

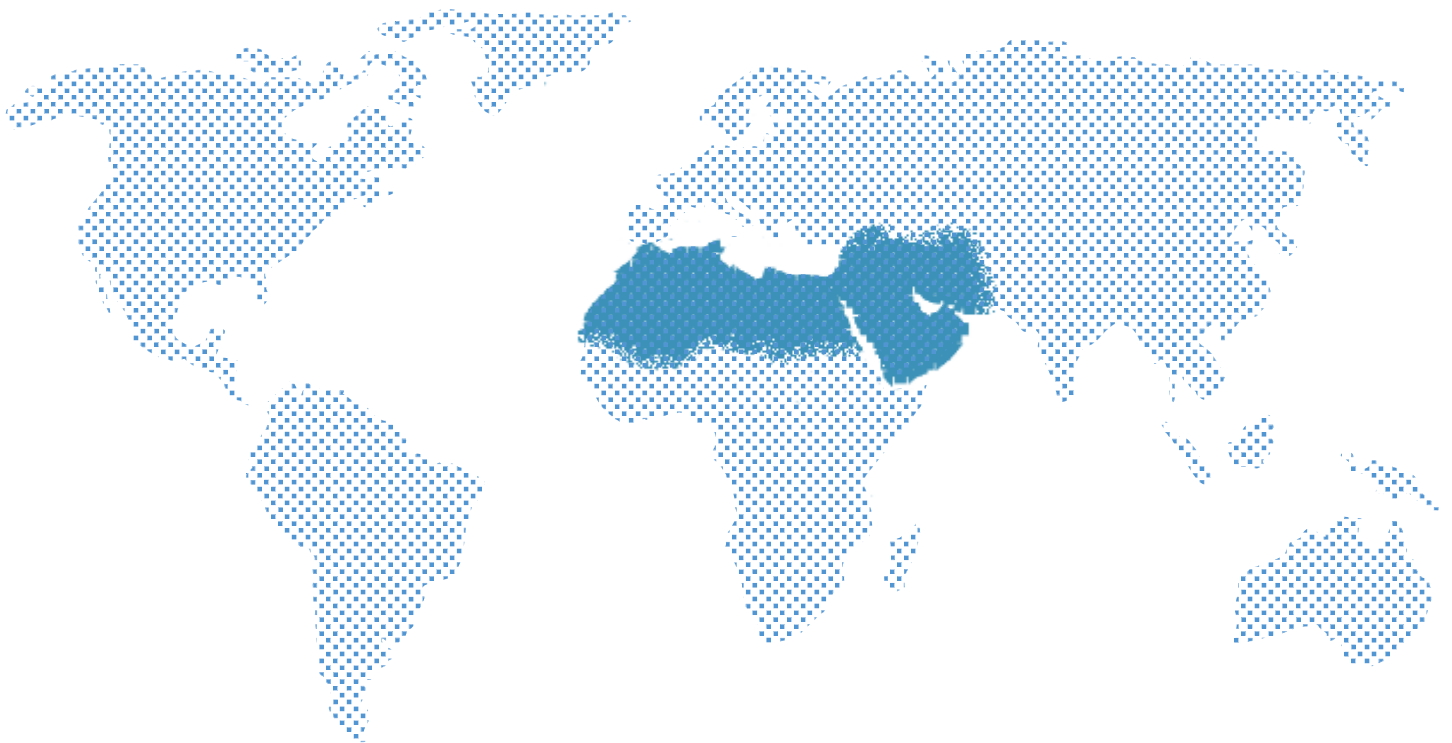


CENTRE FOR LAW  
AND DEMOCRACY

## **Restrictions on Civic Space Globally: Law and Policy Mapping Series**

**Volume 3: Middle East and North Africa**

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# Restrictions on Civic Space Globally: Law and Policy Mapping Series

This Report is part of a five-part Series. Each Report maps the legal restrictions on civic society in selected countries in five geographic regions, as of 2019. The five volumes are as follows:

**Volume 1: Asia Pacific Region**

**Volume 2: Europe and Central Asia Region**

**Volume 3: Latin America Region**

**Volume 4: Middle East and North Africa Region**

**Volume 5: Sub-Saharan Africa Region**

**This report was Commissioned by:**



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## Executive Summary

This Report reviews the law and policy environment for civic space in select countries in the Middle East and North Africa as of July 2019. It conducts a comprehensive review of the legal environment in Bahrain, Jordan, Kuwait and Morocco. It then provides shorter summaries of the key civic space issues in Egypt, Lebanon, Tunisia, Saudi Arabia and the United Arab Emirates. Some key trends across the region include:

- **Intrusive Ability to Interfere with Civil Society Organisations:** Across the region, authorities typically have significant discretion to deny registration to civil society organisations and/or to dissolve them. In addition, some authorities can compel changes to an organisation's internal structures and they may even have the power to compel organisations to permit government officials to attend their meetings. In some countries, organisations must obtain prior approval in order to engage in domestic and/or foreign fundraising. The ability of civil society organisations to establish themselves and operate in the Gulf and Egypt is highly limited.
- **Numerous Broad Content Restrictions:** Media laws in the region contain a large number of restrictions which do not meet international human rights standards. They often prohibit, using vague terms, speech deemed offensive to national institutions or values. The same is true of criminal laws, which impose harsh sanctions for defamation and insult, and offending national symbols or leaders (such as the King). Contempt of court and hate speech prohibitions are typically not crafted in a manner which aligns with international standards.
- **Restrictive Cybercrime Laws and Digital Regulation:** Several cybercrimes laws in the region repeat content restrictions found in other laws, imposing steeper penalties online as compared to offline. States typically have significant power, without needing a court order, to block websites or content with politically controversial messages. Some of these laws also enable questionable surveillance practices.
- **Licensing Schemes for Journalists, Newspapers and Certain Websites:** Most journalists and newspapers must obtain licences which the government has discretion to deny. News websites may also need to obtain licenses; the category of "news websites" can be broad, for example in Jordan where it includes anyone who publishes articles or comments about current affairs.
- **Lack of Independent Media Regulators:** Media regulators are not independent. Combined with press laws which impose wide-ranging content restrictions, this gives the media body significant ability to restrict content deemed to be critical of the government.
- **National Security or Anti-Terrorism Laws are Vulnerable to Abuse against Peaceful Civil Society:** Several security laws contain content prohibitions or define terrorism in an overly broad manner. Various security laws enable civilians to be tried in specialised security courts, allow surveillance without sufficient oversight or place steep penalties on participants attending unauthorised meetings or gatherings.
- **Strong Limits on the Freedom to Gather and Assemble:** Public meetings, and not only public assemblies, require notification of public authorities in some countries. The law often fails sufficiently to constrain the discretion of authorities to prevent an assembly. Security laws in some countries impose restrictions on assemblies or liability for organisers

of a demonstration; in Tunisia a state of emergency has been relied upon to restrict assemblies. All assemblies are banned in Saudi Arabia.

- **Absent or Weak Right to Information Laws:** Several countries in the region lack right to information laws entirely while most also have broad secrecy rules.

## Approach and International Standards

Laws which regulate civil society are numerous and often complex. Rather than provide a comprehensive review, this Mapping focuses on more problematic provisions in each country with the goal of identifying areas in need of reform. For example, it documents legal provisions which have been used to bring criminal charges against journalists and activists. The result is that the overall description for each country may skew towards the negative, as even countries which generally have an enabling environment for civil society often still have problematic laws in some areas.

This Mapping conducts comprehensive reviews of four countries, according to the nine categories below. For each category, domestic laws are assessed against international human rights standards. The nine categories are presented here, along with the key international standards for each area.

In addition, this Mapping provides a shorter summary of the conditions for civic space in an additional five countries. The categories below guide these summaries although each category is not explored in depth.

**Category 1.** Freedom of association: non-profit registration requirements and restrictions on advocacy: Are civil society organisations required to register? Are features of the registration process burdensome? Do authorities have discretion to deny registration? What limitations are placed on the ability of civil society organisations to operate and advocate?

The right freely to associate with others is guaranteed by Article 22 of the International Covenant on Civil and Political Rights (ICCPR),<sup>1</sup> among other international treaties. States should create an enabling environment in which organisations can be established and operate freely.<sup>2</sup> Any restrictions on the right to association must be prescribed by law and be necessary to protect national security, public safety, public order, public health or public morals, or the rights or freedoms of others.<sup>3</sup>

Civil society organisations should not be required to register as a legal entity; the right to form informal associations is protected under human rights law. Should an organisation choose to be formally legally registered, the procedures for this should be simple, accessible, non-

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<sup>1</sup> Adopted by General Assembly Resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

<sup>2</sup> UN Human Rights Council Resolution 24/5, 8 October 2013, p. 2. Available at: <https://undocs.org/A/HRC/RES/24/5>.

<sup>3</sup> ICCPR, Article 22(2).

discriminatory and not overly burdensome.<sup>4</sup> If officials can deny registration, it should be on narrow, objective grounds, with the opportunity to appeal to an independent oversight body, such as a court.

Once registered, States should not impose highly burdensome reporting obligations on organisations or intrude on their internal operations. Laws should not prevent organisations from engaging in advocacy activities on matters of public interest. Dissolution of an organisation should be permitted only where there has been a very serious breach of the law, based upon narrow grounds which are clearly articulated in the law, as decided by an independent authority, preferably a court.<sup>5</sup>

**Category 2.** Funding restrictions, financial reporting requirements and special tax requirements:  
Are limits placed on the ability of civil society organisations to obtain foreign funding? Are there burdensome financial reporting or tax requirements?

The right to freedom of association protects the right of organisations to seek, receive and use funding. This includes the ability to access foreign funding, meaning that prohibitions on accessing foreign funding or onerous requirements for organisations receiving foreign funding are not legitimate. States may screen for fraud, money laundering or terrorist financing activities, and promote transparency in the use of funds. However, financial reporting requirements should be tailored to the operating realities of non-profit organisations, and not inhibit their ability to engage in legitimate operations.<sup>6</sup>

States should also not indirectly limit the work of civil society via tax laws. Rather, better practice is to create an enabling environment for civil society, including mechanisms such as allowing tax exempt status for non-profit organisations and tax deduction options for donors.<sup>7</sup>

**Category 3.** Media regulation: Are there registration or licensing requirements for print media or journalists? Are any bodies which are responsible for regulating the media independent?

Regulation of the media must respect the right to freedom of expression, meaning it should respect media independence and should not become a means of government control. On the other hand, intervention may be necessary to promote media diversity and to prevent the emergence of media monopolies.

States should not require journalists to obtain licences or register in order to engage in journalistic activities.<sup>8</sup> Print media should also not be subject to a licensing regime, although merely technical

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<sup>4</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 21 May 2012, UN Doc. A/HRC/20/27, para. 95. Available at: <https://undocs.org/A/HRC/20/27>.

<sup>5</sup> See Report of the Special Rapporteur, note 4, paras. 75-76 and 100; and Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 24 April 2013, UN Doc. A/HRC/23/39, para. 38. Available at: <https://undocs.org/A/HRC/23/39>.

<sup>6</sup> Report of the Special Rapporteur, note 4, paras. 67-72.

<sup>7</sup> Report of the Special Rapporteur, note 4, para. 72.

<sup>8</sup> UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, 12 September 2011, CCPR/G/GC/34, para. 44, available at: <http://undocs.org/ccpr/c/gc/34>; and International Mandates

registration requirements may be permissible if they are not overly complex and do not grant authorities discretion to deny registration.<sup>9</sup> In the broadcasting sector, licensing requirements may be appropriate to ensure diversity when allocating broadcasting frequencies, but the process should be fair and transparent, and be overseen by an independent authority.<sup>10</sup>

Bodies that regulate the media should be independent from political or private sector actors. Such regulatory bodies should be accountable and have a clear mandate and structure. The appointment process for members and manner of allocating funding should protect their independence.<sup>11</sup>

**Category 4. Content restrictions:** Are there undue restrictions on the content that the media or civil society may disseminate? Is defamation criminalised? Are there other overbroad or vague restrictions on speech?

The right to freedom of expression, guaranteed by Article 19 of the ICCPR, may only be subject to restrictions which: 1) are provided by law; 2) aim to protect the rights or reputations of others, public order, national security, or public health or morals; and 3) be necessary to protect that interest. Several types of content restrictions commonly found in the Asia Pacific region frequently fail to meet this test:

- Defamation laws: While it is legitimate to protect the reputation of others, special or heightened protections for the reputations of heroes or public figures are inappropriate, since the public has a greater interest in their actions. Criminal penalties for defamation are almost always disproportionate and, as such, do not pass the “necessity” part of the test; defamation should therefore be decriminalised. National symbols, institutions or icons should not be protected by defamation or libel rules, as they cannot be said to have reputations of their own.<sup>12</sup>
- Hate speech: Hate speech is prohibited by Article 20(2) of the ICCPR, which provides: “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”. States should, therefore, prohibit such speech. However, hate speech laws should not be crafted in vague terms or go beyond the narrow scope of hate speech as recognised under international law. They should also require hateful intent and a sufficiently close nexus to an act of discrimination, violence or hostility. Without these elements, hate speech laws are easily abused to target

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for Promoting Freedom of Expression, 2003 Joint Declaration, available at: <https://www.osce.org/fom/28235?download=true>.

