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Study

# Media Regulation in Lebanon: Facts and Perspectives.

Dr. Nidal Ayoub



This publication is within the project entitled "Media Reform to Enhance Freedom of Expression in Lebanon", implemented by Maharat Foundation, Legal Agenda and the European Media and Journalism Research Center (MJRC) with the support of the Delegation of the European Union to Lebanon. The project aims at enhancing Freedom of Expression in Lebanon through the promotion of media law reform as a priority on the national agenda and improvement of the environment for media coverage on the transparency and accountability of elections process.

The project supports the publication of background papers produced by Maharat Foundation on the local Lebanese context and by MJRC on the European standards and best fit recommendations for Lebanon. The papers cover 6 main themes: Protection of journalists and their sources, Associations of journalists, Decriminalization, Incentives, Innovation, and Regulation, co-regulation and self-regulation opportunities for the media.



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## **This study was prepared within the project to reform media and promote freedom of expression in Lebanon:**

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### **Media and Journalism Research Center (MJRC) MJRC:**

[MJRC](#) is an independent media research and policy think tank that seeks to improve the quality of media policymaking and the state of independent media and journalism through research, knowledge sharing and financial support. The center's main areas of research are regulation and policy, media ownership and funding, and the links between tech companies, politics and journalism.

### **Maharat Foundation:**

[Maharat Foundation](#) is a women-led freedom of expression organization based in Beirut dedicated to campaigns grounded in research and strengthening connections between journalists, academics, and policy makers.

It advances and enables freedom of expression, quality information debate and advocates for information integrity online and offline. Maharat promotes innovation and engages the journalistic community and change agents within Lebanon and the wider, MENA region to promote inclusive narratives and debates and to counter misinformation, disinformation, and harmful content.

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## 1 .EXECUTIVE SUMMARY

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Mass media in Lebanon are the domain of political and religious powers. The government and the media themselves are tools in the hands of influential decision-makers, either individuals, parties, or even regional states. “Fostering national cohesion” has always been the official motto brandished by the government, but also by opponents owning competing media outlets, in the face of the Lebanese media, to “legitimate” the laws and regulations destined to tame these latter, to muzzle them, to instrumentalize them, rather than to promote freedom of opinion and of expression, and democracy. Journalism is considered a weapon in the ongoing political conflict(s).

Once known for accounting about half of the periodicals produced in the Middle East, in addition currently to eight television stations, a plethora of radio stations and countless websites, Lebanon was long considered a most liberal “beacon” for freedom of expression in the Middle East based on the diversity and active role of its media. Nowadays, the country faces an unprecedented political pressure on its media against the backdrop of a multilayered and constantly worsening political, social, judiciary and economic crisis; especially that it lacks a valid legal framework regulating the media landscape and performance.

Indeed, in Lebanon’s case, media diversity is not, by any means, evidence of political democracy and professional proficiency. Freedoms of opinion and of expression are fake as most media outlets are affiliated to religious and/or political factions and reflect their sectarian interests. Since political parties have a stranglehold on the various mainstream and alternative media, the media landscape reflects the country’s political and communal divisions, with each media outlet being identified with one of the country’s dominant religious/political/financial groups.

## 1 .EXECUTIVE SUMMARY

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Not one holistic legal framework regulates the Lebanese media sphere. In fact, the existing regulatory structure is deeply fragmented as each sector of the mainstream media (the written press, television and radio stations) submits to its own respective laws. The “newest” of these laws concerning the television and radio broadcasting sector, is loosely observed since 1994, the oldest, regarding the written press, is, at some extent, a centennial reminiscence still promoting the long-overrun legacy of the Ottoman Empire (the system of benefits and privileges)! As for the digital media, no applicable regulation is yet in order due. “Chaos” is the recurrent word used by legal and media experts, when asked to describe the reality of electronic platforms and websites’ realm.

When existing, the laws that are supposed to regulate the media landscape and performance are, not only outdated, but also largely distorted, if not overruled. The laws are even misinterpreted, manipulated, often by the security services, the regulatory organs and the justice system that are supposed to implement them, to serve political and partisan interests.

Many attempts from local and international organizations (Maharat, UNESCO ...) to upgrade and “modernize” the regulations ruling over the Lebanese media scenery, did not reach, so far, any relevant outcome.

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

Media in Lebanon are mainly regulated by the Press Law of 14/9/1962 as amended by legislative decree no. 104 of 30/6/1977 (the latter decree being amended by law no. 330 of 18/5/1994), and by the Audiovisual Media Law no. 382 of 4/11/1994. Strangely enough, media content and journalism matters are also referred to in certain provisions of the Lebanese Penal/Criminal Code issued by virtue of legislative decree no. 340 of 1/3/1943, and in the Military Justice Code issued by virtue of law no. 24 of 13/4/1968.

The main features of the regulatory framework for the media in Lebanon are determined by the following legal texts according to the below timeline:

### 1926 - The Lebanese Constitution<sup>1</sup>

The Lebanese Constitution adopted in 1926 and reviewed in 1990, and several international treaties to which Lebanon is a signatory, guarantee the rights to freedom of expression and the freedom of the press as follows:

- The Preamble to the Constitution proclaims Lebanon's commitment to the UN pacts and covenants and the Universal Declaration of Human Rights. It further affirms that Lebanon is a democratic parliamentary republic based upon the respect of public freedoms, including freedom of opinion and freedom of belief; and of social justice and equality in rights and duties among all citizens, without distinction or preference.
- Article 13 of the Constitution guarantees the freedom of opinion, expression through speech and writing, freedom of the press, freedom of assembly, and freedom of association within the scope of the law. It states, "The freedom to express one's opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association shall be guaranteed within the limits established by law."

