up the Telecommunications Regulatory Authority (TRA). The TRA monitors noncompetitive behavior and transparency and prevents the nonuse of licensed frequencies or their resale without specific approval. Furthermore, the law adopts a central proposition of competitiveness and accountability – the principle of publicity, or transparency, although the lack of an access to information law means that often times information is difficult to obtain. What is most striking about this law, however, is what is not in it. Most significant is the absence of a national security imperative. Although Article 47 directs telecom providers to give first priority to the security corps and civil organizations under their purview "upon occurrence of events touching on national security," this access is not exclusive. There are no other mentions of national security, unity, or other tropes commonly deployed in the region to restrict information freedom.

The Telecommunications Law also created the Telecom Regulatory Authority as a financially and administratively autonomous body, although the minister of telecommunications recommends the chair and its four full-time members, who are then appointed to five-year terms by a decree of the Council of Ministers. The TRA Administrative and Financial Regulations of 2005 sets out the requirements for composition of the board and the rules to reduce conflicts of interest, and sets up four administrative units and their purviews. In order to ensure their impartiality, appointees must disclose their own financial interests as well as those of their immediate family, and cannot hold paid or unpaid work during their tenure or work in specific industries for two years following the end of their term. The TRA is required to develop the regulations to govern the successful and competitive functioning of the telecom sector, and is also required to organize public meetings and consultations. Throughout the law, various provisions call for the TRA to publish decisions, appeals, and applications in the official Gazette and two newspapers so that the public may be informed. It also mandates the dissemination of information by the authority to the public, a requirement that is rather rare in this part of the world.¹³⁶ But although the law mandated the body become financially independent within two years of its establishment, this has not occurred and thus its ability to grant licenses has been stymied, especially with respect to the internet.

The 2008 Electoral Law also contains provisions regulating media content, specifically requiring that broadcasters ensure balanced and impartial coverage that avoids incitement of violence or divisions. It also requires that political advertising space be clearly delineated and indicate the sponsor, that the same conditions apply to all ads, and prohibits the publication or broadcast of such ads or opinion polls in the 24 hours preceding election day through the close of polls.¹³⁷ The law created the Supervisory Commission on the Electoral Campaign (SCEC), which monitors

distribution. In 2010 the SG banned screenings of Degaulle Eid's documentary *Chou Sar? (What happened?)* at two film festivals without providing justification or written notice; the film chronicled one man's experience with a village massacre in 1980. The SG also banned *Persepolis*, the award-winning film based on a graphic novel about the Iranian revolution.

The Audiovisual Media Law set up a regulatory council, the CNA, under the purview of the executive branch, with an advisory committee of nongovernmental experts. The CNA is charged with monitoring the media, ensuring the law is followed, and reviewing license applications prior to making recommendations to the cabinet within 45 days of submission. It is not clear whether the requirements and restrictions regarding limits on political and news coverage are indeed adhered to, although it appears that they are not, since there are numerous 24-hour news stations as well as half-hour newscasts several times per day on other channels. Licenses are granted for 16 years and must be renewed three years prior to expiration. Law 531 specifically regulates satellite channels, placing responsibility for granting and revoking licenses with the cabinet rather than the council, and without reference to the National Assembly. While both the CNA and the TRA have the right to grant licenses, the TRA has the capacity to grant the right to use radio frequencies based on their availability and the technical capacities of the applicant, rather than issuing licenses based on the political and nonpolitical categories. The TRA also issues licenses for other telecommunications services, such as telephone and the internet. In practice, it appears that these two bodies have overlapping mandates, and that the law does not specify which types of licensing fall under each body's purview.

According to a study by Internews, the 10 members of the CNA "were politically selected along confessional lines, half by the National Assembly and half by the cabinet, but they also were recognized for their intellectual, literary, scientific, and technical backgrounds and experience."¹⁴¹ This enables the government to use licensing for political remuneration since it holds all the decision-making power, which appears to be exactly what happened following passage of the law, when only four television stations were granted licenses, including one that did not even exist yet. All of these stations belonged to powerful political leaders and seemed to fall short of the requirements for the financial viability of license holders.¹⁴² Nonetheless, more than a decade after the law was enacted, the spectrum has filled out, though stations continue to be affiliated with political parties or sectarian leaders as opposed to being independent or autonomous. There are no recent reports of station closures by the government; however, no independent companies or organizations have recently been granted licenses either.

As part of the implementation of the Audiovisual Media Law, several small radio and TV stations were subsequently declared "illegal" and thus closed, with the new licenses being given to corporate conglomerates linked to influential politicians that served to reinforce sectarian divisions. One of the main objectives of the law was to prevent political parties from controlling stations by limiting any individual or family from owning more than 10 percent in a television company, though this has not been enforced. The Future TV 24-hour news station – owned by the family of assassinated former prime minister Rafik al-Hariri – as well as Christian leader and MP Michel Aoun's Orange TV and businessman Tahsin Khayat's NTV (New TV) made political compromises so they could join the ranks of other political factions with satellite media. Other such stations include LBC, owned by Saudi Prince Walid bin-Talal and head of the

media. Other such stations include LBC, owned by Saudi Prince Wafiq bin-Fatani and head of the Lebanese Forces Sameer Geagea, the Shiite movement Hezbollah's Al-Manar, parliament speaker and leader of the *Amal* movement Nabih Berri's National Broadcasting Network (NBN) and MP Gabriel Murr's MTV. The anti-Syrian MTV was permitted to resume broadcasting in 2009 in time for the elections, following its 2002 closure after it promoted Murr as a parliamentary candidate.