<sup>9</sup> International Mandates for Promoting Freedom of Expression, 2003 Joint Declaration, *ibid*.

<sup>10</sup> General Comment No. 34, note 8, para. 39.

<sup>11</sup> African Commission on Human and Peoples’ Rights, Declaration of Principles on Freedom of Expression and Access to Information in Africa, Adopted at the 65<sup>th</sup> Ordinary Session, 21 October to 10 November 2019, Principles 17(1)-(2), available at: <https://www.achpr.org/legalinstruments/detail?id=69>; and Council of Europe, Recommendation (2000) 23 of the Committee of Ministers to Member States on the Independence and Functions of Regulatory Authorities for the Broadcasting Sector, 20 December 2000, available at: [https://www.ebu.ch/files/live/sites/ebu/files/Publications/Reference%20texts/CoE%20-%20Media%20Freedom%20and%20Pluralism/REF%20COE-CM-Rec\(2000\)23.pdf](https://www.ebu.ch/files/live/sites/ebu/files/Publications/Reference%20texts/CoE%20-%20Media%20Freedom%20and%20Pluralism/REF%20COE-CM-Rec(2000)23.pdf).

<sup>12</sup> General Comment No. 34, note 8, paras. 38 and 47.

non-hateful speech.<sup>13</sup> Laws prohibit the expression of opinions about historical facts (genocide denial laws) or impose certain interpretations of history are also not legitimate.<sup>14</sup>

- Religious offence: Speech which incites hatred of certain religious groups may properly be restricted as a form of hate speech. However, other speech criticising religious views or practices should be protected rather than criminalised via blasphemy laws, which often allow for the suppression of minority religious views or inappropriately limit public discourse on religious matters.<sup>15</sup>
- Disinformation: Laws generally prohibiting the dissemination of “fake news” or the sharing of false information are too vague to meet the Article 19 test for restrictions on freedom of expression.<sup>16</sup> Instead, States should only prohibit false statements linked to particular harmful results, such as defamation or fraud, subject to them being made with malicious intent.
- Contempt of court: Contempt of court laws can be legitimate as a means of maintaining order in a courtroom and the fair administration of justice, but laws which prohibit criticism of the judiciary, such as so-called “scandalising the judiciary” offences, improperly restrict public scrutiny of the judiciary.<sup>17</sup>
- Other overly vague offences: The Article 19 test requires restrictions on freedom of expression to be “provided by law”, meaning that they should be “formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public.”<sup>18</sup> Prohibitions on obscenity, for example, may be subject to abuse if not clearly defined.

**Category 5.** Internet and digital rights: Is online speech subject to more burdensome restrictions than offline speech? Do data retention laws raise privacy concerns? Are intermediaries responsible for content posted by users?

International law clearly establishes that the “rights that people have offline must also be protected online.”<sup>19</sup> Although the digital era brings some new challenges that require novel regulation, States should not generally create special content restrictions or impose harsher penalties for Internet

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<sup>13</sup> *Jersild v. Denmark*, 23 September 1994, Application No. 15890/89 (European Court of Human Rights), paras. 24 and 35-36, available at: <http://hudoc.echr.coe.int/eng/?i=001-57891>; and Article 19, Camden Principles on Freedom of Expression and Equality, April 2009, available at: <https://www.article19.org/data/files/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf>.

<sup>14</sup> General Comment No. 34, note 8, para. 49.

<sup>15</sup> Rabat Plan of Action, 11 January 2013, para. 25. Available at: [https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat\\_draft\\_outcome.pdf](https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf).

<sup>16</sup> International Mandates for Promoting Freedom of Expression, Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda, 3 March 2017. Available at: [https://www.law-democracy.org/live/wp-content/uploads/2017/03/mandates.decl\\_2017.fake-news.pdf](https://www.law-democracy.org/live/wp-content/uploads/2017/03/mandates.decl_2017.fake-news.pdf).

<sup>17</sup> International Mandates for Promoting Freedom of Expression, 2002 Joint Declaration. Available at: <https://www.osce.org/fom/39838?download=true>.

<sup>18</sup> General Comment No. 34, note 8, para. 25.

<sup>19</sup> UN Human Rights Council Resolution 32/13, 18 July 2016, para. 1, available at: <https://undocs.org/A/HRC/RES/32/13>; and UN General Assembly Resolution 68/167, 21 January 2014, para. 3, available at: <https://undocs.org/A/RES/68/167>.



speech.<sup>20</sup> Blocking of certain websites or requiring the takedown of specific content should only apply to clearly illegal content, following a court order or order from another independent oversight body.

Intermediaries which provide merely technical Internet services, such as Internet service providers, should not be liable for content posted by others. The question of intermediary liability is more complex for intermediaries which play a more proactive role in supporting and interacting with user content. However, at a minimum, such intermediaries should not be directly liable for user content and should not be required to monitor user content proactively. Overreaching takedown requirements for intermediaries incentivise them to over-police user speech.<sup>21</sup>

**Category 6.** Right to information and secrecy laws: Are public authorities required to provide access to the information they hold? What rules, including secrecy laws, are in place which limit public access to information and/or penalise civil society for disseminating it?

The right to seek and receive information held by public authorities (the right to information or RTI) is a crucial component of freedom of expression. It should be given effect through comprehensive legislation which enables persons to request information from their governments. Such legislation should establish a presumption in favour of public access to information, subject only to a narrow regime of exceptions.<sup>22</sup> The strength of legal frameworks for RTI is assessed based on CLD and Access Info Europe's RTI Rating (rti-rating.org). This uses 61 indicators to assess the strength of the legal framework for RTI in seven categories: (1) the extent to which the law supports a fundamental right to access information; (2) the scope of the law; (3) the procedures for requesting information; (4) what exceptions justify denying requests for information and the process for such denials; (5) appeals; (6) sanctions for misconduct and protections for those who disclose public interest information; and (7) measures to promote the right to information.

This category also assesses what secrecy laws prohibit the disclosure of information and what penalties are imposed by those laws. Overly broad secrecy laws undermine transparency and public access to information. Of particular concern are provisions which penalise third parties, such as civil society or journalists, for sharing or re-sharing information which has been disclosed to them.<sup>23</sup>

**Category 7.** Restrictions on freedom of assembly: Must organisers obtain prior permission before holding an assembly? Are there other restrictions on or criminal sanctions for participating in an assembly?

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<sup>20</sup> International Mandates for Promoting Freedom of Expression, 2018 Joint Declaration on Media Independence and Diversity in the Digital Age, para. 3. Available at: <https://www.osce.org/representative-on-freedom-of-media/379351?download=true>.

<sup>21</sup> International Mandates for Promoting Freedom of Expression, 2011 Joint Declaration on Freedom of Expression and the Internet. Available at: <https://www.osce.org/fom/78309?download=true>.

<sup>22</sup> International Mandates for Promoting Freedom of Expression, 2004 Joint Declaration on Access to Information and on Secrecy Legislation. Available at: <https://www.osce.org/fom/38632?download=true>.

<sup>23</sup> General Comment No. 34, note 8, para. 30; and 2004 Joint Declaration on Access to Information and on Secrecy Legislation, note 22.

The right to assembly, guaranteed by Article 21 of the ICCPR, protects the right to organise and participate in non-violent gatherings, subject to restrictions which meet a test which is similar to the one which applies to freedom of expression and association. States must therefore allow assemblies and protests to occur without unwarranted interference. They may require advance notice of an assembly but laws which require organisers to obtain permission for an assembly are not appropriate.<sup>24</sup> In the interests of public order, some limited requirements regarding the time, location or manner of assemblies may be legitimate, subject to the Article 21 test, and participants must be able to assemble “within sight and sound” of their audience and with enough time to express their views.<sup>25</sup>

Law enforcement actions should respect and protect the exercise of the fundamental rights of the participants and the public. Policing should aim to enable an assembly to take place as planned and minimise the potential for injury to persons or damage to property.<sup>26</sup> Force should be used only when necessary and should be proportionate; lethal force is only permissible “as a last resort to protect against an imminent threat to life and that it may not be used merely to disperse a gathering.”<sup>27</sup> States should also avoid bringing disproportionate penalties against protestors. Laws which criminalise mere participation in a protest or impose criminal penalties on protest organisers for acts committed by other participants are particularly problematic.<sup>28</sup>

**Category 8.** National security: Are crimes based on national security concerns, such as terrorism, defined in such a way as to include peaceful civil society activity? What surveillance powers do authorities have? What powers do governments have to suspend human rights obligations during states of emergency?

Where there is a “public emergency which threatens the life of the nation”, States may announce states of emergency and derogate from certain of their human rights obligations. However, derogations are allowed only insofar as they are strictly required by the exigencies of the situation.<sup>29</sup> States of emergency are exceptional circumstances; unrest or internal conflict that does not gravely and imminently threaten the life of the nation, or economic difficulties, are not

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<sup>24</sup> Report of the Special Rapporteur, note 4, para. 28; and Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 7 August 2013, U.N. Doc. A/68/299, para. 24, available at: <https://undocs.org/A/68/299>; and African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, 10 November 2017, para. 71, available at: <https://www.icnl.org/post/tools/guidelines-on-freedom-of-association-and-assembly-in-africa>.

<sup>25</sup> See, for example, Human Rights Committee, *Denis Turchenyak et al. v. Belarus*, Communication No. 1948/2010, 10 September 2013, available at: <https://juris.ohchr.org/Search/Details/1672>; and Organization for Security and Co-operation in Europe, Guidelines on Freedom of Peaceful Assembly: Second Edition, 25 October 2010, paras. 99-100, available at: <https://www.osce.org/odihr/73405>.

<sup>26</sup> UN Human Rights Council Resolution 38/11, 18 July 2016, para. 10, available at: <https://undocs.org/A/HRC/RES/38/11>; and Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 April 2018, UN Doc. A/HRC/26/36, para. 51, available at: <https://undocs.org/A/HRC/26/36>.

<sup>27</sup> UN Human Rights Council Resolution 38/11, note 26, para. 11.

<sup>28</sup> See, for example, Inter-American Commission on Human Rights, Criminalization of Human Rights Defenders, Chapter 3(B)(2), 31 December 2015. Available at: <http://www.oas.org/en/iachr/reports/pdfs/Criminalization2016.pdf>.

<sup>29</sup> ICCPR, note 3, Article 4.

sufficient to meet this standard.<sup>30</sup> Furthermore, certain rights cannot be derogated from even in emergencies, such as the right to life and the right to be free from torture or slavery.<sup>31</sup>

Where a legitimate state of emergency is not in place, any restrictions on national security grounds must meet the standard tests for restrictions on human rights. States often problematically rely on national security to justify overbroad criminal restrictions on expression, such as in anti-terrorism or treason laws. Such laws should not rely on vague terms like “glorification” of terrorism or “extremism”. Instead, they should only punish behaviour which specifically intends to promote violence and is directly linked to an actual increased risk of a violent or terrorist attack.<sup>32</sup>

Laws should also protect against arbitrary surveillance of civil society actors by the State. Legal frameworks often fail to provide adequate procedural protections to ensure surveillance is not conducted arbitrarily. Surveillance regimes should be clearly established in law and be subject to precise limits on their scope and duration. Monitoring of private communications should be subject to oversight by an independent body, subject to judicial review and should incorporate adequate due process protections.<sup>33</sup>

**Category 9.** Whistleblower, witness and other protection systems for those at risk: Are any such systems in place and, if so, are they sufficiently robust?

Whistleblowers play an essential role in exposing institutional corruption, fraud and human rights violations. Due to the high personal risk assumed and the public’s interest in the disclosure of this information, States should enact whistleblower protection laws which prohibit retaliatory actions taken by the State or private actors. Strong whistleblower protections laws will also establish accessible channels for reporting wrongdoing, provide whistleblowers with access to remedies and create enforcement mechanisms which enable follow-up and reform following a disclosure. For standards on international better practice in this area, see Transparency International’s *International Principles for Whistleblower Protection Legislation*.<sup>34</sup>

## Country Analysis

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<sup>30</sup> Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, 1 July 1984, Principles 40 and 41. Available at: <https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>.

<sup>31</sup> ICCPR, note 3, Article 4.

<sup>32</sup> International Mandates for Promoting Freedom of Expression, 2008 Joint Declaration on Defamation of Religions, and Anti-Terrorism and Anti-Extremism Legislation, available at: <https://www.osce.org/fom/99558?download=true>; and The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, 1 October 1995, Principle 6(c), available at: <https://www.article19.org/data/files/pdfs/standards/joburgprinciples.pdf>.

<sup>33</sup> UN and OAS Special Rapporteurs on freedom of expression, Joint Declaration on Surveillance Programs and their Impact on Freedom of Exchange, 21 June 2013, paras. 7-10, available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=927&>; and Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 17 April 2013, para. 3, available at: [undocs.org/A/HRC/23/40](https://undocs.org/A/HRC/23/40).

<sup>34</sup> 5 November 2013. Available at:

[https://www.transparency.org/whatwedo/publication/international\\_principles\\_for\\_whistleblower\\_legislation](https://www.transparency.org/whatwedo/publication/international_principles_for_whistleblower_legislation).

