

The Protection Of Sources In Journalism In Lebanon

Comparative Approach



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Problem: How does the protection of sources in Journalism in Lebanon manifest, when compared to the international standards and best practices from comparative cases, and which entity provides most protection? Does it fall only under regulation or do syndicates, press unions and councils have any role?

Journalists do not have the right to protect their sources under Lebanese law, and there are no written professional and ethical rules adopted in the media to protect journalistic sources. Press sources are considered among the most important sources of information that provide investigative journalism with materials related to the public interest and exposing corruption. International laws and charts have mentioned the importance of securing protection for journalists in the course of their work, as the absence of regulations that protect sources against physical and moral violence and that ensure the flow of information will discourage sources from assisting the press in informing society on matters of public interest and therefore disable accountability. As a result, the role of the press may be undermined and the ability of the press to provide accurate and reliable reporting may be adversely affected.

Some national frameworks stipulate the protection of journalistic sources such as the First US Amendment, the European Court, the European Union... There are many international media outlets that have specific and written rules that they use to protect the sources that journalists work with.

This study aims to review the international principles in the field of protecting journalistic sources. And learn about the experiences of democratic countries, by highlighting how they organized this issue and where the protection of journalists' sources is tenable (in the law, jurisprudence, or in the professional rules used by the media).

This study will assist Maharat Foundation in providing appropriate suggestions and recommendations for the development of a system seeking the protection of journalistic sources in Lebanon.

I. INTERNATIONAL OVERVIEW (COMPARATIVE CASE STUDIES)

INTERNATIONAL AND UNITED NATIONS FRAMEWORKS

Core international standards related to freedom of expression and the protection of the press stands under the framework of Article 19 of the International Covenant on civil and political rights, which states:

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

General comment No. 34 by the human rights council also mentions in its 45th remark “States parties should recognize and respect that element of the right of freedom of expression that embraces the limited journalistic privilege not to disclose information sources”.

Furthermore, after perceiving challenges faced by the right to protect journalistic sources, UNESCO (2015) published, a vigorous and comprehensive source protection framework that would tackle the need to:

- Recognize the value to the public interest of source protection, with its legal foundation in the right to freedom of expression (including press freedom), and to privacy. These protections should also be embedded within a country's constitution and/or national law.
- Recognize that source protection should extend to all acts of journalism and across all platforms, services and mediums (of data storage and publication), and that it includes digital data and meta-data.
- Recognize that source protection does not entail registration or licensing of practitioners of journalism.
- Recognize the potential detrimental impact on public interest journalism, and on society, of source-related information being caught up in bulk data recording, tracking, storage and collection.
- Affirm that State and corporate actors (including third-party intermediaries), who capture journalistic digital data must treat it confidentially (also acknowledging the desirability of the storage and use of such data being consistent with the general right to privacy).
- Shield acts of journalism from targeted surveillance, data retention and handover of material connected to confidential sources.
- Define exceptions to all the above very narrowly, so as to preserve the principle of source protection as the effective norm and standard.
- Define exceptions as needing to conform to a provision of “necessity” and “proportionality” – in other words, when no alternative to disclosure is possible, when there is a greater public interest in disclosure than in protection, and when the terms and extent of disclosure still preserve confidentiality as much as possible.

- Define a transparent and independent judicial process with appeal potential for authorized exceptions, and ensure that law-enforcement agents and judicial actors are educated about the principles involved.
- Criminalize arbitrary, unauthorized and willful violations of confidentiality of sources by third-party actors.
- Recognize that source protection laws can be strengthened by complementary whistleblower legislation.

Also, The Human rights council resolution 33/2 (September 2016) on the safety of journalists emphasized on the cruciality of encryption and anonymity tools for journalists which include the protection of journalistic sources.

In addition, the report issued by the UN Rapporteur on Freedom of Expression in 2016 can be considered one of the most relevant international document on this matter so far, as it discusses the challenges of freedom of expression and opinion, including reform laws jeopardizing the anonymity of sources and whistleblowers.