Moreover, the Lebanese parliament has adopted and ratified the Universal Declaration of human rights as well as the International Covenant on Civil and Political Rights, both guaranteeing the freedom of expression and opinion without interference.

1- <https://www.presidency.gov.lb/English/LebaneseSystem/Documents/Lebanese%20Constitution.pdf>

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

### 1943 – The Criminal/Penal Code

Radically opposing those supposedly guaranteed rights to freedom of expression and freedom of the press, the Criminal Code of 1943,<sup>2</sup> though rarely invoked when it comes to media and journalism, tackles media and journalism issues, and prescribes prison terms for some “transgressions”. Article 473, for instance, assigns up to a year in prison for blasphemy.

Defamation is also commonly used against journalists in Lebanon. Defamation in the form of slander is defined in the Criminal/Penal Code (and not in the Press Law or the Audiovisual Media Law) as the attribution of a certain matter to a person, even in the event of doubt or hesitance, which infringes the other’s person honour or dignity. The Criminal/Penal Code further subjects the person committing slander, in one of the forms mentioned in the Criminal/Penal Code, to imprisonment and fine, or to either of both sanctions. Among the forms stated in the Criminal/Penal Code, are any writings distributed to one or more persons in a publishing form. For instance, Article 384 punishes with up to two years’ imprisonment anyone who “insults” the president. A number of other articles in the Code, including Articles 386 and 388, further criminalize defamation of public officials and public entities. Moreover, Article 157 of the Military Justice Code prohibits defamation of the army. Defamation of individuals is also criminalized.

Moreover, defamation becomes a crime and is more severely punishable when made public, whether through the act of publication or simply by occurring in public. Truth of the defamatory statement, in contrary to many foreign laws, cannot be used as a defence. Malicious intent is a pre-requisite for establishing the crime of defamation, with malice often presumed by the mere fact that the defendant has made the defamatory statements.

Under specific articles of the Penal Code and of the Military Legal Code, allegations or affronts against the president or army are considered as criminal offences. Under the said provisions, a young social media activist was sentenced in 2013 to two months of prison for insulting the president on Twitter.

2- [https://sherloc.unodc.org/cld/uploads/res/document/lebanon-penal-code\\_html/Lebanon\\_Penal\\_Code\\_1943.pdf](https://sherloc.unodc.org/cld/uploads/res/document/lebanon-penal-code_html/Lebanon_Penal_Code_1943.pdf)



## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

### 1962/1983/1994 - The Publications Law or The Press Law

Put forth in 14/9/1962 the Press Law<sup>3</sup> was amended on several instances, including legislative decrees number 104 of 30/6/1977, number 330 18/5/1994, and number 382 4/11/1994). The print media is mainly and tightly regulated by this law.

The Press Law supposedly provides that “The printing press, the press, the library and the publishing house and distribution are free, and this freedom shall only be restricted within the scope of the general laws and the provisions of this law.” Although the said article guarantees freedom of the press, a number of articles in the Press Law restrict this freedom and impose criminal sentences in certain events. Indeed, the Press Law sanctions press freedom and set its limits, by prohibiting the publication of news that supposedly endanger national security or attack heads of states, those labels being subjectively applied to whatever situation or publication according to political interests. In addition, it is forbidden to issue a press publication without first obtaining a license while, in practice, obtaining a new license is often difficult and expensive.

Also, the Press Law prohibits publishing news that “contradict morals and public ethics or is inimical to national or religious feelings or national unity,” and violators face fines if found guilty. Considering that these restrictions may push for criminal sentences in certain events, journalists are also prohibited from insulting the head of state or foreign leaders, and those charged with press offences may be prosecuted in a special publications court.

Thus, the license requirement for publications and the strict limitations on the types of news that are allowed to be published, give the Lebanese authorities vast powers which may be controversial with respect to the freedom of expression.

3- <https://cyrilla.org/api/files/1513264908740hcmf89i9hs26q8umn1rdon7b9.pdf>

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

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Decree-law No. 74 promulgated on 13 April 1953 further limits the number of political periodical journals, which may be licensed for publication. It provides that no new license is to be given to a new political publication as long as Lebanon has more than 25 daily publications and 20 weekly publications.

On the other hand, Decree-law N. 104, promulgated on 30 June 1977, makes provision for the responsibility of media workers for erroneous or false news, threats or blackmailing, insult, defamation and contempt, causing prejudice to the president's dignity, and giving way to sectarian provocation.

It lays down detailed rules governing the activities of printing houses, press media, libraries, publishing houses and distribution companies. It also establishes various media institutions, including the Lebanese Press Union, the Lebanese Press Syndicate, the Lebanese Editors Syndicate, and the Superior Council of Press and Disciplinary Council most of which only exist on paper.

Chapter Three of Section 1 of this law imposes to potential journalist a number of requirements in order to qualify for entry to the profession (holding Lebanese citizenship and the Lebanese Bacculaureate - second part or its equivalent; continuously practicing journalism for at least four years; etc.)