## Comprehensive Mappings

### Bahrain

#### Freedom of association: non-profit registration requirements and restrictions on advocacy

Non-profit organisations can register under the Law of Associations, Social and Cultural Clubs, Special Committees Working in the Field of Youth and Sports and Private Institutions [“Law of Association”].<sup>35</sup> The registration process is managed under the authority of the Ministry of Social Affairs, which is given broad discretionary power to grant and revoke NGO status.<sup>36</sup> The Ministry reserves the right to refuse to register an organisation if it believes society would not benefit from the operation of the NGO, if there is a similar organisation in existence or if the creation of the NGO would “undermine the welfare and security of the state”.<sup>37</sup> These broadly worded provisions have been used routinely to deny NGO registration applications on arbitrary grounds and suppress political dissent of minority groups.<sup>38</sup>

The Minister has discretion to impose conditions on the powers of board members of NGOs.<sup>39</sup> The Minister may annul the election results for board members if they violate the law or the organisation’s by-laws<sup>40</sup> and may merge NGOs if they promote similar objectives.<sup>41</sup> Furthermore, the Minister reserves the right to dissolve an NGO at any time if it is unable to achieve its aims or is violating public order or norms.<sup>42</sup>

Under the Law of Association, organisations are explicitly barred from engaging in any form of political activity.<sup>43</sup> In 2002, a decree additionally prohibited organisations from engaging in any form of activity that affects the foundations of the Islamic faith, the unity of people or creates discord or sectarianism.<sup>44</sup> Any registered NGO is further banned from any action that contradicts public order or morals, or is illegitimately aimed at undermining the wellbeing of the State or government.<sup>45</sup>

In practice, the bar on political activity is widely abused and has led to the dissolution of many major human rights organisations<sup>46</sup> for actions such as criticising reports of government

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<sup>35</sup> Decree 28/1989 [Law of Association]. Translation available at:

<http://www.icnl.org/research/library/files/Bahrain/21-89-En.pdf>.

<sup>36</sup> Law of Association, Article 1.

<sup>37</sup> Law of Association, Article 11.

<sup>38</sup> Human Rights Watch, Interfere, Restrict, Control: Restraints on Freedom of Association in Bahrain, June 2013. Available at: <https://www.hrw.org/news/2004/09/29/bahrain-rights-center-closed-crackdown-expands>.

<sup>39</sup> Note 35, Article 43.

<sup>40</sup> Law of Association, Article 47.

<sup>41</sup> Note 35, Article 24.

<sup>42</sup> Law of Association, Article 50.

<sup>43</sup> Note 35, Article 18.

<sup>44</sup> Decree 44/2002, Article 1. Available at:

<http://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=4238#.XOVz21NKjOR>.

<sup>45</sup> Note 35, Article 3.

<sup>46</sup> Human Rights Watch, Bahrain: Rights Center Closed as Crackdown Expands, September 2004. Available at: <https://www.hrw.org/news/2004/09/29/bahrain-rights-center-closed-crackdown-expands>.

corruption.<sup>47</sup> The Bahrain Center for Human Rights was dissolved in 2014 after the chairman of the organisation was arrested for sending out a tweet that was deemed to defame the King.<sup>48</sup> Other leaders of NGO groups have been arrested on similar charges, hindering their ability to operate.<sup>49</sup> Members of civil society groups have reported that they were barred from leaving the country to attend a UN conference in 2010, despite not having any formal travel bans issued against them.<sup>50</sup>

### Funding restrictions, financial report requirements and special tax requirements

After an NGO is registered under the Law of Associations, it must obtain a separate licence before it may raise funds of any kind.<sup>51</sup> This process includes disclosing to the Ministry how the money will be collected, how it will be spent and the number of the bank account where it will be stored. This licence, if granted, is only valid for two months before it expires.<sup>52</sup> There are no provisions setting out the criteria to be used by the Ministry to determine if a licence will be granted or rejected. Furthermore, the Minister reserves the right to impose any condition as to how funds may be raised.<sup>53</sup>

Though not explicitly provided for in the framework, it was previously common practice for the government to provide funding for NGOs. This has since fallen out of use.<sup>54</sup> This is problematic as organisations may not be able to receive funding from other sources if the application to fundraise within the country is denied. Furthermore, NGOs are unable to accept funding from any foreign body or government.<sup>55</sup>

Any registered organisation that records revenues or expenditures above BHD 10,000 (approximately USD 26,500) will be audited by the Ministry, which gives access to all documentation related to the organisation.<sup>56</sup> All associations are required to submit an annual budget to the Minister as per their by-laws.<sup>57</sup> Finally, it is prohibited for an association to use its assets for an activity that does not further its purposes, without further criteria for how this will be determined.<sup>58</sup>

### Media regulation

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<sup>47</sup> Edward Burke, Bahrain: Reaching a Threshold, June 2008, p. 10. Available at: <http://www.icnl.org/research/library/files/Bahrain/FRIDE-project-2008-En.pdf>.

<sup>48</sup> Human Rights Watch, note 46.

<sup>49</sup> Groups include the Bahrain Teachers Association.

<sup>49</sup> Human Rights Watch, Bahrain: Rights Center Closed as Crackdown Expands, note 46; and the Olamaa Islamic Council and Bahrain Medics Society, available at: <https://bahraininterfaith.org/?p=125>.

<sup>50</sup> Obstacles to Freedom of Movement and Violations of Freedom of Association. Available at: <https://www.refworld.org/docid/4ca96f112.html>.

<sup>51</sup> Note 35, Article 4.

<sup>52</sup> Law of Association.

<sup>53</sup> Law of Association, Article 21.

<sup>54</sup> International Federation for Human Rights, Freedom of Association in the Arabian Gulf: The Case of Bahrain, Kuwait, and Yemen, 2008, p. 24. Available at: <https://www.fidh.org/IMG/pdf/etude.pdf>.

<sup>55</sup> Note 35, Article 20.

<sup>56</sup> Law of Association, Article 15.

<sup>57</sup> Law of Association, Article 16.

<sup>58</sup> Law of Association, Article 89.

Under the Constitution, “freedom of opinion and research is guaranteed” and “everyone has the right to express his opinion and publish it by word of mouth, in writing, or otherwise under the rules and conditions laid down by the law”.<sup>59</sup> According to the Press and Publications Law, every person has the right to express their opinion and publish it, as long as this is in accordance with the terms of the law and the fundamentals of Islam, unity and avoiding sectarianism.<sup>60</sup>

Printing presses and news agencies<sup>61</sup> must obtain a licence<sup>62</sup> that outlines the personal information of the applicant, as well as the expected manager in charge, who will be held liable for any violations of the Press Law or Penal Code.<sup>63</sup> There is no provision setting out the criteria to be used when considering an application and no reasons are required to be provided upon rejection.

Any publication must obtain approval from the Directorate of Printing and Publications in the Ministry of Information before being circulated and the publisher must deposit copies of the publication with the Directorate.<sup>64</sup> The Ministry may decide to bar circulation of documents that prejudice the system of government, encroach on religion, breach ethics, endanger public peace or contain content which is prohibited by the Press Law.<sup>65</sup>

A licence is required to operate a newspaper. A company wishing to establish a newspaper must disclose on the application if the paper will be political in nature.<sup>66</sup> The application must be approved by both the Minister and the Cabinet.<sup>67</sup> The Minister has the discretion to refuse an application, although a written reason is required for a denial.<sup>68</sup> There is a minimum capital requirement of BHD 50,000-1,000,000 (approximately USD 132,500-2,651,900), depending on the nature of the newspaper, and once an application is approved a deposit must be provided to the Ministry’s treasury, which may be drawn upon if fines are imposed.<sup>69</sup> These requirements present significant obstacles to establishing a newspaper in Bahrain.

Under the Telecommunication Law and subsequent regulations, the Telecommunications Regulatory Authority (the TRA) regulates all forms of broadcasting through licensing schemes.<sup>70</sup> The TRA board of directors is appointed by the Council of Ministers, and so it is not independent.<sup>71</sup> The board is also required to implement the decisions of the Ministry of Transportation and Telecommunications on governmental policy matters related to telecommunications within the

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<sup>59</sup> Constitution of the Kingdom of Bahrain, 2002, Article 23. Available at:

<http://www.shura.bh/ar/legislative/resource/constitution/pages/default.aspx>.

<sup>60</sup> Regarding Organizing the Press, Printing, and Publishing, Decree by law 47/2002, Article 1 [Press and Publications Law]. Available at: [http://www.bahrainijournalists.org/References\\_and\\_documents/Law](http://www.bahrainijournalists.org/References_and_documents/Law).

<sup>61</sup> Press and Publications Law, Article 6.

<sup>62</sup> Press and Publications Law, Article 4.

<sup>63</sup> Press and Publications Law, Article 5.

<sup>64</sup> Press and Publications Law, Article 17.

<sup>65</sup> Press and Publications Law, Article 19.

<sup>66</sup> Press and Publications Law, Article 46.

<sup>67</sup> Press and Publications Law, Article 44.

<sup>68</sup> Press and Publications Law, Article 52.

<sup>69</sup> Press and Publications Law, Article 52.

<sup>70</sup> The Telecommunications Law of the Kingdom of Bahrain, Decree 48/2002, Article 3 [Telecommunications Law]. Available at: <http://www.tra.org.bh/media/document/TelecommunicationsLaw-secondedition-English.pdf>.

<sup>71</sup> Telecommunications Law, Article 4.



scope of the law and its responsibilities.<sup>72</sup> There are no specific criteria to determine if a licence is to be denied or approved, but the TRA is required to give reasons for a rejection.<sup>73</sup>

A 2009 regulation requires all broadcasters to implement “lawful access” in order to retain or obtain a licence, meaning they must surrender information transmitted by customers to the government or security organs.<sup>74</sup> The licensee must provide information such as the content, location, duration and frequency of calls; the date, time, location of receipt and phone numbers associated with any text messages; and the proxy record, time, date, IP address and website visited by any Internet user.<sup>75</sup> If access is not granted when asked, the provider forfeits its licence and is subject to various fines.<sup>76</sup> Government powers to access this data at the discretion of authorities and without a court order raise serious privacy concerns.

### Content restrictions

The constitutional protection of freedom of expression is undermined by overly sweeping content restrictions. The Press and Publications Law restricts the publication of material that criticises the King,<sup>77</sup> instigates overthrowing the regime,<sup>78</sup> threatens national unity or violates public ethics,<sup>79</sup> among other things. These include vague provisions such as the prohibition against publication of material that “instigate hatred of the political regime or encroach on state’s official religion”,<sup>80</sup> publishing fake news,<sup>81</sup> contradicting public morals or insulting the courts.<sup>82</sup> The Telecommunications Law further provides for punishment for any person who uses a telecommunication network to send a message that is false, misleading or offensive to public policy or morals.<sup>83</sup>

The Penal Code criminalises libel and slander.<sup>84</sup> There are also a number of offences against constitutional institutions which penalise offending the Amir or the national flag or emblem; offending a foreign country or international organisation based in Bahrain; or offending the National Assembly, law courts, army, authorities or government agencies.<sup>85</sup> It is also an offence to deliberately release abroad false news, statements or rumours about domestic conditions so as

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<sup>72</sup> Telecommunications Law, Article 16.

<sup>73</sup> Telecommunications Law, Article 27.

<sup>74</sup> Promulgating a Resolution Requiring Licensees to Implement Lawful Access, Resolution 8/2009, Article 1 [Resolution Requiring Lawful Access]. Available at: <http://www.tra.org.bh/media/document/PublishedLawfulAccessRegulation-1.pdf>.

<sup>75</sup> Resolution Requiring Lawful Access, Article 8.

<sup>76</sup> Resolution Requiring Lawful Access, Article 53.

<sup>77</sup> Note 60, Article 68(b).

<sup>78</sup> Press and Publications Law, Article 68(d).

<sup>79</sup> Press and Publications Law, Article 69.

<sup>80</sup> Note 60, Article 19.

<sup>81</sup> Press and Publications Law, Article 70.

<sup>82</sup> Press and Publications Law, Article 69.

<sup>83</sup> Telecommunications Law, Article 75.

<sup>84</sup> Bahrain Penal Code, 1976, Articles 364 and 365. Available at:

[https://www.unodc.org/res/cld/document/bhr/1976/bahrain\\_penal\\_code\\_html/Bahrain\\_Penal\\_Code\\_1976.pdf](https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf).

<sup>85</sup> Penal Code, Articles 214-216.

to adversely affect Bahrain's prestige or position.<sup>86</sup> Offending a recognised religion or ridiculing its rituals is also criminalised, in what is essentially a blasphemy offence.<sup>87</sup>

Due to the expansive wording of both the legislation governing publication and expression and the Penal Code, prosecuting those who hold opinions the government wishes to suppress is common practice. In practice, criminal law sanctions are disproportionately used against those who speak out about ongoing political, social or economic issues, resulting in large fines or years of imprisonment for those who express dissenting opinions.<sup>88</sup>

### Internet and digital rights

Online content is also subject to restrictions. Under the Internet Safety Resolution by the TRA, all Internet service providers are required to implement a filtering and blocking system.<sup>89</sup> This system automatically prevents access to all websites or other content on the prohibited materials list, which is compiled by the TRA.<sup>90</sup> Furthermore, the Minister of Interior retains the authority to block any website on a discretionary basis, without the need for a court order. For websites that are not blocked, filtering systems ban topics such as online discussions of political opinion or economic conditions.<sup>91</sup>

Newspaper outlets cannot disseminate electronically without obtaining a licence,<sup>92</sup> which must be renewed yearly.<sup>93</sup> Even with such a licence, newspapers may only post videos under two minutes and cannot live stream at any time.<sup>94</sup>

In practice, criminal sanctions are often used to prosecute those who publish critical opinions of the government on popular social media sites such as Twitter.<sup>95</sup> A current draft law would increase the criminal penalties for activities such as the misuse of technology and social media.<sup>96</sup> Bahrain has also begun to target Bahrainis living abroad who run social media accounts which are critical of the government. The Minister of Interior issued a statement via text messages to Bahraini phones indicating that following such accounts could result in legal liability.<sup>97</sup>

### Right to information and secrecy laws

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<sup>86</sup> Penal Code, Article 134.