Hence, many private international and regional agreements that emphasized the protection of sources of journalism by journalists and media unions can be mentioned. On the more regional level, the 2019 Convention on the Protection and Independence of Journalists and Other Media Professionals, which representatives of the middle east, including Lebanon attended, addressed the right to protect the rights of sources in journalism in article 5 of the convention, paragraph 4:

The States Parties undertake to protect, in law and in practice, the confidentiality of journalists' sources, in acknowledgement of the essential role of the media in fostering government accountability, subject only to limited and clearly identified exceptions set down by law in accordance with paragraph 2 of this article.

According to principle 9 of the Global Principles on the Protection of Freedom of Expression and Privacy – set and published by ARTICLE 19 (2015) within its standards series and were the result of a process of study, analysis, and drawing on the extensive experience and work of ARTICLE 19’s regional offices and partner organizations in many countries around the world– the following principles apply to the protection of sources:

“9.1. The right to freedom of expression implies that everyone who obtains information from confidential sources with a view to exercising a journalistic activity has, subject to Principles 9.2 (a) and (b), a duty not to disclose the identity of their confidential sources and a right not to be required to do so.

· 9.2. States should provide for the protection of the confidentiality of sources in their legislation and ensure that:

· (a) Any restriction on the right to protection of sources complies with the three-part test under international human rights law...;

· (b) The confidentiality of sources should only be lifted in exceptional circumstances and only by a court order, which complies with the requirements of a legitimate aim, necessity, and proportionality. The same protections should apply to access to journalistic material;

· (c) The right not to disclose the identity of sources and the protection of journalistic material requires that the privacy and security of the communications of anyone engaged in journalistic activity, including access to their communications data and metadata, must be protected. Circumventions, such as secret surveillance or analysis of communications data not authorised by judicial authorities according to clear and narrow legal rules, must not be used to undermine source confidentiality; and

· (d) Any court order under 9.2 (b) and (c) must only be granted after a fair hearing where sufficient notice has been given to the journalist in question, except in genuine emergencies.”

These recognized frameworks, conventions and resolutions aim to overcome expanding and new challenges related to issues of non-specific and vague laws, strategic lawsuits against public interest, accreditation regimes, access to information, and surveillance while strengthening and progressing the profession of journalism and its accountability all over the world.

UNITED STATES

Professional journalistic practice requires multi-sourcing, corroboration and verification, confidential sources are a crucial element of this practice. Without confidential sources, many acts of investigative story-telling—from Watergate to the major 2014 investigative journalism project Offshore Leaks according to the International Consortium of Investigative Journalists – may never have surfaced.

In the United States, the state is first hand on the protection of sources of journalism that is also known as the Reporter's privilege. It is under the Free Flow of Information Law of the US that mentions the “reporter's protection under constitutional or statutory law, from being compelled to testify about confidential information or sources.” It may be described as a statutory right many jurisdictions have given to journalists in protecting their confidential sources from being exposed. Most states have ratified statutes called shield laws protecting journalists' anonymous sources.

A shield law is a legislation designed to protect reporters' privilege. This privilege involves the right of news reporters to refuse to testify as to the information and/or sources of information obtained during the news gathering and dissemination process. However, these laws vary from one state to another. Some protections apply to civil but not to criminal proceedings. Other laws protect journalists from revealing confidential sources, but not other information.

On the institutional level, many media outlets like the New York Times and Washington Post have taken initiative asserting in-house policies in order to assure that journalists' sources are kept anonymous, without the fear of integrity nor credibility. Examples of these policies: keeping the relationship between the reporter and the source professional, identifying legitimate sources, trusting your own judgement, making sure to inform the sources on confidentiality and the course of law, avoiding bias...

For instance, during a leak investigation, the Justice Department has been stuck in controversy for weeks under the Trump administration concerning steps taken to try to secretly seize reporter's phone and email records in order to reveal journalistic sources, especially after the New York Times lawyers reported that they had been prohibited by a magistrate judge from revealing a court order to turn over email records. This stands as a set back for the public to access information, and it violates the right to privacy as well.

