

LEBANON

ILA Country Report

LEBANON

Legal Framework

Constitutional Protection

The [Lebanese Constitution](#) was adopted in 1926 and reviewed in 1990. The rights to freedom of expression and privacy are guaranteed 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 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.

- Article 14 provides that each person's dwelling is inviolable and that "no one is entitled to enter therein except under the conditions and manners prescribed by the law."

Regulation of online content

There are no specific laws regulating online speech in Lebanon, which is consistent with international law in this area. At the same time, the Lebanese [Penal Code](#) contains a number of speech offences, which are in

breach of international standards on freedom of expression. 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 criminalise 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 criminalised. 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.

Regulation of media workers

THE PUBLICATIONS LAW 1962

In Lebanon, the print media is chiefly regulated by the [Publications Law](#) 1962 as it was last amended in 1995. Decree-law No. 74 promulgated on 13 April 1953 further limits the number of political periodical journals, which may be licensed for publication. 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 for sectarian provocation.

The Publications Law tightly regulates the print media. 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.

Under Chapter Three of Section 1 of the Publications Law, anyone who wants to become a journalist must comply with a number of requirements in order to qualify for entry to the profession of journalist. This includes holding Lebanese citizenship and at least the Lebanese Baccalaureate – second part or its equivalent. In addition, he or she must have effectively and continuously practised journalism for at least four years following the acceptance of his or her application to the Press Media as a trainee. In the alternative, the holders of the Bachelor’s degree in journalism shall be exempted from training. However, the holders of Bachelor’s degree of other diplomas than journalism shall be subject to one year training.

Admission to the press roll is 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. The PSEC delivers journalists’ cards and press identification symbols and issues permits that enable journalists to travel abroad. Article 10(2) of the Publications Law further provides that any person pretending to be a journalist for whatever reason shall receive a punishment of between six months and one year of imprisonment and a fine of one thousand to five thousand Lebanese Pounds. Further restrictions apply to foreign journalists.

In addition, Article 77 provides that all journalists must be members of the Lebanese Press Syndicate (LPS) and the Lebanese Editors Syndicate (LES), which are described as “independent bodies”. The powers of the LPS and LES are chiefly concerned with the settlement of professional disputes and conflicts between members. Articles 88 and 93 further provide that the bylaws of the LPS and LES 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.

Finally, the Publication Law lays down more substantive rules. Article 25 of Decree-Law 104/77 mentioned above, for instance, prohibits the press from publishing blasphemous content of the recognized religions in the country, or that may provoke the confessional or the racist feud.

THE MAHARAT BILL

The Press Law and related decrees have been sharply criticised for promoting a highly conservative conception of journalism as a self-contained profession subject to intensive regulation, rather than an activity which any person may engage in. Accordingly, the Maharat Foundation together with Ghassan Moukheiber MP proposed an overhaul of the

laws governing the media sector in Lebanon. In 2010, they introduced a draft [media law](#) ('Maharat Bill')¹ that sought to abolish prison sentences for speech offences committed by journalists such as defaming public officials and the President. It is to note that Maharat's bill prohibits the detention and cautionary arrest to every person expressing his opinion whether offline in any media outlet or online. This privilege was only accorded to journalists registered in Editors Syndicate in current Publication Law. The Bill further proposed 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, cancelling the exclusiveness of current syndicates shall open the door for journalists to create new self-regulatory bodies. Furthermore, the Bill 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. The Bill is still under consideration by the information and communication parliamentary committee.

NEW MEDIA

There is currently a great deal of confusion as to which legal framework is applicable to online news sites in Lebanon. The requirements of the Publication Law are not easily transposed to digital media since the Law specifically regulates 'print' media. Equally, the Audiovisual Media Law 1994 regulates

broadcasting rather than online media. Nonetheless, it has been reported that in October 2011, the National Audiovisual Media Council invited online news sites and blogs to register with the Council although it exceeds its powers.

Meanwhile, the Lebanese government has sought to extend the licensing requirements under the Publication Law to online news outlets via the [Draft Lebanese Internet Regulation Act 2012](#). 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.

Nonetheless, the courts have applied many of the restrictive provisions of the Publication 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.