Admission to the press roll is supposedly administered by the Press Syndicate Enrolment Committee ('PSEC'), which is formed by representatives of the Press Syndicate and the Editors Syndicate and is chaired by the President of the Press Syndicate. The Head of the Department of Press and Legal Affairs at the Ministry of Information is the Rapporteur of the Committee.

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

Article 77 provides that all journalists must be members of the Lebanese Press Syndicate (LPS) and the Lebanese Editors Syndicate (LES), a statement largely denied by the “état de fait” ruling over the profession. LPS and LES are described as “independent bodies” though articles 88 and 93 provide that their bylaws must be approved by the Minister of Information. The Lebanese Press Union (LPU), for its part, is composed of members from the LPS with the LES as a superior body. Under Article 96, the Supreme Council of Press (SCP) derives from the Lebanese Press Union. The SCP, which determines any matter of interest to the press and journalists in general, is chaired by the head of Press Syndicate and the government is represented inside the council by the Head of the Department of Press and Legal Affairs at the Ministry of Information.

In 2010, the Maharat Bill<sup>4</sup> sharply criticized the highly conservative conception of journalism and intensive regulation defined by the Press Law and the related decrees. In collaboration with Ghassan Moukheiber (MP), Maharat Foundation proposed an overhaul of the laws governing the media sector in Lebanon, introducing a draft media law seeking to modernize the legislation of the media sector and to abolish prison sentences for speech offences committed by journalists. The bill prohibits the detention and cautionary arrest to every person expressing his opinion whether offline in any media outlet or online. It ensures online freedom of expression without any interference and prohibits government intervention to block or filter online content or to impose any licensing for online media. It further proposes the cancellation of the licensing for newspapers and the abolishment of the Press Union and all the requirements to practice journalism such as academic degree, age, admission to the roll and experience, thus aiming to cancel the exclusiveness of current syndicates and making way to create new self-regulatory bodies. The bill also promotes online freedom of expression without any interference from the government that is not allowed to block or filter online content or to impose any licensing for online media. Since 2010, the bill is still under consideration by the Information and Communication parliamentary Committee.

4- <https://maharatfoundation.org/programs/freedom/media-law>

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

### 1994 - The Audiovisual Media Law no. 382 of 4/11/1994.

During the years of the Lebanese war (1975 - 1990), hundreds of television and radio stations disseminated all over Lebanon. Each military, political and religious faction installed its own broadcasting media designed to be direct instruments of political propaganda, ceasing the absence of a legitimate deterrent authority to implement the supposedly prevailing audiovisual law. They were all to be banned according to the law in force at that time, this one giving the governmental television Télé-Liban the exclusivity and monopoly of all broadcastings.

In fact, broadcasting in Lebanon began when the French operated an anti-German propaganda radio station in 1937, taken over in 1946 by the Lebanese government. Radio spectrum remained limited until the early eighties, when dozens of non-licensed stations appeared on the airwaves. After a 1956 agreement between two young entrepreneurs and the government, La Compagnie Libanaise de Télévision went on the air in 1959, becoming the only privately operated Arab television. A second commercial television station, Télé-Orient, started in 1962, partially financed by ABC in the United States. The two stations merged in 1977 to form Télé-Liban, a half-private and half state-owned company.<sup>5</sup>

Upon the establishment of Télé-Liban S.A.L on May 9, 1978, the Lebanese State grabbed the capital of the new company at a level of 51% to hold the State monopoly. This would give birth to the first public television channel in Lebanon. This action will be followed by the adoption of a renewable license for 25 years of operation, which also guarantees the State monopoly until 2012. This monopoly was broken with the adoption in 1994 of law number 382, the Audiovisual Media Law,<sup>6</sup> which will allow several audiovisual companies to legally create and broadcast audiovisual content. The new law came to “organize” a hectic audiovisual scenery that prevailed between 1985 and 1994 with the illegal creation of more than 50 television channels illegally competing with the monopoly of the State and in the framework defined by the 1990 Taëf agreement that officially put an end to the war in Lebanon.

5- Boulos, Jean-Claude, La « télé : quel enfer », Dar An-Nahar 2007.

6-<https://www.steptoec.com/a/web/2453/4075.pdf>

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

In light of this agreement, broadcast regulation was considered a priority for Lebanon's government for unlicensed media were a symbol of wartime anarchy and tarnished the prestige of a state reclaiming its authority. The Taëf agreement explicitly stipulates, "the information media shall be reorganized under the canopy of the law and within the framework of responsible liberties that serve the cautious tendencies and the objectives of ending the state of war".

The prevailing Audiovisual Media Law that was passed on October 19, 1994. This law, the first of its kind in Lebanon, provided an urgently needed regulatory framework for the ownership, licensing, and categorization of a variety of radio and TV channels in the country, legalizing private broadcasting and revoking Télé-Liban's monopoly on television in Lebanon. Nonetheless, it maintained that channels were the exclusive property of the State and could only be leased, and broadcasting licenses were to be issued by the Council of Ministers. Two basic licensing categories for radio or television were created, namely: Category One licenses for media seeking to broadcast political programming, and Category Two for non-political broadcasting.