On one hand, some constitutional protection of journalistic privilege regarding sources is provided by both the federal and state constitutions. More significantly, a number of state shield laws provide journalists with a privilege against compelled disclosure of their sources. Hence, Self-regulation of the media when it comes to Protection of sources of journalism only lies in internal policies of certain outlets and is not enhanced by a supervisory body that is independent from the state, but instead, these policies are to be followed willingly by stakeholders.

EUROPE

The European Court of Human Rights, the court of law of the Council of Europe, has repeatedly emphasized that Article 10 of the European Convention on Human Rights safeguards not only the substance and contents of information and ideas, but also the means of transmitting it. The press has been accorded the broadest scope of protection in Court, including with regard to confidentiality of journalistic sources.

The court specifically stated:

“Protection of journalistic sources is one of the basic conditions for press freedom.... Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result, the vital public-watchdog role of the press may be undermined and the ability of the press to provide accurate and reliable information may be adversely affected. Having regard to the importance of the protection of journalistic sources for press freedom in a democratic society and the potentially chilling effect an order of source disclosure has on the exercise of that freedom, such a measure cannot be compatible with Article 10 of the Convention unless it is justified by an overriding requirement in the public interest.”

Article 10 provides:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

The council of Europe also issued Recommendation No. R (00) 7 on the right of journalists not to disclose their sources of information.

On another scale, standards and recommendations seeking to strengthen the commitment to the protection of journalists' sources across Europe were developed such as, the Resolution on Journalistic Freedoms and Human Rights adopted during the 4th European Ministerial Conference on Mass Media Policy of the Council of Europe in 1995. The Organization for Security and Co-operation in Europe (OSCE) is an inter-governmental body across Europe, that aims to provide protection of the confidentiality of journalists' sources and to enable journalists to contribute to the maintenance and development of genuine democracy.

Likewise, the European Parliament (EP), which is more of a political agent than the previous council of Europe, conceded an important resolution on the protection of journalists' sources in 1993.

In the cases of France, Germany and Sweden, courts have rarely forced journalists to reveal confidential sources. The media tends to be offered greater protection than are private individuals because they are seen to play an instrumental and crucial role in safeguarding the right of the public to information and ideas on matters of public interest.

France

While the French Parliament adopted Law 2010-1 of January 4, 2010, on the Protection of Journalistic Sources. The Law allows journalists to keep their sources secret unless “a preponderant public interest need” can be highlighted. It further provides that in a criminal case of high gravity and intense nature, only the right to keep sources secret can be infringed. However, this law has been put in question many times after the terrorist attacks in France, which have triggered debate on civil liberties as the authorities gain greater powers over freedom of expression. The Intelligence Act of 24 July 2015, aiming to prevent terrorism and other threats to national security, has led to fears on confidentiality laws protecting journalists’ sources.

While the Protection of journalistic sources is explicitly recognized by the law, in practice, some violations have taken place. But the National Syndicate of Journalists (SNJ) continued its efforts to defend the law and constitute a key lobbying group on the French government into making the protection of sources a sacred responsibility, as many of the syndicate’s members were ordered to court to reveal the identity of their sources, but the syndicate stood by their sides. Considered a supervisory body accusing the French courts of obstructing the protection of journalists, The SNJ worries about the practices and motivations of certain investigators and representatives of the public prosecutor against journalists.

The SNJ also supports French Media Outlets, like Le Monde when one of their Journalists and the director were questioned by the General Directorate for Internal Security and were asked to reveal their sources about the scandal of Emmanuel Macron selling arms to KSA and UAE that are used in the Yemen War, in 2019. While the journalist and the director of Le Monde were only complying to the ethics of the profession, the right to protect their sources was compromised, in the name of public interest and the violation of privacy of a special forces member, and at the time, SNJ made sure to lobby for Le Monde. Therefore, the Le Monde reporter and director, with the support of SNJ and other outlets, were released and the court order to be investigated was canceled.