<sup>87</sup> Penal Code, Article 309.

<sup>88</sup> Edward Burke, Bahrain: Reaching a Threshold, June 2008, pg. 16.

<sup>89</sup> Promulgating the Internet Safety Resolution, Resolution 12/2016, Article 1.

<sup>90</sup> Promulgating the Internet Safety Resolution, Resolution 12/2016.

<sup>91</sup> Freedom House, Freedom on the Net 2018: Bahrain. Available at: <https://freedomhouse.org/report/freedom-net/2018/bahrain>.

<sup>92</sup> Regulating the Use of Newspapers for Electronic Media, Decree 68/2016, Article 1 [Decree 68/2016]. Available at: <http://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=134332#.XOV9I1NKjOR>.

<sup>93</sup> Decree 68/2016, Article 4.

<sup>94</sup> Decree 68/2016, Article 5.

<sup>95</sup> Freedom House, Freedom on the Net 2018: Bahrain. Available at: <https://freedomhouse.org/report/freedom-net/2018/bahrain>.

<sup>96</sup> Arabian Business, Bahrain to Increase Penalties for Misuse of Social Media, 23 May 2019. Available at: <https://www.arabianbusiness.com/technology/420657-bahrain-to-increase-penalties-for-misuse-of-social-media>.

<sup>97</sup> Lisa Barrington, Bahrain says Following Opposition Social Media Could Result in Legal Action, Reuters, 2 June 2019. Available at: <https://www.reuters.com/article/us-bahrain-security-socialmedia-idUSKCN1T30PU>.



Bahrain does not have a right to information law. The Penal Code criminalises deliberately making public a defence secret, which is defined as information which is restricted by its nature to persons having an official capacity. There is no exception based on the public interest in the information being disclosed and this provision applies to everyone and not just to government officials or those tasked with keeping information secret.<sup>98</sup>

### Restrictions on freedom of assembly

The Public Gathering Law imposes constraints on citizens wishing to gather in public spaces. It dictates that 72 hours notice must be given to the government prior to a public meeting.<sup>99</sup> Such meetings cannot be held within 500 meters of specific institutions such as airports, large commercial zones, schools or health facilities,<sup>100</sup> and cannot start before 07:00 or go past 23:30.<sup>101</sup> There is no requirement for the authority to give reasons for banning a gathering or to disclose how the decision was made.<sup>102</sup> In response to the increased political tension and uprising, the law was amended in 2013 to bar peaceful sit-ins in certain cities where protests were becoming more common.<sup>103</sup>

The law does not distinguish between a public demonstration and a public meeting held in an enclosed space. Rather, the head of public security has absolute discretion to determine if a meeting is public or private based on the subject matter being discussed, the number of invitations given and the manner of distributing invitations.<sup>104</sup> If citizens who were not personally invited are allowed to attend, it is automatically deemed to be a public demonstration.<sup>105</sup> If a meeting is approved, the organiser is responsible for ensuring that any speeches or debates do not infringe on public moral or order.<sup>106</sup>

Under the Penal Code, citizens may be charged for attending a conference or public meeting with the intent to discuss political, social, or economic conditions of the State without governmental permission.<sup>107</sup> Article 178 further stipulates that any person who takes part in a demonstration in a public place with at least five persons, with the aim to commit a crime, is liable to punishment.<sup>108</sup> If a public authority determines there is intent to start a riot, they may act with force.<sup>109</sup> Such provisions grant overarching authority to imprison those participating in public activities and the

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<sup>98</sup> Penal Code, Article 128.

<sup>99</sup> On Public Meetings, Rallies, and Gatherings, Decree 32/2006, Article 2 [Decree 32/2006]. Available at: <http://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=2447#.XOWK8VnKjOR>.

<sup>100</sup> Decree 32/2006, Article 11.

<sup>101</sup> Decree 32/2006, Article 5.

<sup>102</sup> Decree 32/2006, Article 2.

<sup>103</sup> Decree 32/2006, Article 11.

<sup>104</sup> Decree 32/2006, Article 8.

<sup>105</sup> Decree 32/2006.

<sup>106</sup> Decree 32/2006, Article 6.

<sup>107</sup> Bahrain Penal Code, 1976, Article 134. Available at:

[https://www.unodc.org/res/cld/document/bhr/1976/bahrain\\_penal\\_code\\_html/Bahrain\\_Penal\\_Code\\_1976.pdf](https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf).

<sup>108</sup> Penal Code, Article 178.

<sup>109</sup> Penal Code, Article 180.

Penal Code is often used to disrupt what are otherwise peaceful protests, even when appropriate notice has been given under the law.<sup>110</sup>

### National security

Provisions in the Penal Code which ostensibly protect national security raise concerns for civil society. For example, Article 160 imposes 10 years' imprisonment for favouring or advocating illegal change in the country's political, social or economic system. This is a low enough threshold (merely favouring rather than directly inciting) that allows it to be misused against government critics. Merely possessing a publication containing material promoting activities set out in Article 160 is also criminalised. The Penal Code also prohibits inciting others to hatred or hostility towards the government,<sup>111</sup> a provision often used in practice against those highlighting human rights abuses or criticising the regime.<sup>112</sup>

### Whistleblower, witness and other protection systems for those at risk

Bahrain has no legislation protecting whistleblowers or other citizens who speak about human rights violations.

## **Jordan**

### Freedom of association: non-profit registration requirements and restrictions on advocacy

Jordan's Penal Code imposes criminal sanctions of a minimum of two years imprisonment for members or founders of any organisations that are required to register by law and do not do so, or continue to hold meetings after having been dissolved. The Law of Associations, which regulates the registration of civil society organisations, is ambiguous as to how mandatory it is for civil society groups to register. However, in combination with the Penal Code, it appears to effectively act as a mandatory registration requirement.

To register, a non-profit organisation must submit an application to the Societies Registry, which is supervised by the Registration Management Council, made up of representatives of various ministries and persons appointed by the Council of Ministers who have expertise in charitable work.<sup>113</sup> An application must include personal information about the founding members such as

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<sup>110</sup> Article 19 and BIRD, Joint Submission for the UPR of Bahrain, October 2016, p. 3. Available at: [https://www.upr-info.org/sites/default/files/document/bahrain/session\\_27\\_-\\_may\\_2017/js2\\_upr27\\_bhr\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/document/bahrain/session_27_-_may_2017/js2_upr27_bhr_e_main.pdf).

<sup>111</sup> Penal Code, Article 165.

<sup>112</sup> Global Freedom of Expression at Columbia University, Arrest of Inter-Faith Activist and Columbia Global Freedom of Expression Expert Maytham Al Salman, 10 August 2015. Available at: <https://globalfreedomofexpression.columbia.edu/updates/2015/08/arrest-of-inter-faith-activist-and-columbia-global-freedom-of-expression-expert-maytham-al-salman>.

<sup>113</sup> Law 22/2009 amending the Law on Societies, Article 4. Translation available at: <http://www.icnl.org/research/library/files/Jordan/22-2009-En.pdf>.

their names and occupations, as well as a copy of the society's proposed by-laws.<sup>114</sup> The council decides to approve or reject an application to create a new organisation.<sup>115</sup>

The relevant ministry responsible for overseeing an organisation (which varies depending on the organisation) has significant powers to oversee its internal operations. The relevant minister, with the approval of the Registry Board of Directors, may merge two organisations together if he or she deems they have the same goals or objectives.<sup>116</sup> All organisations must notify the relevant minister of the date, time and location of a meeting of the organisation's General Assembly and provide a meeting agenda. The relevant ministry and the Registrar may send their own representatives to attend the meeting. Decisions of the organisation's General Assembly must also be reported to the relevant ministry within 15 days.<sup>117</sup> If an organisation violates the law or the provisions of its own by-laws and fails to remedy it after notice, the relevant minister may appoint an interim Board of Directors for the organisation.<sup>118</sup>

The Registry Board, upon the recommendation of the relevant minister, may dissolve an organisation for using foreign funding in contravention of the law or for committing a second violation of the law after a prior warning has been issued.<sup>119</sup>

An organisation cannot have as its purpose achieving political goals that are covered under the law on political parties (the term "political" is not precisely defined).<sup>120</sup> Registration is also prohibited for any group that has illegal goals or the purpose of which contradicts public order.<sup>121</sup>

#### Funding restrictions, financial reporting requirements and special tax requirements

The government has extensive control over an organisation's finances. The Minister or Registrar may inquire into its bank account at any time, with no requirement for a judicial or administrative order.<sup>122</sup>

All organisations must maintain financial accounts that indicate all sources of revenue and expenses.<sup>123</sup> The board of an organisation must provide an annual budget and audit report, although the Minister may waive this requirement for organisations with less than JOD 2,000 (approximately USD 2,800) as a budget.<sup>124</sup> A registered organisation is exempted from paying income tax as per the Income Tax Law, as long as its funds are spent for public benefit.<sup>125</sup>

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<sup>114</sup> Law 51/2008 (Law of Societies), Article 7. Translation available at: <http://www.icnl.org/research/library/files/Jordan/51-2008-En.pdf>.

<sup>115</sup> Law 22/2009, Article 5.

<sup>116</sup> Law 51/2008, Article 24.

<sup>117</sup> Law 51/2008, Article 14.

<sup>118</sup> Law 51/2008, Article 19.

<sup>119</sup> Law 51/2008, Article 20(b).

<sup>120</sup> Law 51/2008, Article 3(a).

<sup>121</sup> Law 22/2009, Article 3(d).

<sup>122</sup> Law 51/2008, Article 17(e).

<sup>123</sup> Law 51/2008, Article 14(a).

<sup>124</sup> Law 51/2008, Article 16.

<sup>125</sup> Ministry of Social Development FAQ. Available at: <http://www.societies.gov.jo/UI/Arabic/TopMenu.aspx?Id=37>.

Organisations must obtain approval to accept foreign funding. Under the Law of Associations, the organisation must first notify the Council of Ministers. The Council may refuse the donation within 30 days.<sup>126</sup> Obtaining foreign funding also requires meeting additional obligation imposed by administrative rules, including an extensive application process describing proposed project budgets and monitoring and evaluation indicators.<sup>127</sup>

### Media regulation

Journalists must be registered members of the Jordan Press Association in order to practise.<sup>128</sup> If a journalist is not a Jordanian citizen, the Minister may allow them to practise within the Kingdom, placing restrictions on the duration and location allowed.<sup>129</sup> The law further stipulates the education needed to qualify for registration, and training standards for those who do not have the required degrees.<sup>130</sup>

Newspapers are defined as press under the Press and Publications Law.<sup>131</sup> To establish a press publication, an application for a licence must be submitted to the Minister.<sup>132</sup> If no decision is issued within 30 days, the application is considered to be approved.<sup>133</sup> However, the Law does not clearly prohibit the Minister from rejecting an application and there is no indication of the criteria to be used to reject or accept an application. Press publications must provide the Minister with an annual budget including sources of revenue.<sup>134</sup> They are also barred from accepting financial support from any foreign entity.<sup>135</sup>

The Constitution requires a court order for newspapers or other publications to be suspended or have their licence revoked.<sup>136</sup> Under the Press and Publications Law, a court may suspend a licence if it determines that doing so is in the best interest of public welfare and national security.<sup>137</sup>

The Audiovisual Media Law establishes a Commission as the primary broadcasting regulatory body. While the Law guarantees the financial and administrative independence of the Commission, the Commission remains under the control of the executive branch, and the Council of Ministers appoints its director and approves its budget.<sup>138</sup> Furthermore, the Commission only makes recommendations on issuing licences, while the Council of Ministers retains final authority to decide on those recommendations.<sup>139</sup>

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<sup>126</sup> Law 51/2008, Article 17(c)(1).

<sup>127</sup> See Mechanism For Obtaining Foreign Financing, Council of Ministers Decision of 18/10/2015. Available at: <http://www.societies.gov.jo/UI/Arabic/ShowContent.aspx?ContentId=324>. Described in English at ICNL, Civic Freedom Monitor. Available at: <http://www.icnl.org/research/monitor/jordan.html>.

<sup>128</sup> Press and Publications Law 1999, Article 10. Translation on file.

<sup>129</sup> Press Association Law, 15/1998, Article 9. Translation available at: <http://www.medialegalsupport.jo/en/node/50>.

<sup>130</sup> Press Association Law, 15/1998.

<sup>131</sup> Press and Publications Law, Article 2.

<sup>132</sup> Press and Publications Law, Article 12.

<sup>133</sup> Press and Publications Law, Article 17.