On the level of ownership, the law stipulates that one individual or legal entity is forbidden from owning, directly or indirectly, more than 10 per cent of the total shareholding of a single audiovisual media station. This provision clearly defers from its counterpart in the Press Law where one person can own a newspaper (article 31 of the Press Law). Nonetheless, "owners" of radio and television stations do not abide, by no means, by such a prohibition. For instance, the law requires the media to be transparent about their ownership and financing. However, some outlets have established especially opaque ownership structures. The solicited-apparently-legally-suitable candidates for the 10 per cent shareholding prove to be "screen shareholders" as "they cover the real owners who are generally family members, relatives and friends of the "main owner" of the broadcasting company. Such a state of affairs is not even submitted to any subtle camouflage, the "owners" openly benefiting from political patronage dividing the audiovisual broadcasting arena into well-divided private preserves!

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

At some time, many television stations were owned by people holding government positions: Future Television owned by Prime Minister Rafik El-Hariri, MTV (Murr Television), owned by the family of deputy prime minister Michel El Murr; the LBCI, was “saved” by the presence of government officials among its shareholders; and NBN, owned by Speaker of the Chamber of Deputies Berri.

These same outlets are “family businesses”<sup>7</sup> openly owned, by a deviation of the law, by relatives and “friends”. Indeed, the sector is controlled by a handful of individuals directly affiliated with political parties or belonging to local prominent “dynasties” (LBCI, Al Jadeed, MTV, ...) belonging, respectively, to the Daher-Saad, Khayat and Murr families. Al Manar is Hezbollah’s official TV channel. OTV prides itself of being the Free Patriotic Movement preserve, etc. Other restrictions: according to this law, “audiovisual media is free; however, the freedom of media shall be exercised in accordance with the constitution and the applicable laws” which are, by essence, restraining, and under the monitoring of the National Council of Audiovisual Media which was given the ability of recommending the suspension and closure of media violating the law. The 1994 Audiovisual Law is also criticized for considerably enhancing the power of the Minister of Information and expanding his prerogatives to sanctioning television stations that are not “government-friendly”, especially that the prerogatives of the National Council of Audiovisual Media are purely advisory, and reduced to policy recommendation.

It is to be noted that the 1994 Audiovisual Law 382 goes hand in hand with the Satellite Broadcast Law 531 also passed in 1994. The Audiovisual Law is dedicated to regulate ownership and licensing for local broadcast, while the Satellite Broadcast Law, now technically outdated, was intended to parameter technical conditions required for satellite broadcast, including the need for media channels to maintain the “good relations” their country has with other countries. Law 531 also stresses the extensive authority of the Council of Ministers to pre-censor certain networks, with no mention of judicial methods to counter this authorization.

7- <https://lebanon.mom-gmr.org/en/findings/family-connections/>

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

### Inexistence of a relevant Legislation for Online Digital Media

According to UNESCO media experts, social media cannot be perceived as public media, similarly to televisions, radios or newspapers and therefore cannot be submitted to regulation under a media law despite the fact that social media in Lebanon is widespread and used on a large scale by public figures and political activists to promote their stances and/or their protests. Media experts and social activists advise that spaces like the internet and digital platforms remain free from regulation, until a relevant regulatory authority is established and gains credibility.

It is to be noted that the activists are being prosecuted by official authorities on the ground of violation of public order and of the provisions of the Press Law. The other digital targets for potential regulation are the electronic websites, namely the ones dedicated to broadcast news that are certainly in the crosshairs of the law. Nonetheless, the potential regulation to be applied on websites is still ambiguous though some attempts have been made in this respect.<sup>8</sup>

In any case, there is currently a great deal of confusion as to which legal framework is applicable to online news websites in Lebanon. The requirements of the Press Law are not easily transposed to digital media since the Press Law specifically regulates print media. Equally, the Audiovisual Media Law regulates broadcasting and not online media. These legal impediments did not refrain the National Council for Audiovisual Media from inviting online news websites and blogs to register with the Council although this action exceeds its powers. In parallel, the Lebanese government attempted to extend the licensing requirements under the Press Law to online news outlets via the Draft Lebanese Internet Regulation Act 2012.<sup>9</sup> The Draft Act contained a raft of restrictive measures for the online freedom of expression and was eventually withdrawn in the face of opposition from activists.

8- [https://www.ifj-arabic.org/fileadmin/user\\_upload/Digital\\_media\\_regulation\\_report\\_AWME\\_2020.pdf](https://www.ifj-arabic.org/fileadmin/user_upload/Digital_media_regulation_report_AWME_2020.pdf)

9- <https://www.aljazeera.net/videos/2012/3/25/%D9%85%D8%B4%D8%B1%D9%88%D8%B9-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D9%84%D8%A8%D9%86%D8%A7%D9%86%D9%8A-%D9%84%D8%AA%D9%86%D8%B8%D9%8A%D9%85-%D8%A7%D9%84%D8%A5%D8%B9%D9%84%D8%A7%D9%85>

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Nonetheless, the courts have applied many of the restrictive provisions of the Press Law to online news sites. Furthermore, as highlighted above, the speech offences contained in the Penal Code and the Military Justice Code remain applicable to online speech.

If specific regulation of online content and speech is absent in Lebanon, which is consistent with international law in this area, that does not imply that online freedom of expression is guaranteed. The Lebanese Penal Code (Articles 384, 386 and 388) and the Military Justice Code (Article 157,) as mentioned previously, contains a number of speech offences, which are in breach of international standards on freedom of expression. Accordingly, individuals, journalists and bloggers may be prosecuted for what they say online. While the courts impose fines in most cases, these offences are punishable with imprisonment.