Regulation of Internet Intermediaries

Hosting providers, including search engines and social media platforms, are not subject to licensing requirements under Lebanese law. By contrast, Internet Service Providers are required to obtain a licence in order to operate. Article 19 (1) of the [Telecommunications Law 2002](#) provides that licences for basic telecom, international and mobile services are granted by decree issued by the Council of Ministers, upon recommendation of the Minister, after an international public auction organized by the Telecommunications Regulatory Authority ('TRA'). A number of other services, such

¹ Reasons for proposing the Media Law: <http://freetoexpress.org/wp-content/uploads/2014/04/%D8%A7%D9%84%D8%A3%D8%B3%D8%A8%D8%A7%D8%A8-%D8%A7%D9%84%D9%85%D9%88%D8%AC%D8%A8%D8%A9.pdf> (in Arabic)

as Internet services, are granted by the TRA directly. Since 2009 the Telecommunication Law was suspended and accordingly the TRA was suspended as well following a decision from the State Council. Thus, the Ministry of Telecommunication controls and manages the Internet services by licensing ISP's and granting them limited access to Internet capacity and by acting as an ISP in parallel with the private sector through its public administration of "Ogero"; the main operator of the fixed telecommunications network in Lebanon.

Surveillance and Data Protection

Lebanon adopted a surveillance law in 1999. The [Eavesdropping Law 140/1999](#) authorises law enforcement agencies and intelligence services to conduct surveillances operations in certain circumstances.

Under Article 16 of the Law, the Minister of the Interior may authorize requests for interception of communications. However, the Minister is required to consult with an independent judicial panel before authorising such requests. Access to telecoms data or interception of communications may only be authorised for a period not exceeding two months.

In addition, the government passed a [decree](#) in 2013 requiring the registration of the International Mobile Equipment Identity ('IMEI') number of all mobile phones in the country. The ostensible purpose of the Decree was to prevent the illegal smuggling of imported devices and protecting consumers

from counterfeit. At the same time, many observers believe that the real purpose of the measure was to collect individuals' personal data because the serial number of any purchased phone is linked to a users' prepaid SIM card. In May 5, 2014, the Ministry of Telecommunication retreated on its decision and annulled the obligation to register the IMEI.

Those fears are consistent with the Lebanese government's attempt to pass the E-Transactions Bill in 2010. Internet activists and civil society fiercely opposed the Law for being both overly broad and far reaching. In particular, the Bill sought to impose licensing requirements for the provision of 'online services', without differentiating between commercial transactions and ordinary Internet activity. The most controversial aspects of the Law included the creation of a new public body, the Electronic Signatures & Services Authority (ESSA) with broad powers to gain access to 'any' private information or data held by data controllers, including ISPs, without a judicial warrant (Articles 82 and 84). In addition, Article 92 of the Bill purported to impose licensing requirements on anyone "wishing to provide signature and authentication services of any electronic or online services relevant under the supervision of the Commission".

These measures are of particular concern in light of the absence of any overarching data protection law in Lebanon. Like many

countries in the region, the protection of personal data in Lebanon is limited and afforded only by way of various statutes that deal chiefly with other matters, e.g. banking, employment, etc.

The parliament postponed voting on the proposed E-Transactions Bill and has instead referred the proposed Bill to a subcommittee to reconsider it. In October 2012 the government submitted a [new law](#) proposal by decree number 9341, concerning electronic transactions and personal data protection to substitute the 2010 E-transactions Bill. The new proposal abolished the created body (ESSA) in previous draft and included new provisions related to personal data protection that stress the right to privacy. The draft is still under consideration by a parliamentary sub-commission.

Net Neutrality and Access to the Internet

We are not aware of any particular rules protecting the net neutrality principle under Lebanese law. Nonetheless, the Telecommunications Law 2002 contains a number of provisions that promote greater access to the Internet throughout the country. In particular, Article 26 requires public telecom services to comply with universal service obligations that, among other things, ensure a minimum level of comprehensive geographical coverage in the provision of telecommunication services. In addition, Article 25 guarantees certain minimum standards of quality, including call completion rates and dial tone delays.