<sup>134</sup> Press and Publications Law, Article 20.

<sup>135</sup> Press and Publications Law, Article 20.

<sup>136</sup> Constitution, Article 15(4).

<sup>137</sup> Press and Publications Law, Article 50.

<sup>138</sup> Law 36/2015, Audiovisual Media Law, Articles 3(a), 6(a), 10 and 11(a). Translation on file.

<sup>139</sup> Audiovisual Media Law, Article 18(a).

## Content restrictions

Freedom of opinion and expression are constitutionally guaranteed but only for Jordanian citizens and only within the limits of the law.<sup>140</sup> Content restrictions in the Press and Publications Law, Audiovisual Media Law and the Penal Code all raise concerns due to a tendency towards generality, prohibitions on criticising national symbols or public figures and insufficient limits or defences to ensure that restrictions on freedom of expression are strictly necessary and proportionate.

Under the Press and Publications Law, any publication must operate within the limits of the law and respect the private lives of others.<sup>141</sup> Publications must refrain from publishing anything that conflicts with principles of freedom, national responsibility, human rights, Arab values or Islam.<sup>142</sup> Furthermore, it is prohibited to publish anything that may incite violence or discord among citizens.<sup>143</sup>

The Audiovisual Media Law also places a number of content restrictions on broadcasters. These include prohibitions on promoting false information that undermines international relations, content which misleads or deceives the public and content which violates public decency, incites hatred or violence, promotes sorcery, incites sectarian disputes or damages national security or the economy.

The Penal Code imposes prison sentences for defamation of a foreign State, defamation against any citizen, producing writings or speech intended to promote sectarian or racial strife, detracting from the national flag or speaking out publicly against the prophets or religious laws.<sup>144</sup> Slander and libel are also criminalised under article 188, with proof of truth being a defence.<sup>145</sup>

The Penal Code also prohibits spreading news which is known to be false or which would weaken the morale of the nation, sending writing or electronic messages with pictures of the King, publishing anything that would insult the religious beliefs of another or publishing anything that would give Jordanians an incorrect idea that would harm their dignity.<sup>146</sup> Furthermore, broadcasting false news that impairs the status of the State abroad is punishable, with increased jail time if the news is directed at the King.<sup>147</sup> Due to provisions such as these, 94% of journalists report they self-censor their work for fear of being prosecuted.<sup>148</sup>

## Internet and digital rights

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<sup>140</sup> Constitution, Article 15.

<sup>141</sup> Press and Publications Law, Article 4.

<sup>142</sup> Press and Publications Law, Article 5.

<sup>143</sup> Press and Publications Law, Article 7.

<sup>144</sup> Penal Code, Articles 122, 150, 188, 197 and 273.

<sup>145</sup> Penal Code, Article 192.

<sup>146</sup> Penal Code, Articles 131, 195, 278 and 468.

<sup>147</sup> Penal Code, Article 132.

<sup>148</sup> Freedom House, Freedom on the Net 2018: Jordan, available at: <https://freedomhouse.org/report/freedom-net/2018/jordan>; and Al-Karama, Jordan: Shadow Report, 18 September 2017, p. 14, available at: [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/JOR/INT\\_CCPR\\_NGO\\_JOR\\_28931\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/JOR/INT_CCPR_NGO_JOR_28931_E.pdf).

Website which publish news, articles or comments are deemed to be news websites and are hence bound by the Press and Publications Law under a 2012 amendment.<sup>149</sup> As such, news websites must apply for a licence. The director of the Department of Press and Publications has discretion to block websites that are deemed to violate the law, such as sites where were not granted a licence or which violate content restrictions.<sup>150</sup> Publishers are held liable for comments that contain information or facts that are “not related to the topic of the news”, have not been verified or are considered to fall under any other offence under the law.<sup>151</sup> In practice, a large number of websites have been blocked by the government. After the 2012 amendments to the Press and Publications Law, over 600 websites were blocked.<sup>152</sup>

The law governing Internet cafes was amended in 2016, imposing more onerous requirements on owners. Owners must take all precautions to ensure that their customers are not engaging in terrorism or other illegal activities and are required to keep the browsing history of each customer for up to six months.<sup>153</sup>

The Cybercrime Law contains a number of content restrictions, such as on defamation, which imposes steeper penalties than its offline equivalents. This Law is often disproportionately applied to journalists who post articles or opinions online, as the Law Interpretation Bureau ruled the provisions in the Cybercrime Law supersede the rules in the Press and Publications Law, which was relatively far more favourable for journalists, in particular as it did not impose imprisonment for defamation.<sup>154</sup>

### Right to information and secrecy laws

Jordan enacted a right to information law in 2007, making it one of the first countries in the region to do so. However, the law is not a strong law, ranking 116<sup>th</sup> out of 124 right to information laws globally.<sup>155</sup> This is partly due to a lack of specifics as to the procedures for requesting information and a broad regime of exceptions. The law prevents disclosure of any information deemed to be classified or secret under any other legislation.<sup>156</sup> This is problematic, as the Law on the Protection of State Secrets and Documents contains very broadly worded exceptions, allowing officials to protect virtually any document.<sup>157</sup>

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<sup>149</sup> Press and Publications Law (as amended), Article 49.

<sup>150</sup> Press and Publications Law (as amended), Article 49.

<sup>151</sup> Press and Publications Law (as amended), Article 49(b).

<sup>152</sup> Reporters without Borders, Jordan Blocks Access to Nine More News Websites, 9 July 2014. Available at: <https://rsf.org/en/news/jordan-blocks-access-nine-more-news-websites>.

<sup>153</sup> Privacy International, State of Privacy Jordan, January 2019. Available at: <https://privacyinternational.org/state-privacy/1004/state-privacy-jordan>.

<sup>154</sup> Freedom House, Freedom on the Net 2018: Jordan. Available at: <https://freedomhouse.org/report/freedom-net/2018/jordan>.

<sup>155</sup> RTI Rating, as of 10 July 2019. Available at: <https://www.rti-rating.org/country-data/>.

<sup>156</sup> Law 47/2007, Law on Securing the Right to Information Access, Article 13. Translation available at: <https://www.rti-rating.org/wp-content/uploads/Jordan.pdf>.

<sup>157</sup> Memorandum on Jordan’s Protection of State Secrets and Documents Provision Law No. (50), 2005, p. 1. Available at: [https://cyrilla.org/api/documents/download?\\_id=5a3296b96666c81c5c1c3f74](https://cyrilla.org/api/documents/download?_id=5a3296b96666c81c5c1c3f74).

### Jordan's RTI Scores According to the RTI Rating:

Category	Max Points	Score	Percentage
1. Right of Access	6	0	0%
2. Scope	30	26	87%
3. Requesting Procedures	30	6	20%
4. Exceptions and Refusals	30	10	34%
5. Appeals	30	9	30%
6. Sanctions and Protections	8	0	0%
7. Promotional Measures	16	5	31%
<b>Total score</b>	<b>150</b>	<b>56</b>	<b>37%</b>

The Protection of State Secrets and Documents Law, which dates from 1971, categorises documents into strictly confidential, confidential and restricted. If an official document does not fall under one of these three categories, it is considered ordinary. However, even “ordinary” documents cannot be disclosed unless there is specific authorisation and are only accessible to concerned persons.<sup>158</sup> Many of the grounds for classification are very broad, such as protecting the State from embarrassment due to economic difficulties, documents related to tenders or general financial or economic affairs, information which may demoralise citizens, information that harms the reputation of an individual and information which impairs the standing of the State.<sup>159</sup>

#### Restrictions on freedom of assembly

Under the Constitution, all Jordanian citizens have the right to hold meetings within the limits of the law.<sup>160</sup> Recent amendments to the Public Assembly Law have removed the requirement to obtain permission to hold gatherings, although organisers must give 48 hours notice.<sup>161</sup> In practice, hosts of events and gatherings organised by activists and NGOs continue to seek explicit permission from the security forces and the Minister of Interior to avoid being penalised.<sup>162</sup> Dismissal of an assembly may be ordered at any time if its objective changes.<sup>163</sup> The Ministry is known to cancel public events without explanation.<sup>164</sup> Illegal gatherings, defined as seven or more persons gathered for the purpose of committing an offence or achieving a common goal, are criminalised by the Penal Code, resulting in mass arrests.<sup>165</sup>

<sup>158</sup> Memorandum, note 157, p. 10; and UNESCO, Assessment of Media Development in Jordan (2015), p. 54. Available at: <http://unesdoc.unesco.org/images/0023/002344/234425e.pdf>.

<sup>159</sup> Memorandum, note 157, p. 12.

<sup>160</sup> Constitution, Article 16.

<sup>161</sup> ICNL, Civic Freedom Monitor. Available at: <http://www.icnl.org/research/monitor/jordan.html>.

<sup>162</sup> Human Rights Watch, Submission to the Universal Periodical Review of Jordan, 28 March 2018. Available at: <https://www.hrw.org/news/2018/03/28/submission-universal-periodic-review-jordan>.

<sup>163</sup> ICNL, Civic Freedom Monitor. Available at: <http://www.icnl.org/research/monitor/jordan.html>.

<sup>164</sup> Human Rights Watch, Jordan: Events of 2018. Available at: <https://www.hrw.org/world-report/2019/country-chapters/jordan>.

<sup>165</sup> Penal Code, Article 164.



Freedom of expression is infringed upon as article 2(c) of this Law prohibits slogans, cheers, or pictures that compromise national unity or law and order.<sup>166</sup> Protestors are reportedly charged under section 195 or 149 of the Penal Code for actions that undermine the political system.<sup>167</sup> Following spring protests in 2011, a regulation ordered all participants in assemblies to “cooperate” with security forces, a vague term that can result in imprisonment if violated.<sup>168</sup>

### National security

A set of 2014 amendments to the Anti-Terrorism Law No. 55 of 2006 raise concerns over their impact on peaceful civil society actors. Most notably, they expand the definition of terrorism to include acts such as disturbing public order or disturbing relations with a foreign country. It also covers using the media to facilitate the promotion of terrorist acts, potentially punishing merely reporting on terrorist activities.<sup>169</sup>

This expansion of the definition of terrorism creates a risk that other aspects of the anti-terrorism legal framework may be applied to civil society actors. For example, Article 4 of the Anti-Terrorism Law permits the Prosecutor General to impose surveillance on the residence, movements or communications of persons in relation to whom there is reliable information that they are connected to terrorist activity.<sup>170</sup> Furthermore, if a person is accused of committing or inciting a terrorist offence, he or she may be tried in the State Security Court.<sup>171</sup> It is not appropriate for civilians to be prosecuted in such specialised security tribunals, which are generally less transparent and sometimes lack due process guarantees.

State monitoring is permissible under the Terrorism Prevention Act, allowing surveillance of a person’s residence, movement or communication if there is reasonable evidence that the person is involved in terrorism activity.<sup>172</sup>

### Whistleblower, witness and other protection systems for those at risk

The 2016 Anti-Corruption Law, along with By-Law 62 of 2014, establishes a whistleblower protection system operating under the Anti-Corruption Commission. This includes taking measures to protect the safety and identity of those who provide information on matters relating to corruption, such as providing protection at their residence or place of work, not disclosing their identity, using modern technologies to give testimony, protecting against discriminatory treatment at their workplace or providing them with temporary accommodation.<sup>173</sup> Additional protection

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<sup>166</sup> ICNL, Civic Freedom Monitor. Available at: <http://www.icnl.org/research/monitor/jordan.html>.

<sup>167</sup> Al-Karama, note 148.

<sup>168</sup> ICNL, Civic Freedom Monitor. Available at: <http://www.icnl.org/research/monitor/jordan.html>.

<sup>169</sup> Al-Karama, note 148, p. 9.

<sup>170</sup> Anti-Terrorism Law 55/2006, Article 4. Translation available at: <http://www.track.unodc.org/LegalLibrary/LegalResources/Jordan/Laws/Jordan%20Anti-terrorism%20law%202006.pdf> (does not include the 2014 amendments).

<sup>171</sup> ICNL, The Right to Freedom of Expression Online in Jordan. Available at: <http://www.icnl.org/news/2019/Guide%20to%20Internet%20freedoms%20in%20Jordan-English.pdf>.

<sup>172</sup> Anti-Terrorism Law, Article 4.

<sup>173</sup> Integrity and Anti-Corruption Law No. (13) of 2016, Article 24. Translation available at: [http://www.theioi.org/downloads/f1s71/Jordan\\_Integrity%20Commission\\_Law\\_20161113.pdf](http://www.theioi.org/downloads/f1s71/Jordan_Integrity%20Commission_Law_20161113.pdf).



measures, in cooperation with the Directorate of General Security, may include concealing identity, changing place of work or residence, changing telephone number, protection of residence or property, provision of a bodyguard, access to an emergency number or any other action approved by the Board of the Anti-Corruption Commission.<sup>174</sup> The effectiveness of these relatively new protections remains to be seen.