The laws and regulations that have been proposed so far, mainly serve the interests of the operators and businessmen and do not put a limit to the power of the dominant politicians and sectarian groups. The digital media are in fact firmly in the hands of the same dominant political sectarian groups that control also the mainstream media.



## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

### 2023 - 2024 - UNESCO's suggested amendments to the 2021 Draft Media Law

An updated version of the 1962 Press Law and 1994 Audiovisual Law dating from July 2021 (the draft Media Law) has been submitted to the Legal and Administrative Committee of the Lebanese Parliament. The UNESCO Regional Office in Beirut brought up suggestions and recommendations<sup>10</sup> on the proposed media law according to international standards and best practices. The amendments give way to an independent Media Regulatory Authority, introduce a co-regulatory system of professional regulation of the media - a system of complaints - in addition to eliminating vague stipulations that are being used against the freedom of the press, and restricting sentences and penalties against journalists and media outlets. The suggested key amendments to the draft Media Law are as follows:

- Definitions are revised to focus on mass media not on social media and private websites.
- The overall objectives of the Media Law (to promote freedom of expression; to encourage a robust and creative national media sector; etc.) are defined in an added article.
- The rules on concentration of ownership are amended to allow one individual to control a broadcaster in conformity with the current practices despite the formal ten per cent ownership limit. The new rules restrict the level of control to one television and one radio station. Foreign ownership of broadcasting outlets by one person are allowed up to twenty per cent. A rule on transparency of funding sources for the media is added.
- Licensing of broadcasters is to be done mainly on a competitive basis.
- The Authority is given the possibility to promote the dissemination of more public interest content (education; children's programs; etc.) instead of the one hour per week previously required.

10- [www.unesco.org/en/articles/towards-media-law-reform-lebanon](http://www.unesco.org/en/articles/towards-media-law-reform-lebanon)

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- The system for registering press publications is clearly defined as a technical registration process. The fees are reduced to only cover administrative costs of the system. Professional electronic newsletters limited to news outlets operating online are subjected to the same regime as other press publications.
- The regime of sanctions is tweaked to ensure that appropriate sanctions tailored to the nature of the offence are available.
- The members of the Media Regulatory Authority are still appointed by Parliament but a broader range of organisations nominate potential members (the Bar Associations of Beirut and Tripoli; the Order of Engineers; the Editors' Union; civil society groups; etc.). Rules on conflict of interest and strong prohibitions on individuals who may not be appointed due to their political affiliations are stated. Detailed rules related to the Media Regulatory Authority's working and operative mechanisms are defined.
- A Code of Conduct for the media is to be prepared by the Media Regulatory Authority in consultation with the media institutions, journalists and other stakeholders. Penalties for breach of the Code range from public warnings to fines. A legal case against a media outlet covered by the Code is to be lodged as a complaint with the Council of experts appointed by the Media Regulatory Authority.
- In terms of media crimes, a rule on protection of the secrecy of journalists' sources of information is added. The provision on fake news is removed as the provisions regarding defamation of officials considered contrary to international standards. Other crimes are limited to reflect the idea of an administrative system of responsibility under the authority of the Council. Nonetheless, some crimes are retained.

## 2 .OVERVIEW OF THE REGULATORY FRAMEWORK FOR THE MEDIA IN LEBANON

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From the point of view of some legal experts and concerned journalists, the UNESCO proposal<sup>11</sup> has brought amendments to the laws in force not by introducing drastic changes but by “softening” and “bypassing” possible discrepancies and controversial provisions. They emphasize the fact that the additional “remarks” the Ministry of Information in the current caretaker government arouses versus the UNESCO proposal may deviate the amendments away from their aim of upgrading the media practices in Lebanon. In their opinion, the destiny of the amended draft - remaining untouched in the drawers of the parliamentary Legal and Administrative Committee for decades - could be similar to previous attempts to improve the prevailing media regulation system, especially that the parliamentary committee in question has formed a subcommittee to evaluate the “remarks”!

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11- [www.ministryinfo.gov.lb/54988](http://www.ministryinfo.gov.lb/54988)

### 3. IMPLEMENTATION OF REGULATIONS IN THE MEDIA

Aside the stipulations of the Press Law and the Audiovisual Media Law, occasional decrees, security services and “tutor bodies” interfere in establishing, organizing, managing and supervising/controlling the media and the journalistic performance in general.

#### Regulatory Authorities

As already stated, many licences and permissions are required for founding any kind of media in Lebanon. In this respect, article 232 of legislative decree no. 126 dated 12/6/1959, prohibits the establishment or usage of radio channels without the permission of the ministry of telecommunications. Regarding television, it is referred to in article 189 of the aforementioned legislative decree, which restricts the right of transmitting images into the hands of the ministry of telecommunications, unless a special permission is granted by virtue of a decree issued by the Council of ministers.

Moreover, Television productions (movies; series; ...) as Cinema movies are regulated by what is known as “public safety rules” and by the law dated 27/11/1947 which provides that all movies are subject to supervision, and shall not be displayed to the public except after obtaining a license from the Directorate of the General Security. Such supervision includes different types of audiovisual productions and movies, whether imported from abroad or produced locally. The Directorate of the General Security has the right to refuse their showing or to accept entirely or partly their showing.