Nonetheless, the infrastructure in Lebanon is still considered weak and the speed of the Internet is below the international standards and amongst the slowest in the region.

Country Analysis: Our assessment

The rights to freedom of expression and privacy are afforded by moderate protection under the **Lebanese Constitution**. The Preamble makes references to the Universal Declaration on Human Rights and the ICCPR, which is positive. The relevant articles of the Constitution, however, fail to clearly provide that any restriction on these rights must be stipulated by law, pursue a legitimate aim as exhaustively listed in Article 19 (3) of the ICCPR and be necessary and proportionate in a democratic society.

Although the Lebanese **Penal Code** appears to contain a smaller number of speech offences compared to other MENA countries, defamation of the President, public authorities and the army remain criminalised and punishable by imprisonment. Criminal defamation of ordinary individuals also remains on the statute book in violation of international standards on freedom of expression.

Equally, the **Press Law** is incompatible with international law and best practice in the area of media regulation. The Press Law adopts a corporatist approach to journalism, treating the press as a distinct and insular profession rather than as a general activity that any person may engage in. Although the Press Law contains no explicit provision requiring journalists to obtain a licence to practise their

profession, the powers of the Press Association Roll Committee – in particular to deliver journalists’ cards – suggest that those journalists who are not admitted to the roll practise their profession illegally and risk being sanctioned with imprisonment. In other words, the requirement that journalists be admitted to the roll has the same effect as a licence and therefore amounts to a form of “licensing scheme” in contradiction to international standards on freedom of expression.

Furthermore, the journalist community is under tight government control. The LPS and LES are public-law institutions rather than professional organisations. In particular, the Head of the Department of Press at the Ministry of Information acts as the Rapporteur of the Press Association Roll Committee. In other words, the Committee lacks 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 Maharat Bill proposes a more forward-looking approach to media regulation, in relation to the cancellation of licensing scheme and the exclusive role of syndicates and unions. Notwithstanding that, the LPS hampers reforms by refusing abolishment of newspaper licensing scheme and the press union including the Press Association Roll Committee which admits and qualifies journalists.

Internet intermediaries do not benefit from strong protection in Lebanon. The law fails to provide for immunity from liability for third-party content, for instance. ISPs are required to obtain a licence from the Ministry

of Telecommunications, which lacks independence. Accordingly, they are much more likely to be coerced into executing government orders without challenging them, e.g. giving government access to their users’ personal data without requiring a court order. Moreover, the fact that the government-controlled regulator can require certain technical specifications is a matter of concern since it may involve the creation of “backdoors” in the Internet infrastructure.

This is particularly worrying given the absence of an overarching data protection framework in Lebanon. Furthermore, the law governing surveillance powers is unclear and fails to provide that both content and communications data or metadata should only be handed over to law enforcement or intelligence agencies pursuant to a court order. At present, such orders are made by the Minister of the Interior. Judges are only required to be consulted, rather than authorise surveillance measures. Finally, it is worth noting that the Lebanese government has repeatedly demonstrated its readiness to adopt restrictive legislation. The **E-Transactions Bill** refused in the parliament and referred to a sub-committee to be reconsidered is a case in point.

Recommendations

- The Constitution should be reviewed and brought in line with international standards on freedom of expression. In particular, the Constitution should provide that any restriction on freedom of expression must be provided 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.

- The speech offences contained in the Penal Code and the Military Justice Code should be repealed, in particular criminal defamation and 'insult' offences.

- The Publications Law 1962 should be repealed and replaced by self-regulation of the press.

- Internet intermediaries should be granted immunity from liability for third-party content by law.

- ISPs should only be subject to a notification requirement rather than licensing. Moreover, the telecommunications regulatory authority should be independent from government and commercial interests.

- Surveillance powers should be clearly laid down by law in line with international standards on the right to privacy.

- The authorities should consider adopting a strong overarching legal framework protecting personal data.

- The net neutrality principle should be protected by law.

This report is a joint publication between Hivos' IGMENA program and ARTICLE 19.

The policy review was conducted by Maharat Foundation. Staff from IGMENA program edited the final draft.

This work is provided under the Creative Commons Attribution-ShareAlike 3.0 Unported License.