The CSA is the French public audiovisual regulatory authority but does not have specific powers or mandate regarding confidentiality of sources.

Therefore, co-regulation efforts to maintain the protection of journalistic sources in France are primarily directed by an institutionalized regulation that is complemented by existing legal provisions.

Germany

Regulation of journalism in Germany is a matter of the first occurrence for the state as the laws include a provision granting journalists a right to refuse to disclose the identity of their confidential sources, according to Paragraph 24(1) of North Rhine Westphalia's Press Law.

Protection of sources of journalism is an absolute privilege, especially in civil cases, where the Civil Procedure Code acknowledges that when facts are revealed to journalists because of their profession, these persons are entitled to refuse to give proof of these facts unless their source consents to disclosure.

However, recently, the law to protect journalistic sources has been challenged by alternative surveillance laws that aim to watch over journalists and their sources, aiming to trace coronavirus news during COVID-19 anti-restrictions protests.

The German Press Council is the body in charge of enforcing the voluntary self-regulation of the press in Germany, it is a non-profit association, an organ of the major associations of the press under private law. It mainly addresses complaints about press behavior; the council monitors compliance with the ethical rules for the daily work of journalists that are written down in the German Press Code.

The Press Council is responsible for protecting the freedom of the German press while preserving its reputation. Furthermore, the Press Council preaches unhindered access by journalists to news sources and ensures self-regulation with regard to protecting journalistic sources.

Sweden

Under the Swedish Constitution, Chapter 3, Article 1 of the Freedom of the Press Act (FPA) stipulates broadly the protection of journalists' sources, but subject provision to a number of exceptions when it comes to assault and crime. As well, a journalist who reveals their source without consent may be prosecuted at the request of the source. These provisions include state and municipal employees, who may thus give information to the press without fear of intimidation or legal repercussions.

Protection of journalistic sources is considered part of the “messenger freedom”, which is a legal traditional value that is deeply rooted in Sweden, to the extent that even public officials and individuals from influential institutions rarely try to challenge it. This was demonstrated in 1988 when the Chancellor of Justice, who was responsible for prosecuting the case of a reporter working for Dagens Nyheter, the largest morning paper, eventually withdrew the court question to reveal when certain conversations took place between the source and the reporter.

Aside from a legal system with strong constitutional protection of journalism, Sweden is characterized by a system of institutionalized self-regulation with respect to codes of ethics and newspaper journalism. The Swedish Press Council is an independent body, not affiliated in any way with the government. Every governmental decision made concerning media ethics and the regular publications goes through the Swedish Press Council. This council also draws the limit when it comes to the revelation of sources in the cases of criminal activities.

The Swedish Press Council is one of the oldest tribunals of its kind in the world. The Press Council is composed of a judge, who acts as chairman, one representative from each of the Newspaper Publishers Association, The Magazine Publishers Association, The Swedish Union of Journalists and The National Press Club, they are also responsible for drawing up the Code of Ethics for Press, Radio and Television in Sweden. In addition to three representatives of the general public who are not allowed to have any ties to the press organizations or the government.

Therefore, the self-disciplinary system of the Swedish press is not only based on legislation, it is entirely voluntary. Therefore, the press can be categorized as co-regulated.

This indicates the political independence of media councils which assess the existence and effectiveness of regulatory safeguards against political bias and control over the media outlets, news agencies and distribution network, and also promotes the effectiveness of self-regulation in ensuring editorial independence, in service of the public service.

Denmark

Denmark has strong laws protecting the journalist-source relationship, protected under the Law of Freedom of speech, even before it heavily supported the HRC Resolution 33/2 mentioned above.

However, it was challenged many times.

The Danish “Advisory Rules for Sound Press Ethics” is a self-regulatory framework created by the Danish Press Council with the collaboration of Danish Union for Journalists, and is the basis of ethically responsible journalism in Denmark, and protects news sources.