The Audiovisual Media Law contains the stipulation that if a station does not abide by the law, the CNA can recommend that the minister of information order a three-day suspension of its operations for a first infraction.¹⁴³ A second violation can result in a recommendation by the minister to the government that the alleged violator's transmissions be terminated for up to one month. Although the law does not specify how a station can present evidence to counter the council or minister's recommendations or appeal such decisions, Article 24 notes that any government-issued decision can be reviewed before the State Jury. Article 35 specifies that the journalist syndicates, councils and court system are responsible for enforcing media laws and decrees. Appeal cases are sent to a special court that must review the legalities of the case within one year and determine its constitutionality. If the court finds that the penalties imposed by the information minister were unconstitutional, a television station can claim up to 10 million Lebanese pounds (\$6,660) for every day of non-transmission, and a radio station, up to 3 million Lebanese pounds (\$2,000) per day. However, no cases of suspension or termination under these procedures have recently been reported.

Efforts by the profession to provide a measure of self-regulation fall under the purview of the journalists' syndicate, which is governed by a Charter of Professional Honor adopted in 1974. In 2008, of an estimated 3,000 working journalists in the country, only 1,086 were registered with the syndicate, according to the *Monthly*. In previous years, some journalists reported that they had tried to register and were unable to, with some of them being told their applications had been lost.¹⁴⁴ There was a case in 2000 in which a journalist was accused of libel, and because he was not a member of the press syndicate, was also accused of impersonating a journalist. Karam interceded on his behalf, arguing that only the syndicate had the right to file such charges, and the impersonation charge was dropped. Maharat criticized the syndicates for failing to react to the dismissal of dozens of media personnel in 2009, asserting that their failure to take any initiative in response to a round of firings across the media spectrum confirmed the weakness of the syndicates.

Although the charter refers to members of the press and specifically those working at newspapers – as it was written prior to the proliferation of broadcasting technologies and news programming – it nonetheless should be considered to govern all types of journalists. The audiovisual and telecommunications laws specifically apply the laws governing the press to other communication technologies, and thus the code of ethics contained in the charter could be extended to these areas as well. This code of ethics lays out the role and responsibilities of the press, namely its role as both an institution of public service and a commercial industry. It strikes a balance between the liberal model of communications, based on private commercial interests, and the cultural model of nationalist interests that serve the public by mobilizing "public opinion in defense of the country."¹⁴⁵ The tension between the two models, however, is resolved in the last point of the charter, point 15, where public service is identified as paramount, superseding a newspaper's "success or continuation." The document lays out standard guidelines of professionalism, including the responsibility to be truthful and accurate, to protect one's sources, and not to publish unconfirmed news without explanation. The boundaries of press intrusion lie at the private life of individuals. Publications are urged to avoid slander, insult, "character assassination," and incitement, harkening to Lebanon's long experience with professional journalism, which bears upon current practices.¹⁴⁶ There does not appear to be a clear process or mechanism for making complaints against the print media under the charter, however.

The Audiovisual Media Law gives individuals and entities the ability to defend themselves "against any allegations transmitted by any TV or radio institution" through the right to proportional response, although the law does not specify how such a response should be made or to whom. With issues related to the public interest or administration, the minister of information can request a correction or retraction. Thus complaints against broadcast media can ostensibly be made to the Ministry of Information, although the mechanism for doing so is not specified in the law.

Conclusion and Recommendations

Lebanon's regulatory structures replicate sectarian political structures, politicizing the media and impeding the development of a robust independent media. The media's partisanship during the 2009 elections, for example, resulted in media outlets becoming tools of political factions and taking sides rather than remaining impartial observers. The sectarian approach to licensing discourages independent, unaffiliated media from developing, and reinforces divisions rather than building a sense of community and national identity. The ensuing ownership structures in turn impact the balance and objectivity of news media and create barriers to professionalization of journalists.

Although Lebanon's media industry enjoys relatively more freedom than its regional counterparts, the country's media regulation is antiquated and needs to be updated for the

21st century. The regulatory structures limiting licenses for news coverage are an undue restriction on free speech, and mean that political connections are needed to obtain a news license. In light of the increasing popularity of the internet – which has about a 25 percent penetration rate in Lebanon – as a news publishing and broadcasting platform, it makes little sense to restrict who can broadcast news. The syndicates are sclerotic and do not play much of an advocacy or protection role. Given the ambiguity over membership requirements, it is recommended that the Press Law be amended to clarify that membership in a syndicate is not required to practice journalism in the country. It is also recommended that traditions of sectarian leadership be replaced with democratic processes in the election of syndicate heads.

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124 "Lebanon Constitution," Article 13, accessed at: http://www.servat.unibe.ch/icl/le00000_.html

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[141](#) Internews Country Report, "Lebanon," p.9, accessed at:
<http://www.internews.org/regions/mena/amr/lebanon.pdf>

[142](#) Boyd 1991; Kraidy 1998; Human Rights Watch, *Restrictions on broadcasting*.

[143](#) Audiovisual Media Law Chapter 7, Article 35

[144](#) Rasha al-Atrash, "Struggle over the press syndicate," 14 June 2010, *Now Lebanon*, accessed at: <http://www.nowlebanon.com/NewsArchiveDetails.aspx?ID=177308>

[145](#) Charter of Professional Honor, 1974, Point 5; see also Kaarle Nordenstreng, ed., *Journalist: Status, Rights and Responsibility*, Prague: International Organization of Journalists, 1989, p.174-175.

[146](#) Charter of Professional Honor, 1974, Points 6 and 13.

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