In addition to movies and plays, the Directorate of General Security is authorised to censor all foreign magazines and books before they are distributed, as well as political or religious material that is deemed a threat to the national security of either Lebanon or Syria.

### 3. IMPLEMENTATION OF REGULATIONS IN THE MEDIA

It is to be noted that, during “an off-record conversation” with a high-ranking officer at the General Security Oversight Department, he did not hesitate to admit that not all audiovisual productions are submitted to the “eyes and scissors” of the department of censorship. He states, “Some productions issued by certain production companies cross the military line” meaning by this that they are not supervised or “sanctioned” as per their “disturbing” content that obviously does not comply with the laws i.e. respecting national unity and/or national security!

#### The National Council for Audiovisual Media

The National Council for Audiovisual Media (al-Majlis al-watani li-l-Ilam al-mar'i w-al-masmu')<sup>12</sup> is intended to monitor the respect of the Audiovisual Media Law promulgated in 1994. It serves as the “civilian” regulatory authority supervising the media activities and productions, not necessarily in their pre-broadcasting phase but in the post-broadcasting one.

Created in 1994, the Council's consultative roles generally revolve around distributing licenses, regulating media coverage/content, and setting the criteria for the establishment of new radio and television companies. It is constituted of ten members appointed based on sectarian and political alignment, and it lacks any effective powers. The general lacking of democratic structure and consistent follow up renders the Council incapable of pursuing the role of a reliable media regulation authority.<sup>13</sup>

It is out of date for decades, as its mandate has legally expired from over 25 years. Even at the peak of its action, it has been an ineffective institution, from a media professional point of view. In fact, it has been chronically active to fulfill the aim for which it was conceived and instituted in the first place, and that is to be a “tool” in the hands of ruling decision-makers and mandatory authorities: its members are chosen mainly along sectarian lines, according to political deals and nepotism bargains.

12- <https://www.rirm.org/en/cna-national-audiovisual-council-of-lebanon/>

13- Dabbous-Sensening Dima, Ending the war? The Lebanese Broadcasting Act of 1994. Sheffield Hallam University Research Archive (SHURA). <http://shura.shu.ac.uk/19525/> p. 151.

### 3. IMPLEMENTATION OF REGULATIONS IN THE MEDIA

In this respect, an audiovisual production criticizing a prominent figure from the political/religious class or eventually “threatening” the aura of the Syrian regime, that was ruling over Lebanon at the time of the promulgation of the Audiovisual Media Law in 1994, its “authors” and media broadcasters were certainly to be prosecuted and sentenced. On another hand, its reports of violations perpetrated by politicians, parties and intelligence services against the media, if existing, go unheeded.

#### Judicial Bodies

Judicial bodies are particularly imperative. They implement rulings with a function supplemented by state force and executory power.

- The Publications Court is a chamber within the Criminal Appeals Court. Its role revolves around issues of libel, defamation, and slander when concerned with print publications. Its jurisdiction has been expanded to include audiovisual media, and, at a later stage, news websites and social media until the Cassation Court ruled otherwise. The court has rarely issued imprisonments, focusing instead on fines and other disciplinary measures.<sup>14</sup> Nonetheless, the fines imposed on journalists investigating corrupt files or expressing derogatory terms to describe high-rank state officials<sup>15</sup> have been quite heavy.

- The Single Criminal Judge is increasingly intervening on the level of social media since the media outlets have invaded the social media sphere. The Single Criminal Judge has not only issued fines, but also prison sentences to counter defamation against journalists in the past years.<sup>16</sup>

- Judges Sitting for Urgent Affairs that are to take “interim or precautionary measures to preserve rights and prevent damages,” have been monitoring and censoring “offensive material” published online, knowing that “offensiveness” is not clearly delimited or specified.<sup>17</sup>

14- Human Rights Watch, 2019.

15- SMEX, 2019, p.11.

16- SMEX, 2019, p.13.

17- SMEX, 2019, p.13.

## 4. THE CASE FOR SELF-REGULATION

A general trend in democratic societies is gaining momentum in the media ecosystem: the tendency to self-regulation. Such tendency is not only motivated by the grand desire of enlarging the margin of freedom of opinion and of expression by “keeping away” the State’s grip. A major incitation is of an economic nature: most of the media platforms are not “flourishing businesses” to some exceptions. Solidarity and cooperation among media professionals are required to enhance the economic performance of the outlets and guarantee the survival of the media platforms.<sup>18</sup> Moreover, a dominant conviction spreads among journalists and media administrators: it is better to “supervise” ourselves our performance according to well-defined ethics in a clear code of conduct rather than suffer an “outsider”, a “Big Brother” i.e. official organs imposing restrictive provisions, regulations, and laws.

In the case of Lebanon, self-regulation is having its share of thoughts amid journalists and media professionals. Many journalists bet on the self-regulation of the media, “so that there is primarily accountability within the media institutions, and that the accountability for journalists goes through public opinion instead of the courts and security services.” Such a vision did not make an obvious breakthrough so far. The main ideas that are being processed put ahead, among others, the proposition of The Ombudsman.