And while Self-regulation is a key term for Danish media workers:

-The Danish Union of Journalists ensures that journalism ethics are respected and contributes to national and international debates on freedom of expression, it is similar to a syndicate for journalists

-The Danish Press Council is an independent public tribunal that deals with complaints about the mass media. It is composed of representatives from the media, the courts and the public. If a media company is criticized by the Press Council, the company in question is compelled to publish the decision of the Press Council, if requested to do so. The Danish Union of Journalists nominates the industry’s representative to the Press Council. In case any media organizations or journalists are accused of breaching the rules for good press ethics, they are required to appear in front of the Danish Press Council.

When in 2002, Stig Matthieson, a Danish journalist of the daily Morgenavisen Jyllands-Posten, faced six months in jail and a fine for not revealing his sources about Islamist activities in Denmark, but an appeals court ruled that the information police were seeking was essential.

United Kingdom

The UK's broadcast media is regulated by the state through the Communication Act passed in 2003, which also established Ofcom, the main media regulator in the country, that stands independent, although its duties come from the Parliament.

On one hand, the main legislation governing the protection of journalistic sources in the United Kingdom is the Contempt of Court Act 1981, where Section 10 stipulates that there is a need to protect journalists' and presumes in favor of those journalists wishing to do so, in a free and democratic society. However, disclosure of the information will be deemed when it is in the interest of justice; in the interests of national security; and for the prevention of disorder or crime.

On the other hand, the national Union of Journalists sets the Code of Conduct to constitute the main ethical principles of British and Irish journalism.

However, media regulation in the UK Self-Regulation in the UK is a debate between failure and success, as no strong independent body enforces self-regulation with clear guidelines that serves the protection of sources of journalism in the UK.

CONCLUSION OF DIFFERENCES

Despite recognizing in law the importance of protecting the confidential sources of journalism, quite a few of the national laws are limited in scope, namely as regards journalists or certain types of media. This is where the role of institutionalized independent bodies is indispensable to regulate media and protect the freedom of expression, in terms of protection of journalistic sources when harmed.

Accordingly, it appears necessary to draft more precise provisions to facilitate the implementation of these laws and standards in practice. As well, additional training and assistance measures may be helpful for police, judges and prosecutors.

Protection of sources in Journalism

State	Law	Self Regulation
United States	Protected by the first amendment and shield laws	Internal policies of media outlets, No supervisory body
France	Law 2010-1 adopted in 2010 by the French Parliament	National Syndicate of Journalists / CSA
Germany	Paragraph 24(1) of North Rhine Westphalia's Press law	German press council
Sweden	Chapter 3, Article 1 of the Freedom of Press Act under the Swedish constitution	Swedish Press Council
Denmark	Signatory to the HRC resolution 33/2 and Laws of Freedom of	Danish Union of Journalists and Danish Press Council
United Kingdom	Contempt of Court Act 1981, Section 10	National Union Of Journalists
Lebanon	Whistleblowers Protection Law	Not applicable

II. THE NUANCE OF LEBANON

OVERVIEW ON THE LAW AND PENALTIES

Provisions concerning journalists and media in Lebanon, are scattered among different pieces of legislation like the penal code, the Audiovisual Media Law, the e-transactions and data protection law, the Publications Law, the Military Justice Code, and the whistleblower protection law.

It is crucial to mention that Lebanon ratified several international instruments, which are used to advance the protection of sources, and are increasingly used by courts such as the UN convention against Corruption, and the ICCPR, especially that these ratified conventions have constitutional powers as per the constitution's introduction.

Penal Code

Article 408- Whoever testifies before a judicial authority or a military or administrative judiciary and asserts falsehood, denies the truth, or conceals some or all of what he knows of the facts of the case about which he is being questioned, shall be punished by imprisonment from three months to three years.

The article 408 of the Lebanese Penal Code jeopardizes the freedom and essence of journalistic work through the possibility of prosecuting every journalist who does not disclose the sources of their information that they may have procured regarding a particular case, and that is in the event of being summoned to testify in that case in front of the specialized courts.

On the other hand, Article 410 exempts disclosure in case of threat to freedom and physical integrity. However, it is limited and there are cases where the judiciary may compel the journalist to reveal sources.

