



Media Regulatory Reform in the Middle East and North Africa: Criminal Restrictions on Media Content

Workshop Statement

We, expert participants from Egypt, Lebanon, Libya, Morocco, Tunisia and Yemen, invited by Maharat Foundation, the Centre for Law and Democracy and International Media Support to the Workshop on Toward Media Regulatory Reform in the Middle East and North Africa: Criminal Restrictions on Media Content, having assembled in Beirut, Lebanon, from 24-25 April 2014:

Noting that countries across the region have a number of similarities in terms of the legal environment for the media, alongside differences in terms of both the legal environment and the manner in which legal rules are implemented;

Concerned that, despite law reforms in some countries in recent years, there remain problems with overbroad and vague criminal restrictions on the content of what may be published, broadcast or otherwise disseminated in the media, which are open to abuse and have often been abused to restrict media freedom;

Stressing the important role that freedom of expression plays in supporting and building democracy, and promoting sustainable development and effective security;

Aware that effective reforms in this area require not only law reform but also the promotion of judicial independence as well as awareness raising among the judiciary, civil society organisations and the wider public about the importance of freedom of expression in a democracy;

Adopt the following Statement on Media Regulatory Reform in the Middle East and North Africa: Criminal Restrictions on Media Content:

Countries in the region should conduct comprehensive reviews of criminal restrictions on what may be published, broadcast or otherwise disseminated publicly, in consultation with interested stakeholders, with a view to amending the legal framework to bring it into line with international standards relating to freedom of expression, while also taking into account the regional and national context.

Specific criminal prohibitions on media content should be abolished and, where necessary, replaced with general criminal rules which apply to all forms of expression, although specific administrative and/or self-regulatory regimes for the media may be legitimate.

The application of criminal prohibitions on content – including investigations, prosecutions and judicial processes – should be conducted in a fair and independent manner leading, as far as possible, to consistent results based on the nature of the impugned content rather than the political, social or economic status of the speaker.

Laws which aim to protect national security, including anti-terrorism laws, should include clear, precise and limited definitions of these terms, aimed at protecting the State's existence, territorial integrity, critical infrastructure, institutions and/or relationships, and/or political independence.

Individuals should only be held criminally responsible for their statements under national security or anti-terrorism laws where there is a clear and close nexus between those statements and a risk of harm to national security and where the individual acted with the intent of harming national security.

States of emergency should be imposed only where necessary and in the context of situations which threaten the life of the nation, any restrictions on human rights during emergencies should be limited to what is strictly required and should never be applied in a discriminatory fashion, and any state of emergency should be terminated as soon as the threat to the life of the nation subsides.

Defamation and related laws should protect only the reputations of individual legal and natural persons, not including public bodies, and should provide for adequate defences for defendants, including a defence of reasonable or good faith publication. Regimes of sanctions for defamation should be reviewed to ensure that sanctions are always proportionate to the harm done to the reputation of the plaintiff. In no instance should imprisonment be available as a sanction for defamation and countries in the region should consider the complete decriminalisation of defamation.

Criminal content rules relating to religion should only aim to protect believers as such and should apply in a non-discriminatory way to protect adherents of different belief systems.

Privacy should be protected by law in all countries in the region and should be supported by implementation mechanisms which allow for effective oversight of intrusions into privacy, including by public bodies. These laws should, where privacy comes into conflict with other interests, including freedom of expression, provide for a public interest balancing between the competing interests.

Countries in the region should adopt hate speech laws while ensuring that these laws meet the requirements of both Article 19(3) and 20(2) of the *International Covenant on Civil and Political Rights*, namely by only prohibiting advocacy of hatred that constitutes incitement to discrimination, hostility or violence.

Effective steps should be taken to promote greater professionalism among journalists and those who regularly disseminate information to the public with a view both to providing better protection to the public and to reducing the application of criminal rules on content.