Based on the Swedish Pressombudsmannen experience, an “ombudsman in the newsroom” is considered as an organ dedicated to gathering complaints of readers and viewers and forwarding them to the media institution or to a regulatory structure to reassess journalistic content and audiovisual productions, and, therefore, hold media professionals accountable, if needed. Such an option for self-regulation is, to the least, challenging in Lebanon: the culture of participation to public affairs and of rational critical thinking in matters of public interest added to the low levels of solidarity among journalists and media professional themselves cannot be considered as helpful factors in this eventual direction of self-regulation.

18- Cagé Julia, *Sauver les médias*, Editions du Seuil, 2015.

## 4. THE CASE FOR SELF-REGULATION

Some legal experts and professional journalists estimate that, in the Lebanese context, a better option is to be sought in the “reshuffling” of existing professional structures, meaning professional journalists associations and unions of journalists associations. Those are viewed as bodies through which media professionals can negotiate with the State, its administrations and its official bodies, and/or with the media owners and administrators, matters of wages, editorial independence, professional ethics, etc. Those existing associations are as follows:

### The Lebanese Press Order

Created in 1941, the Order exclusively represents owners of a variety of print publications within its membership and executive board, primarily distributed amongst political partisans. In addition to monitoring the accountability mechanisms applied to journalists and giving out press cards, the Order pursues negotiated settlements between the State and newspapers mainly in matters of financial liabilities.

### The Press Editors’ Syndicate

Established in 1962, it is primarily composed of print press editors, particularly non-owners supposedly given a space to bargain for their rights. Nevertheless, the Press Editors’ Syndicate regularly coordinates with the Lebanese Press Order and is henceforth incapable of pursuing any direct and/or contentious action. Even membership of the Press Editors’ Syndicate is dependent on an approval from the Lebanese Press Order. For a long time, journalists were not admitted as members of the Syndicate for “electoral” and political reasons, the Syndicate being considered as a political preserve. A majority among journalists estimate that the Syndicate does not represent them as they are members in it, even “out casted”, and/or it is “old-fashioned”, “archaic” and, in any case, exclusively reserved, by law, to newspapers editors. Some attempts have been made to extend the Syndicate’s membership to journalists working in various media outlets (television; radio; ...) but its level of representation of the journalists is still considered very low. One other impediment facing the Syndicate: the overall impression among journalists that it is a “tool” of the State, acting according to official instructions.



## 4. THE CASE FOR SELF-REGULATION

The media professionals, mainly the “unrepresented” and “excluded” journalists in the already existing and legalized structures such as the Press Editors’ Syndicate, have rallied in alternative associations and non-governmental organizations destined to compensate the “gaps” and “inefficiency” of the syndicate. The Club de la Presse, created in 1993, and The Alternative Media Syndicate were originally perceived as matching competitors of the Press Editors’ Syndicate. Over the years, they seem to lose efficiency and impact in producing a drastic transformative change in the media sector and in protecting the rights of journalists and media workers. Advocacy for the journalists’ rights and duties, for the establishment of standardized journalist codes and monitoring state and/or non-state violations against the media is well assumed by NGOs and media-related organizations. Among those, Maharat Foundation created in 2004 and recognized as an NGO in 2006, the Samir Kassir Eyes Centre for Media and Cultural Freedom (SKeyes) established in November 2007, Social Media Exchange (SMEX) founded in 2008 and AFEJ (Association Francophone de Journalisme) created in 2012.

### The regulatory body for the media sector

The independent Media Regulatory Authority is widely claimed as essential for the smooth running of the media sector as its proficiency includes issuing licenses for audiovisual media, monitoring complaints about programs, enforcing legal requirements, and formulating policies. The authority of such a regulatory body is extended to media outlets that require licensing, such as broadcasting channels, and not to those that do not, such as newspapers and digital platforms.

In all cases, experts advise the regulation to be minimal, allowing for the possibility of co-regulation and self-regulation.

## 4. THE CASE FOR SELF-REGULATION

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Despite official and professional assurances, and UNESCO amendments to the 2021 Draft Media Law, many media professionals fear that the intended-to-be Media Regulatory Authority would be affiliated with the political blocs and destined to control the media work. They note “the commission consists of 10 members, 5 of whom are appointed by Parliament, and the remaining 5 are appointed by the government, and the sectarian balance between Muslims and Christians is taken into account.” They foresee in such a composition “an alternative to the National Council for Audiovisual Media”. They considered that “the regulating body will be a supervisory body, and will establish the principle of sectarian quotas instead of adopting the principle of efficiency as a criterion for selecting members.” Some add, “the way the body is formed confirms that it will not be an independent body. Clientelism, sectarian and political quotas, and prior censorship are still having the upper hand”.

In fact, regulatory bodies responsible for addressing the challenges of the evolving information ecosystem must be independent from public and commercial entities in order to prevent these entities from monopolizing or expanding their control over public spaces. They should reflect the diversity present in society, not sectarianism if prevailing. When appointing members to these bodies, consideration should be given to competence and experience, in addition to a participatory mechanism in forming this body from syndicates, unions, to civil society organizations is the safest way to ensure that the body does not exceed its powers and boundaries.