Th, the right to protect the information journalists have access to and the sources of their information is not guaranteed under the Lebanese Law unless specific clauses are integrated into the Publications Law.

Whistleblowers Law

Whistleblowers are individuals who reveal to the Public Prosecutor Office or the National Anti- Corruption Institution, information regarding acts of corruption.

The Whistleblowers' Protection Law passed in 2018. It provides for a system of protections and incentives for whistleblowers, who are vulnerable to various kinds of threats and harm such as physical violence or retaliations in their careers.

This law ensures, for instance, to keep the whistleblower's identity secret, under heavy penalty. Hence, there are serious concerns about this law and the independence of the committee due to the political sectarian influence, which greatly affect its implementation.

Challenges

The list of challenges regarding the laws of protection of sources of journalism:

-The exclusive definition of a journalist stipulated by law, as being at least 21 years of age, having a baccalaureate degree and having apprenticed for at least four years. Practicing journalists do not require certification, although those with a degree in journalism must register with the Lebanese Press Editorial Syndicate LPES, whilst it is the Ministry of Information that issues annual press cards. Which, with the pre-licensing system, under the publication law, determines and limits the definition of a journalist.

-The control and capture of the mass media by powerful politicians, which creates a playground of political adversary in the media;

-Lack of independence of judiciary and the legislation's failure to be independent from the political discourse, which could affect rulings in favor of protecting journalistic sources.

-Lack of legal protection in all laws that could apply on journalists including publication, audiovisual laws, and the penal code. The existence of laws such as article 408 of penal code that could be applied on journalists obliging them to reveal sources, as well as the inefficiency of whistleblowers protection law due to its dependence on the Anti-Corruption Commission, which had yet to implement its role efficiently, after the nomination of its members. Without an independent and resourceful Commission, both the protection and compensation to which whistle-blowers are entitled are at stake.

-When it comes to digital media, lack of the security of filtration system through tools like the PGP e-mail encryption, TOR browser, the anonymous digital drop box GlobalLeaks, or, the Tails safe operating system, which are considered a civil innovation for the protection of digital whistleblowers and sources, and their anonymity, are still missing. Until this day, whistleblowers and sources of journalism share information on regular platforms and websites, without protective tools and systems.

-The Absence of self regulation frameworks and mechanisms, mostly due to the Culture of anonymizing sources in newsrooms.

National initiatives to protect sources in Journalism

In light of the “Journalists’ Pact for Strengthening Civil Peace in Lebanon” that was officially launched on June 25, 2013 by the “Peace Building in Lebanon” project and signed by the majority of the Lebanese media, the pact clearly stipulates, in the articles mentioned below, how to deal with the sources of media coverage:

Article 6: Journalists shall safeguard their right to obtain – from various sources – analyze, publish, and comment on information, news and statistics that are of prime importance to the citizens. They shall also safeguard their right not to disclose the source of confidential news as such disclosure would expose the source to danger, or silence it gradually or completely, thus leading to a weaker flow of information in the future.

Article 7: Journalists shall refrain from resorting to illegal means in order to obtain news, pictures, documents or other pieces of information. They shall preserve the confidentiality of the sources, unless otherwise required in cases that threaten national security. Unsupported slander or accusation is considered a blatant breach of the profession ethics; consequently, any information proved wrong shall always be corrected.

Article 8: Journalists shall refrain from publishing off-the-record information while keeping the use of this information informally is possible upon verification of its accuracy and reliability or publication without indicating the source.

Article 9: Journalists shall apply the highest levels of objectivity when “associating” published materials to their sources and mentioning the source of every piece of information. “Associating” information to unidentified sources shall not be allowed unless in cases where access to information is otherwise impossible.

The articles mentioned above take upon the importance of the credibility of the information received and the credibility of its source, as it will take part in the accountability process, which is a main pillar of democracy. However, wrongful use of whistleblowers and sources compromises their protection, and therefore access to information.