The whistleblower protections are partly undermined by the continued existence of rules in the Protection of State Secrets and Documents Law which provide that there is no protection for those who disclose a protected document, even when this is done in good faith and in the belief that there is evidence of wrongdoing.<sup>175</sup> Furthermore, there is criminal liability for any person who discloses protected information obtained through their position.<sup>176</sup>

## **Kuwait**

### Freedom of association: non-profit registration requirements and restrictions on advocacy

Non-profit organisations must register in order to conduct activities in Kuwait. Law 24/1962 on Clubs and Public Welfare Societies requires aspirant organisations to submit an application to the Ministry of Social Affairs and Labour, along with a certificate approving its founders from the Ministry of Interior.<sup>177</sup> Law 24/1962 grants the Ministry of Social Affairs and Labour's broad discretion to deny any such application, although it does require an explanation to be provided for any denial. A limited internal appeal against a denial is possible. In practice, the registration process for NGOs has been criticised as being subject to political interference and overly lengthy, taking up to 18 months.<sup>178</sup> The Ministry also has the power to amend the regulations of an organisation to be in line with public welfare.<sup>179</sup>

The Ministry of Social Affairs and Labour may dissolve a society if it determines that an organisation has breached its objectives or violated a provision of Law 24/1962, or it may appoint a new provisional board for the organisation.<sup>180</sup>

Organisations are not allowed to pursue any purpose that is illegal or defies ethics. They may not interfere with political or religious issues, or provoke fanaticism, sectarianism or racism.<sup>181</sup> Because doing so would be a violation of Law 24/1962, violating these provisions could be grounds for dissolution. The law does not define these terms or concepts such as defying ethics.

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<sup>174</sup> By-Law 62 of 2014, as described by Transparency International, Jordan Whistleblowing Overview, MENA Paper # 05/2015. Available at: [https://www.transparency.org/whatwedo/publication/jordan\\_whistleblowing\\_overview](https://www.transparency.org/whatwedo/publication/jordan_whistleblowing_overview).

<sup>175</sup> Memorandum, note 157, p. 15.

<sup>176</sup> Memorandum, note 157, p. 16.

<sup>177</sup> Law 24/1962 on Clubs and Public Welfare Societies, Article 8. Translation available at: <http://www.icnl.org/research/library/files/Kuwait/24-62-en.pdf>.

<sup>178</sup> ICNL, Kuwait Philanthropy Law Report, p. 9. Available at: <http://www.icnl.org/news/Kuwait%20Philanthropy%20Law%20Report.pdf>.

<sup>179</sup> Law 24/1962, Article 9. Available at: <http://www.icnl.org/research/library/files/Kuwait/24-62-en.pdf>

<sup>180</sup> Law 24/1962, Article 27.

<sup>181</sup> Law 24/1962, Article 6.

Organisations also face restrictions in their ability to operate. For example, the Minister of Social Affairs and Labour can send its own representatives to meetings of an organisation's general assembly and organisations may not join other organisations incorporated outside of Kuwait without prior approval from the Minister. In practice, the Minister may conduct politically motivated site visits and representatives of organisations must obtain approval to attend international conferences.<sup>182</sup>

#### Funding restrictions, financial reporting requirements and special tax requirements

Every organisation must submit an annual budget to the Ministry of Social Affairs and Labour, which reserves the right to review all of its books and records.<sup>183</sup> In addition, organisations which wish to collect money or engage in fundraising must register as a certain kind of public welfare society – namely as a public charity under Ministerial Decision No.48\A of 2015 – which subjects them to additional requirements. Once registered as a public charity, an organisation must then obtain additional specific approval to engage in public fundraising efforts.<sup>184</sup>

Organisations cannot directly or indirectly obtain any money or benefits in the form of subscriptions or other assistance from any foreign entity without first obtaining approval from the Ministry of Social Affairs and Labour.<sup>185</sup> No specific procedures have been established by law to govern this approval process, leaving decision-making at the discretion of the Ministry.<sup>186</sup>

#### Media regulation

The media is generally governed by the Press and Publications Law 3/2006, which protects freedom of the press, print and publication as long as it is in accordance with the law.<sup>187</sup> The same right is also constitutionally guaranteed, again subject to any stipulations or conditions imposed by law.<sup>188</sup>

Newspapers must obtain a licence to operate.<sup>189</sup> While the Press and Publications Law prohibits prior censorship, it allows authorities to reject an application for a licence at their discretion.<sup>190</sup> The competent Minister must approve or reject licences within 90 days but if an applicant does not receive a response in that time, the licence is presumed to be rejected.<sup>191</sup> An appeals procedure

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<sup>182</sup> Freedom House, Kuwait, Freedom in the World 2019, available at: <https://freedomhouse.org/report/freedom-world/2019/kuwait>; and ICNL, Kuwait Philanthropy Law Report, p. 12, available at: <http://www.icnl.org/news/Kuwait%20Philanthropy%20Law%20Report.pdf>.

<sup>183</sup> Law 24/1962, Article 21.

<sup>184</sup> Law 24/1962, Article 22.

<sup>185</sup> Law 24/1962, Article 30.

<sup>186</sup> As indicated by a 2017 source but also indicated in more recent sources. See, for example, ICNL, Kuwait Philanthropy Law Report, p. 14. Available at: <http://www.icnl.org/news/Kuwait%20Philanthropy%20Law%20Report.pdf>.

<sup>187</sup> Law 3/2006 on Press and Publications, Article 1. Translation available at: [http://menarights.org/sites/default/files/2019-01/KWT\\_PressAndPublicationsLaw\\_EN.pdf](http://menarights.org/sites/default/files/2019-01/KWT_PressAndPublicationsLaw_EN.pdf).

<sup>188</sup> Constitution, Article 37.

<sup>189</sup> Law 3/2006, Article 9.

<sup>190</sup> Law 3/2006, Articles 8 and 9.

<sup>191</sup> Law 3/2006, Article 11.

is available, however, against rejections.<sup>192</sup> Licences may be cancelled or suspended for violating the Press and Publications Law or other relevant laws, which includes a number of content restrictions (discussed below). However, such cancellation can only be done through a court order.<sup>193</sup>

All public and private telecommunication services, including Internet, cable and wireless phone providers, must obtain a licence under the Telecommunications Law to operate.<sup>194</sup> The Commission for Mass Communications and Information Technology, established under that law, has the power to grant or revoke licences.<sup>195</sup> While the Telecommunications Law specifies that the Commission should be an independent corporate body and have financial independence, in practice it is supervised by the communications ministry and its board is appointed directly by the Minister via decree.<sup>196</sup> The Commission has fairly broad discretionary powers regarding licensing. For example, the Board may cancel a licence for gravely violating the licensing conditions, the Telecommunications Law and regulations, the Board's own instructions or if the licensee has inflicted serious damage on third parties. Combined with content restrictions in the law (see below), this insufficiently protects broadcasters from retaliatory action for speech deemed to be critical of the government.<sup>197</sup>

### Content restrictions

Kuwaiti law includes a number of content restrictions that are defined in broad or imprecise terms. The Press and Publications Law imposes a large number of content restrictions on newspapers and other publications, and holds both the author and the chief editor liable for any breaches.<sup>198</sup> Publishers are prohibited from discussing matters related to God or the Holy Quran,<sup>199</sup> challenging the Emir through criticism<sup>200</sup> or infringing on the social or political system of Kuwait.<sup>201</sup> Furthermore, it is prohibited to publish anything that is deemed to constitute contempt of the constitution, an insult to public morals, instigating violations of public order or anything else that may cause harm to relationships between Kuwait and any other Arab nation.<sup>202</sup> A publication cannot infringe on the dignity of a person or their religious belief.<sup>203</sup> Finally, it is prohibited to publish anything that is meant to overthrow the ruling regime or to incite to change of the political or economic system.<sup>204</sup> Penalties can range from large fines to prison sentences.<sup>205</sup>

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<sup>192</sup> Law 3/2006, Article 11.

<sup>193</sup> Law 3/2006, Articles 14 and 15.

<sup>194</sup> Law 37/2014 on the Establishing of Communication and Information Technology Regulatory Authority, Articles 16 and 18. Translation available at: <https://citra.gov.kw/sites/en/LawofCITRA/Law%20No.%2037-%202014.pdf>.

<sup>195</sup> Law 37/2014, Article 35.

<sup>196</sup> Law 37/2014, Articles 2 and 4.

<sup>197</sup> Law 37/2014, Article 35.

<sup>198</sup> Law 3/2006, Article 27.

<sup>199</sup> Law 3/2006, Article 19.

<sup>200</sup> Law 3/2006, Article 20.

<sup>201</sup> Law 3/2006, Article 26.

<sup>202</sup> Law 3/2006, Article 21.

<sup>203</sup> Law 3/2006, Article 21.

<sup>204</sup> Law 3/2006 Article 28.

<sup>205</sup> Law 3/2006 Articles 19-21.

Article 70 of the Telecommunications Law similarly imposes a number of restrictions on content sent via telecommunications networks. Fines and/or imprisonment may result from sending threats, humiliating or immoral messages or fabricated news to create panic; intentionally offending or defaming someone; or circulating immoral pictures or videos. The Penal Code also contains various provisions that restrict speech, including provisions prohibiting criticism of the State religion<sup>206</sup> or objecting to the authority of the Emir.<sup>207</sup>

### Internet and digital rights

Law 8/2016 Regarding the Regulation of Electronic Media requires all electronic media to obtain a licence to operate.<sup>208</sup> Electronic media is defined as any publishing or broadcasting of content through the Internet or telecommunications networks.<sup>209</sup> It applies to electronic publishing houses, news agencies and blogs.<sup>210</sup> All such services must obtain a licence before they are allowed to operate.<sup>211</sup> Under article 18, electronic media cannot publish or broadcast any content that is prohibited by the Press and Publications law. The named manager of the electronic source is responsible for any violations of the law.<sup>212</sup> Licence holders must also deposit KWD 500 (approximately USD1650) with the Information Ministry's treasury, which can then deduct fines from this.<sup>213</sup>

The Cybercrime Law No. 63 of 2015 extends the content prohibitions in the Press and Publications Law to online publications and imposes additional restrictions. In particular, it contains a broad prohibition on producing, sending or storing information or data via the Internet that would prejudice public morality. No definition is given for what constitutes prejudicing public morality.<sup>214</sup> The law also provides for up to ten years' imprisonment for attempting to overthrow the ruling regime or to change the economic or social system.<sup>215</sup>

In practice, authorities have targeted online speech that is critical of the government. For example, the same provisions of the Penal Code that censor other forms of broadcasting are frequently used

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<sup>206</sup> Penal Code Articles 109-112, as described in Alkarama Foundation, Report Submitted to the Human Rights Committee in the Context of the Third Periodic Review, p. 4. Available at: [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT\\_CCPR\\_CSS\\_KWT\\_24051\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT_CCPR_CSS_KWT_24051_E.pdf).

<sup>207</sup> Alkarama Foundation, note 206, p. 4, available at: [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT\\_CCPR\\_CSS\\_KWT\\_24051\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT_CCPR_CSS_KWT_24051_E.pdf); and Human Right Watch, Kuwait: Telecom Law Violates Free Speech, 20 August 2014, available at: <https://www.hrw.org/news/2014/08/20/kuwait-telecom-law-violates-free-speech>.

<sup>208</sup> Law 8/2016 regarding the Regulation of Electronic Media. Translation available at: <https://news.kuwaittimes.net/website/law-no-8-of-2016-regarding-the-regulation-of-electronic-media/>.

<sup>209</sup> Law 8/2016, Article 1.

<sup>210</sup> Law 8/2016, Article 5.

<sup>211</sup> Law 8/2016, Article 6.

<sup>212</sup> Law 8/2016, Articles 9 and 17.

<sup>213</sup> Law 8/2016, Article 12.

<sup>214</sup> As described by Gulf Centre for Human Rights, Kuwait: New Cyber Crimes Law Restricts Free Expression and Targets Online Activists, 21 January 2016, available at: <https://www.gc4hr.org/news/view/1164>; and Leah Schulz, Kuwait Cybercrime Law Curbs Freedom of Expression, Human Rights First, 3 February 2016, available at: <https://www.humanrightsfirst.org/blog/kuwait-cybercrime-law-curbs-freedom-expression>.

<sup>215</sup> Al-Karama, Kuwait: Report Submitted to the Human Rights Committee in the Context of the Third Periodic Review of Kuwait, 27 May 2016, p. 16. Available at: [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT\\_CCPR\\_CSS\\_KWT\\_24051\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT_CCPR_CSS_KWT_24051_E.pdf).

against those who use Twitter, Facebook, blogging platforms or other social media to express dissenting opinions.<sup>216</sup> An influential blogger was imprisoned for five years recently for a post that insulted the UAE, although no formal charge was ever laid.<sup>217</sup> The Ministry of Communications also has the power to block any website that he or she deems to contain thoughts and political opinions that are not acceptable to be expressed within the State.<sup>218</sup>

### Right to information and secrecy laws

Kuwait does not have a right to information law.<sup>219</sup> The Press and Publications Law prohibits the publication of any news regarding official secrets or secret communication, or revealing any document that any other law indicates should be kept secret.<sup>220</sup>

### Restrictions on freedom of assembly

The Law Regarding Public Meetings and Assembly stipulates that those holding a public meeting or demonstration must notify the authorities and government before the event occurs, with any unauthorised participants being subject to imprisonment or deportation.<sup>221</sup> Each public meeting must declare an organiser who will be responsible for maintaining order and preventing any illegal behaviour.<sup>222</sup> The same provision prohibits any statements that contradict religious State teaching, morality, State credibility, Arab sovereignty or that may lead to prejudice among allies of the nation.