## 4. THE CASE FOR SELF-REGULATION

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Indeed, there is a positive role for civil society associations in the appointment process. Conflicts of interest should be avoided, and justifications for member dismissals should be defined to prevent political interference. According to media and law experts, appointments can be done either by direct nomination where the regulatory body opens applications to citizens for submission, the selection being based on competences, or by the participation of a broad range of stakeholders in the nomination process, with various sectors of society nominating candidates.

Experts also point out the necessity of administrative and financial transparency of the media regulatory body which should publish its budget and financial statements and its non-subjugation to guardianship authority, the selection and appointments mechanisms being the key points towards its independence.

## 5. CONCLUSIONS

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Considering that media regulation must be driven by two main principles, freedom of expression promoting values and citizens' rights (pluralism, democracy, human dignity...), and the efficient functioning of media markets characterized by competition, innovation, and growth, the rights to freedom of opinion and of expression are, against all convictions and advertisements, afforded by moderate protection under the Constitution in Lebanon, and the media market abides by a partition of shares and interests between political figures and midpoints of influence, thus imposing a not-so-disguised concentration of media power, a fake media pluralism, disrespectful of citizens' rights and needs.

In this respect, the laws at their best are being a façade for premeditated actions and a restrictive tool bended to achieve political goals. In all cases, they are incompatible with international standards and best practice in the area of media regulation and the journalist community is under tight government control as the syndicates that are supposed to represent them and defend their rights are public-law institutions rather than professional organizations. All “regulatory” committees, if existing and acting, lack independence from the government and, as a result, the legal status of journalists in Lebanon is subject to political considerations in violation of international standards on freedom of expression.

The regulations governing the Lebanese media sector in the current time are harshly criticised for promoting a highly conservative conception of journalism, based on a corporatist approach. Media law in Lebanon has not observed any major developments or legislative changes in the past 30 years. The only advances are reflected through the efforts of civil society groups, journalists and activists in order to raise awareness in society on the freedom of expression, and its importance on building transparency and democracy in the political system. They demand serious changes to the country's media laws, in the hope of bringing these laws in line with the latest media development and international standards of freedom of expression.

## 5. CONCLUSIONS

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On the other hand, many media experts and law makers consider that the main problem(s) facing the media performance in Lebanon is (are) not to be related to the texts of the Press Law and/or the Audiovisual Media Law, but rather to their interpretation, implementation and application by the judiciary and the security services. They emphasize the fact that those organs operate by ignition of ruling political forces – not even the government - and in violation of the Lebanese Constitution. They point out that media regulation is used as a tool to reward allies and punish foes and that the prevailing media monopoly confirms that the Lebanese regime has become an oligarchy where political power and media ownership converge.

Therefore, the various media laws are ignored and/or short-circuited. Their legal content is largely alienated, knowing that the laws currently in force are not originally based on a philosophy or strategy exclusively concerning the regulation of the media sector as such, but rather on the implicit intention of forsaking the interests of political and religious factions.

Though projects and proposals of laws are proliferating, and the suggested improvements varying from implementing an effective and efficient all-inclusive legal context, to neutralizing or at least lessening the impact of political interference in the media sphere, the Lebanese media is still bounded to restrictive laws as well as to implicit and non-verbalized regulations. The legal and “less legal” status quo ruling over the Lebanese media is giving way to all sorts of infractions, some committed by the media outlets themselves, others by the regulatory organs supervising the media. The local media take advantage of flaws in the laws and/or of influential connexions and nepotism to bend the regulations according to their interests. The controlling and supervising structures, though some obsolete as the National Council for Audiovisual Media, occasionally resurrect, in light of political conjunctures, thus allowing political/economic potentates to “instrumentalize” and exploit the media, giving way to political/economic interests to prevail.

## 6. RECOMMENDATIONS

The issue of media regulation in Lebanon is not, as in the rest of the world, a technical problem. In Lebanon, it is a matter of ethics, of intentions, of will. Therefore, it is most necessary, not only to identify parameters for a new comprehensive legal framework in Lebanon, but to institute a culture of general and professional ethics! The political interests and manoeuvres governing the media sector cannot be counterpart by laws but by well-defined values and commonly agreed upon standards. Symmetrically, this will guarantee the eradication of journalists' alienation in favour of politicians.

**1-** A holistic media law is to be implemented.

**2-** The media law should be reviewed and brought in line with international standards on freedom of opinion and of expression, and in the pace of all digital developments and modernity.

**3-** Conflicting authorities/powers and interests between the Ministry of Information and bodies related to the media sector are to be avoided. The fate of the Ministry of Information is to be therefore reviewed and the relationship between the regulatory authority and the ministry is to be well defined and balanced.

**4-** The right to access information, media and media platforms is to be extensively available to everyone.

**5-** Media freedom, journalistic accountability, media workers' rights, and journalistic ethical codes and standards are to be well-defined and their implementation.

**6-** The Penal/Criminal Code and the Military Justice Code are not to be extended to and applied on journalists and media professionals.

**7-** Ultimately, the Press Law 1962 and the Audiovisual Law 1994 are to be repealed and replaced by self-regulation of the media.

**8-** The media regulatory authority should be independent from government and commercial interests.

**9-** Initiatives to strengthen or to overcome passive syndicate bodies must be activated. Rejuvenating the already existing structures is an option. Promoting independent associations free from political and confessional affiliations is to be supported.

**10-** Lebanese authorities are to be held accountable for repressive and/or authoritarian tactics imposed on media outlets, by international recourse if necessary.



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