COMPARISON WITH THE INTERNATIONAL ADDRESSED STANDARDS

In the context of Lebanon, highly politicized media falls in parallel with a constant attack on the freedom of expression. But when it comes to Freedom of expression and the press, Lebanon has enjoyed a rather unique experience compared with the other countries in the MENA region.

The Lebanese constitution offers moderate protection of the rights to freedom of expression and the protection of journalistic sources, despite the references the Universal Declaration on Human Rights and the ICCPR in its preamble. Thus, the relevant articles of the Constitution fail to clearly provide that any restriction on these rights must be postulated by law, follow a legitimate objective as thoroughly listed in Article 19 (3) of the ICCPR and be compulsory and proportionate in a democratic society.

Likewise, the Press Law adopts a corporatist approach to journalism, treating the press as a distinct and narrow profession rather than as a general activity that any individual can engage in. Although the Press Law contains no explicit provision requiring journalists to obtain a license to practice their profession, the Press Association Roll Committee suggests that journalists who are not admitted to the roll, are practicing their profession illegally and risk being sanctioned with imprisonment. Therefore, the requirement that journalists admitted to the roll are equal to the journalists with a license amounts to a form of “licensing scheme.” Hence, the Press Law is incompatible with international law and best practice in the area of media regulation.

Furthermore, the journalist community is under tight government control. For example, the Head of the Department of Press at the Ministry of Information acts as the Rapporteur of the Press Association Roll Committee. This means that the Committee lacks independence from the government and, consequently, the legal status of journalists in Lebanon is subject to political bias which violates the international standards on freedom of expression.

Therefore, it is necessary to adopt legislative measures to protect the confidentiality of journalistic sources, by introducing an article in the new media law draft discussed in the parliament.

On the other hand, the imprisonment sanction is still present in the Publications Law. Journalists subject to the law are protected against pretrial detention only. However, there is a gap in the laws on whether the Publications Law applies to news websites and whether the Publications Law applies to digital media, regardless of whether or not the author is a certified journalist. The military court has its own set of procedures when it comes to the defamation of the Army, which sanctions journalists, especially in case of the state of emergency under the military court, including imprisonment sanctions.

III. CONCLUSION (RECOMMENDATIONS)

The international level has shown that in order to preserve the right to protect journalistic sources, institutionalized self-regulation of the press go hand in hand with strong legislative laws implemented by the state, for the sake of public interest.

In Lebanon, Self-regulation is almost nonexistent, due to the association of institutionalized journalism to political sectarianism, which is also reflected in the ambiguity of the judiciary when it comes to journalists.

The Maharat Bill registered in the parliament in 2010 proposes a more forward-looking approach to media regulation, in relation to the cancellation of licensing schemes and the exclusive role of syndicates and unions. The Lebanese Press Syndicate hinders reforms by refusing abolishment of newspaper licensing scheme and the press union including the Press Association Roll Committee which admits and qualifies journalists. However this law proposal is still being discussed in the administration and justice parliamentary committee and has not adopted this reform in its latest version.

- The Lebanese laws should be brought in line with international standards of freedom of expression and provide that any restriction on freedom of expression must be stipulated by law, pursue a legitimate aim as defined under Article 19 of the International Covenant on Civil and Political Rights and be necessary and proportionate. Additional protection measures for journalists should be added to the laws, including the whistleblower protection.
- Certainly, broadening the legal definition of 'journalist' to ensure adequate protection is needed, and case law is catching up progressively on the issue of redefinition. And this first step opens up debates about licensing and registering those who do journalism and wish to be recognized for protection of their sources.
- Self-regulation of the press should be discussed deeply acknowledging the challenges in a divided country such as Lebanon. Small initiatives can be launched inside each media institution and between individual journalists, like the case of the Editors' syndicate elections, to add internal policies that provide wider protection for working journalists. Other initiatives can also be launched between journalists themselves outside their institutional framework. Media owners have also strong connections and interest with the state authorities and any initiative should be scrutinized in order to avoid self-censorship.
- Engaging with unions, judiciary, journalists to enroot the culture of protection of sources.

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