In 2006, the Constitutional Court held that some parts of this law were unconstitutional, given that article 44 of the Constitution protects the right to meet without the need for prior notice or permission.<sup>223</sup> However, authorities have continued to rely upon the law to justify bans on gatherings of more than 20 people.<sup>224</sup> This may be because the Court's decision was somewhat

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<sup>216</sup> Human Rights Watch, Kuwait: Telecom Law Violates Free Speech, 20 August 2014, available at: <https://www.hrw.org/news/2014/08/20/kuwait-telecom-law-violates-free-speech>.

<sup>217</sup> Freedom House, Freedom in the World 2019: Kuwait. Available at: <https://freedomhouse.org/report/freedom-world/2019/kuwait>.

<sup>218</sup> Al-Karama, Kuwait: Report Submitted to the Human Rights Committee in the Context of the Third Periodic Review of Kuwait, 27 May 2016, p. 16. Available at: [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT\\_CCPR\\_CSS\\_KWT\\_24051\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT_CCPR_CSS_KWT_24051_E.pdf).

<sup>219</sup> Freedom House, Freedom in the World 2019: Kuwait. Available at: <https://freedomhouse.org/report/freedom-world/2019/kuwait>.

<sup>220</sup> Law 3/2006, Article 21.

<sup>221</sup> Freedom House, Freedom in the World 2019: Kuwait, available at: <https://freedomhouse.org/report/freedom-world/2019/kuwait>; and Kuwait Society for Human Rights, Report on the State of Kuwait's Commitment to the International Convention on All Forms of Racial Discrimination, July 2017, p. 8, available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/KWT/INT\\_CERD\\_NGO\\_KWT\\_28063\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/KWT/INT_CERD_NGO_KWT_28063_E.pdf).

<sup>222</sup> Fatemah Alzubairi, Kuwait and Bahrain's Anti-Terrorism Laws in Comparative and International Perspective (Master's Thesis), p. 18. Available at: [https://tspace.library.utoronto.ca/bitstream/1807/30158/6/Alzubairi\\_Fatemah\\_201107\\_Master\\_thesis.pdf](https://tspace.library.utoronto.ca/bitstream/1807/30158/6/Alzubairi_Fatemah_201107_Master_thesis.pdf).

<sup>223</sup> ICNL, Kuwait Philanthropy Law Report. Available at: <http://www.icnl.org/news/Kuwait%20Philanthropy%20Law%20Report.pdf>.

<sup>224</sup> Al-Karama, Kuwait: Report Submitted to the Human Rights Committee in the Context of the Third Periodic Review of Kuwait, 27 May 2016. Available at: [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT\\_CCPR\\_CSS\\_KWT\\_24051\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT_CCPR_CSS_KWT_24051_E.pdf).

unclear and resulted in confusion over the extent to which the decision actually struck down the problematic provisions as opposed to merely criticising them.<sup>225</sup>

Public protests have been dispersed violently. Many of those who have been arrested were forced to sign agreements that they will not participate in any future protests in order to secure their release.<sup>226</sup>

### National security

The National Security Law No. 31 of 1970, which amended the Penal Code, includes several provisions which have in practice been used against activists or government critics. Article 4 provides a penalty of up to three years' imprisonment for committing a hostile act against a foreign country that disrupts Kuwait's relations with that country. This provision has been used to bring charges against persons for tweets perceived to be critical of Saudi Arabia.<sup>227</sup> The Law also prohibits insulting the Emir, God or the prophets, while Article 29 prohibits opinions that embrace doctrines that break social or economic systems. It is also prohibited to intentionally broadcast news, statements or false rumours that are deemed to harm the interests of the State.<sup>228</sup> In practice, this law is often used to censor journalists posting online content which is deemed to criticise the State or the Emir.<sup>229</sup>

### Whistleblower, witness and other protection systems for those at risk

While Kuwait does not have a comprehensive standalone law on whistleblower protection, the Anti-Corruption Law, No. 2/2016, establishes protections for whistleblowers, defined as any person who reports on corruption or who testifies concerning crimes of corruption.<sup>230</sup> Protection shall include personal protection, administrative and occupational protection (such as guaranteeing continued employment salary) and legal protection.<sup>231</sup> Regulations specifically provide that protection measures shall include concealing the whistleblower's identity, providing security guards, changing the whistleblower's residence, workplace or telephone and allowing witnesses to give statements via video or other technology or behind curtains. Employers are forbidden from taking retaliatory action against whistleblowers.<sup>232</sup>

Unfortunately, these protections are somewhat undermined by Article 53, which provides for a penalty of up to three years' imprisonment and dismissal from office for reporting corruption

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<sup>225</sup> Amnesty International, Kuwait: Submission to the United Nations Human Rights Committee, 2016, p. 14. Available at: <https://www.amnesty.org/download/Documents/MDE1741452016ENGLISH.PDF>.

<sup>226</sup> Civicus, HRD Abdulhakim Al-Fadhli Released after being Imprisoned for Peaceful Protest, 22 August 2017. Available at: <https://monitor.civicus.org/newsfeed/2017/08/22/hrd-abdulhakim-al-fadhli-released-imprisoned-peaceful-protest/>.

<sup>227</sup> Human Rights Watch, Kuwait: Cybercrime Law a Blow to Speech, 22 July 2015. Available at: <https://www.hrw.org/news/2015/07/22/kuwait-cybercrime-law-blow-free-speech>.

<sup>228</sup> Human Rights Watch, Kuwait: Cybercrime Law.

<sup>229</sup> Human Rights Watch, Kuwait: Cybercrime Law; and Al-Karama, Kuwait: Report Submitted to the Human Rights Committee in the Context of the Third Periodic Review of Kuwait, 27 May 2016, p. 15.

<sup>230</sup> Law 2/2016 on Establishing Kuwait Anti-Corruption Authority, Article 1. Translation available at: [http://undp-aci.org/publications/Nazaha%20Law%20no%20of%202016%20-%20FINAL%20\(EN\).pdf](http://undp-aci.org/publications/Nazaha%20Law%20no%20of%202016%20-%20FINAL%20(EN).pdf).

<sup>231</sup> Law 2/2016, Article 41.

<sup>232</sup> Law 2/2016, Articles 62 and 63.

offences and intentionally providing false information or concealed information, committing fraud or deception, concealing the truth or misleading the system of justice. Under the regulations, persons reporting consequences must be warned of this possibility at the time of reporting.<sup>233</sup> This language could disincentivise whistleblowers from reporting and disproportionately punish them for failing fully to disclose information.

## **Morocco**

### Freedom of association: non-profit registration requirements and restrictions on advocacy

The 2011 Constitution states that civil society organisations may undertake activities in all freedom while respecting the Constitution and the law. They are protected from being dissolved without a judicial order.<sup>234</sup> Registration is not mandatory but is necessary to engage in certain operational activities. To register, an organisation must provide the local authority with documentation that includes the name of the association, their objectives, a list of all founding members and a copy of the founding members' identification card, as well as the group's statutes and by-laws.<sup>235</sup> The authority does not have any direct discretion to deny the application, but is required to send the documents to the general prosecutor. The general prosecutor can then issue an opinion on whether the application should be denied. If no opinion is given, the local authority should issue a dated and signed receipt to the organisation. The issuance of a receipt indicates that the appropriate documentation was submitted and that the organisation has been registered and granted legal status. The same notification and receipt process must be followed to retain legal status when the organisation's bylaws are amended or the board of directors or members change.<sup>236</sup>

Local authorities reportedly use the association law to deny legal status arbitrarily for organisations by refusing to issue signed receipts once documents have been received.<sup>237</sup> Without a receipt, the government does not require a court order to dissolve an organisation and can instead act unilaterally.<sup>238</sup> Furthermore, only organisations in possession of a receipt may acquire office spaces, accept funding and make purchases legally.<sup>239</sup>

The legislative remedy for being denied a receipt includes hiring a bailiff as a legally authorised witness for good faith efforts or lodging a case before the administrative courts.<sup>240</sup> This is an

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<sup>233</sup> Executive Regulations of Law 2/2015, Article 39. Translation available at: [http://undp-aci.org/publications/Nazaha%20Law%20no%20of%202016%20-%20FINAL%20\(EN\).pdf](http://undp-aci.org/publications/Nazaha%20Law%20no%20of%202016%20-%20FINAL%20(EN).pdf).

<sup>234</sup> Constitution, Article 12.

<sup>235</sup> Act on the Right of Association, 2002, Article 5. Translation available at: <http://www.icnl.org/research/library/files/Morocco/Act-2002-en.pdf>.

<sup>236</sup> Act on the Right of Association, Article 5.

<sup>237</sup> ICNL, Civic Freedom Monitor: Morocco, available at: <http://www.icnl.org/research/monitor/morocco.html>; and Human Rights Watch, Morocco: Freedom to Create Associations, p. 4, available at: <https://www.hrw.org/sites/default/files/reports/morocco1009webwcover.pdf>.

<sup>238</sup> Act on the Right of Association, Article 7.

<sup>239</sup> Act on the Right of Association, Article 6.

<sup>240</sup> Human Rights Watch, Morocco: Freedom to Create Associations, p. 5. Available at: <https://www.hrw.org/sites/default/files/reports/morocco1009webwcover.pdf>.

ineffective remedy as the administrative courts have no enforcement capacity and instead can only provide damages.<sup>241</sup>

Organisations will be dissolved if they undertake any activities outside of their statute or stated by-laws<sup>242</sup> or if they undermine the unity of the State.<sup>243</sup> The government is not required to issue notification to board members if an organisation is dissolved and members may be imprisoned for up to five years if the organisation continues its activities.<sup>244</sup>

Associations may not be founded for illegal purposes, including the pursuit of goals deemed to be contrary to public morals, which violate the Islamic religion, incitement to discrimination or violation of the unity or national territory of Morocco.<sup>245</sup> Furthermore, imprisonment of up to two years may be imposed if an activity of the organisation is deemed to result in incitement to commit felonies.<sup>246</sup>

#### Funding restrictions, financial reporting requirements and special tax requirements

Organisations must go through an additional process to obtain public benefit status (charitable status), which grants them certain tax benefits (such as donations being tax deductible) and allows them to apply for government grants.<sup>247</sup> The application process entails submitting a list of personnel responsible for administration of the organisation and information about them, a report of activities, an action plan for the next three years and other information.<sup>248</sup> The law is not precise as to what constitutes a “public benefit” organisation and only a few organisations apply for and obtain this status.<sup>249</sup>

Any foreign funding must be declared within 30 days, failing which the organisation may be dissolved.<sup>250</sup> However, no special permission is otherwise needed prior to obtaining foreign funds.

#### Media regulation

The Press and Publications Law contains a preamble guaranteeing the rights of journalists, the media and the rights of freedom and pluralism.<sup>251</sup> Freedom of thought and expression is further protected by Article 28 of the Constitution, as long as it is exercised in accordance with the law.<sup>252</sup>

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<sup>241</sup> Human Rights Watch, Morocco: Freedom to Create Associations, p. 8. Available at: <https://www.hrw.org/sites/default/files/reports/morocco1009webwcover.pdf>.

<sup>242</sup> Act on the Right of Association, Article 36.

<sup>243</sup> Act on the Right of Association, Article 29.

<sup>244</sup> Act on the Right of Association, Article 30.

<sup>245</sup> Act on the Right of Association, Article 3.

<sup>246</sup> Act on the Right of Association, Article 35.

<sup>247</sup> Act on the Right of Association, Article 9.

<sup>248</sup> Circular No. 1/2005, 2 August 2005, on Conditions of Recognising Public Benefit for Associations. Available at: <http://www.icnl.org/research/library/files/Morocco/circular1-2005-en.pdf>.

<sup>249</sup> ICNL, Research Monitor: Morocco. Available at: <http://www.icnl.org/research/monitor/morocco.html>.

<sup>250</sup> Act on the Right of Association, Article 32.

<sup>251</sup> Press and Publications Law, Law 88-13, 2016. Available at: <https://wipolex.wipo.int/en/text/496905>.

<sup>252</sup> Press and Publications Law, Article 3



Under the 2016 amendments to the Press Law, journalists must obtain a press card from the Minister of Communications in order to operate within the Kingdom.<sup>253</sup> To qualify for a card, a person must have worked as a journalist as their paid and principle profession for at least two years.<sup>254</sup> The press card may be revoked by a government commission if the journalist displays immoral behaviour, violates the press law or violates the ethical rules governing the profession.<sup>255</sup> Under the Penal Code, it is a crime punishable by up to two years' imprisonment to use professional titles without meeting the conditions for this.<sup>256</sup> This provision has been used to bring criminal charges against activists for acting as unlicensed journalists.<sup>257</sup> Publication houses and newspapers also must register and receive a licence before operating, and all newspapers must have an editor who is of Moroccan nationality and holds a press card.<sup>258</sup>

In order to operate a broadcaster, a licence must be obtained from the High Authority of Audiovisual Communication.<sup>259</sup> The King retains significant control over the Council of the Authority. Of its nine members, he selects five with two more being named by the Prime Minister and one by the president of each chamber of parliament.<sup>260</sup> All television programmes which have been aired must be registered with the authority and kept for a period of one year to ensure compliance with the restrictions on broadcasting.<sup>261</sup> In practice, most broadcasting is government or State-owned although, positively, some diversity requirements have been placed on public broadcasters to require coverage of opposition party viewpoints, for example.<sup>262</sup>

### Content restrictions

The Press and Publications Law imposes numerous restrictions on what may be published by journalists through online newspaper publications or printed publications. The named editor of a newspaper is responsible for ensuring that nothing illegal gets published.<sup>263</sup> It is punishable by fine to post or broadcast false allegations, incorrect facts, falsified documents or anything that will disturb public order or arouse fear.<sup>264</sup> The fine increases if the subject is a government actor<sup>265</sup> and increases again if the subject is the King.<sup>266</sup> Defamation, defined as an allegation of fact prejudicial

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<sup>253</sup> Catherine Joppart and Dina Baslan, Assessment of Media Regulation in the Southern Mediterranean Region, MedMedia, p. 26. Available at: <http://irex-europe.fr/wp-content/uploads/2015/08/MedMedia-on-Media-Development.pdf>.

<sup>254</sup> Catherine Joppart and Dina Baslan, note 253, p. 27.

<sup>255</sup> Catherine Joppart and Dina Baslan, note 253, p. 27

<sup>256</sup> Penal Code, Article 381. Available at: <https://wipolex.wipo.int/en/text/190447>.

<sup>257</sup> Human Rights Watch, Morocco: Law Misused to Silence Reporters, 16 May 2019. Available at: <https://www.hrw.org/news/2019/05/16/morocco-law-misused-silence-reporters> (referencing Article 381 of the Penal Code).

<sup>258</sup> Press and Publications Law, Articles 15, 21 and 44.

<sup>259</sup> Audiovisual Law, Law 77-03, 2005, Article 5. Available at: <https://wipolex.wipo.int/en/text/190949>.

<sup>260</sup> Dahir n. 1-02-212, 31 August 2002, on Creation of the High Authority for Audiovisual Communication, Article 6. Available at: <http://www.haca.ma/sites/default/files/upload/images/1-02-212.pdf>.

<sup>261</sup> Law Amending the Audiovisual Law, Law 66-16, 2016, Article 64. Available at: <https://wipolex.wipo.int/en/text/496892>.

<sup>262</sup> Assessment of Media Regulation in the Southern Mediterranean Region, p. 25.

<sup>263</sup> Press and Publications Law, Article 36.

<sup>264</sup> Press and Publications Law, Article 72.

<sup>265</sup> Press and Publications Law, Article 81.

<sup>266</sup> Press and Publications Law, Article 82.

to honour or reputation, is prohibited and punishable by a fine.<sup>267</sup> Furthermore, publications may not undermine the Islamic religion or the monarchy, incite hatred against the State, defame or insult the King or incite hatred between citizens.<sup>268</sup>

Although the Press and Publications Law was amended in 2016 to remove imprisonment as a punishment for any violation of the law, the fines were steeply increased. Any content that disrupts public order is punishable by a fine of up to approximately USD 21,000 and any content deemed to offend the military or the integrity of the State is subject to a fine of approximately USD 52,000.<sup>269</sup> Amendments were introduced to the Penal Code which, combined with existing provisions, now provide for criminal penalties, including prison sentences, for similar types of content. Specifically, the Penal Code prohibits harming the monarchy or Islam, defaming or insulting the King or royal family, showing a lack of respect for the King or insulting State institutions.<sup>270</sup> Other problematic content restrictions in the Penal Code include a prohibition on insulting a State agent, discrediting court decisions or harming the authority of the judiciary (which is broader than appropriate contempt of court standards) or incitement to hatred or discrimination (which is insufficiently precise to reflect international standards regarding hate speech).

Under the Audiovisual Law, no broadcast may prejudice the King or the Constitution, undermine Islam or territorial integrity, undermine public morals, serve the interests of a political group or incite terrorism.<sup>271</sup> A recent amendment to the law also prohibits the broadcasting of false representations of a person.<sup>272</sup> If someone has suffered from the dissemination of a piece of information, a broadcaster must publish a response.<sup>273</sup> This provision is often used to require broadcasters to carry governmental messages and propaganda.<sup>274</sup>

### Internet and digital rights

Electronic media such as online newspaper publications and journal articles are governed by the same provisions as newspapers and publication houses under the Press and Publications Law.<sup>275</sup> However, electronic journals must renew their licence every year. Electronic journals are defined as publications that are regularly updated and issued under a domain name.<sup>276</sup>

Electronic media is subject to the same content restrictions as other publications and the owner of an online website must obtain a press card.<sup>277</sup> Newspaper websites may be blocked by judicial order or by a decree issued by the King if the content is deemed to incite to terrorism,

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<sup>267</sup> Press and Publications Law, Article 83 and 84.

<sup>268</sup> Press and Publications Law, Article 71.

<sup>269</sup> Press and Publications Law, Articles 71 and 72; and Freedom House, Freedom on the Net 2018: Morocco, available at: <https://www.refworld.org/docid/5be16b04a.html>.

<sup>270</sup> Human Rights Watch, Morocco's Reforms of its Speech Laws: The Red Lines Stay Red, 2017. Available at: <https://www.hrw.org/report/2017/05/04/red-lines-stay-red/moroccos-reforms-its-speech-laws#49eafa> (describing the 2016 amendments to the Penal Code).

<sup>271</sup> Audiovisual Law, Article 9.

<sup>272</sup> Amendment to the Audiovisual Law, Article 9.

<sup>273</sup> Amendment to the Audiovisual Law, Article 10.

<sup>274</sup> Assessment of Media Regulation in the Southern Mediterranean Region, p. 28.

<sup>275</sup> Press and Publications Law, Article 35.

<sup>276</sup> Press and Publications Law Article 2.

<sup>277</sup> Press and Publications Law, Article 16.

discrimination or destruction.<sup>278</sup> Electronic publications must name an editor who is responsible for the content posted.<sup>279</sup> Any website may be blocked for a period of one month if the provisions of any law are violated.<sup>280</sup>

In practice, websites are rarely blocked by the government.<sup>281</sup> However, intermediaries routinely shut down websites themselves as a preventative measure to avoid prosecution. Opposition news websites are frequently hosted on servers outside of the Kingdom to avoid this problem.<sup>282</sup> Activists are aware they are systematically monitored and therefore practise self-censorship.<sup>283</sup>

### Right to information and secrecy laws

Article 27 of the Constitution guarantees the right of all citizens to information, subject to protecting national and internal security. The Press and Publications Law grants access to information but only if it is not considered confidential in nature.<sup>284</sup>

Morocco passed a right to information law in 2018 which is positive although it contains a number of problematic provisions. The law contains broad exemptions, including for information protected as State secrets or on national security grounds.<sup>285</sup> Furthermore, any disclosed information may only be reused for legitimate purposes, a concept that is not defined further.<sup>286</sup> It is also not clear if the appeal process, resulting in a decision issued by the Commission, is binding on the authority attempting to withhold the information in question.

The Penal Code punishes any person who communicates defence secrets or information about national defence.<sup>287</sup> The definition of a defence secret is broad, including material that should only be known by qualified people and any publication banned by a Royal Decree or Order in Council.<sup>288</sup> Under article 29 of the right to information law, any unauthorised reuse of information or disclosure of information exempted from the scope of the right to information law is subject to penalties under the Penal Code.

### **Morocco's RTI Scores According to the RTI Rating:**

Category	Max Points	Score	Percentage
1. Right of Access	6	4	67%
2. Scope	30	20	67%

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<sup>278</sup> Press and Publications Law, Article 37.

<sup>279</sup> Press and Publications Law, Article 15.

<sup>280</sup> Press and Publications Law, Article 104.

<sup>281</sup> Freedom House, Freedom on the Net 2018: Morocco. Available at: <https://www.refworld.org/docid/5be16b04a.html>.

<sup>282</sup> Freedom House, Freedom on the Net 2018: Morocco, note 281.

<sup>283</sup> Freedom House, Freedom on the Net 2018: Morocco, note 281.

<sup>284</sup> Press and Publications Law, Article 6.

<sup>285</sup> Law 31-13 on the Right to Access Information, Article 7. Available at: [https://www.rti-rating.org/wp-content/uploads/2018/09/Morocco.RTI\\_Feb2018.French.Gazette.pdf](https://www.rti-rating.org/wp-content/uploads/2018/09/Morocco.RTI_Feb2018.French.Gazette.pdf).

<sup>286</sup> Law 31-13 on the Right to Access Information, Article 6.

<sup>287</sup> Penal Code, Article 192.

<sup>288</sup> Penal Code, Article 187.

3. Requesting Procedures	30	11	37%
4. Exceptions and Refusals	30	15	50%
5. Appeals	30	12	40%
6. Sanctions and Protections	8	3	38%
7. Promotional Measures	16	8	50%
<b>Total score</b>	<b>150</b>	<b>73</b>	<b>49%</b>

### Restrictions on freedom of assembly

The Law on Public Gatherings states that permission is not needed for public meetings but that prior notification is required.<sup>289</sup> Documentation indicating the date, time, place and subject matter of the meeting must be submitted, as well as the addresses and names of two organising representatives.<sup>290</sup> Once a permit is issued by the authorities, the meeting must take place within 24 hours.<sup>291</sup> NGOs, however, are not required to issue notification to the authorities for public meetings as long as they have obtained legal status as an organisation.<sup>292</sup> Any organised meeting must appoint an officer who ensures that topics outside of the stated subject matter of the meeting are not discussed.<sup>293</sup>

Public demonstrations, which are not defined, require 15 days prior notice.<sup>294</sup> If the purpose of the demonstration threatens public security, authorisation will not be given.<sup>295</sup> Unauthorised meetings and demonstrations carry a fine and prison sentence for those who attend<sup>296</sup> and organisers listed on the documentation are responsible for preventing violations of law or public order.<sup>297</sup>

The legal framework for assemblies is not widely publicised. As such, many citizens are unaware of the details and procedure required.<sup>298</sup> The vague provisions of the law on public gatherings give the authorities wide discretionary power to withhold authorisation.<sup>299</sup> As the law does not technically allow the authorities to refuse to authorise meetings, it is common for the authorities to instruct hotels, conference centres or businesses where meetings are planned to cancel them.<sup>300</sup>

<sup>289</sup> Law on Public Gatherings, Articles 2 and 3. Available at: <http://adala.justice.gov.ma/production/html/Fr/48812.htm>.

<sup>290</sup> Law on Public Gatherings, Article 3.

<sup>291</sup> Law on Public Gatherings, Article 3.

<sup>292</sup> Law on Public Gatherings, Article 3.

<sup>293</sup> Law on Public Gatherings, Article 6.

<sup>294</sup> Law on Public Gatherings, Article 12.

<sup>295</sup> Law on Public Gatherings, Article 13.

<sup>296</sup> Law on Public Gatherings, Article 9.

<sup>297</sup> Law on Public Gatherings, Article 6.

<sup>298</sup> ICNL, Research Monitor: Morocco. Available at: <http://www.icnl.org/research/monitor/morocco.html>.

<sup>299</sup> ICNL, Research Monitor: Morocco, note 298.

<sup>300</sup> Cairo Institute for Human Rights Studies, Freedom of Association in Morocco. Available at: <https://cihrs.org/wp-content/uploads/2018/02/FreedomofAssociationinMorocco.pdf>.

In practice, protestors are regularly arrested. Over 400 protestors were arrested within a matter of months in 2017, with many of them being arrested in their homes days after the demonstration.<sup>301</sup>

### National security

The 2016 amendments to the Penal Code included an offence of inciting against the territorial integrity of the State, an overly broad provision which could include peaceful forms of speech and protest.<sup>302</sup> Other provisions in the Penal Code related to national security, including rebellion and plotting to undermine State security or institutions, have been used to target peaceful protestors.<sup>303</sup> An anti-terrorism provision in the Penal Code also provides for up to six years' imprisonment for supporting acts of terrorism online.<sup>304</sup> In practice, this provision has been used to prosecute online activists.<sup>305</sup>

### Whistleblower, witness and other protection systems for those at risk

Morocco has adopted a Witness and Whistleblower Protection Law. The law aims to protect witnesses and experts who testify at trial, as well as those who report on corruption and wrongdoing. However, there is no provision explicitly protecting those who speak out against their employers from dismissal or other forms of retaliation.<sup>306</sup> There is a provision protecting employees from criminal sanctions for reporting corruption.<sup>307</sup>

The law is generally regarded as ineffective, with most feeling that little is done by the authorities when problems for whistleblowers arise.<sup>308</sup> Furthermore, those who complain about mistreatment from the authorities are sometimes prosecuted for false allegations.<sup>309</sup>

## **Summary Countries**

### **Egypt**

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<sup>301</sup> Amnesty International, Morocco: Protesters, Activists and Journalists Detained over Rif Protests Must Be Released, 28 November 2017. Available at: <https://www.amnesty.org/en/latest/news/2017/11/morocco-protesters-activists-and-journalists-detained-over-rif-protests-must-be-released>.

<sup>302</sup> Article 267.5 of the Penal Code, as amended. A description of this is available at: <https://www.hrw.org/report/2017/05/04/red-lines-stay-red/moroccos-reforms-its-speech-laws#49eafa>.

<sup>303</sup> Amnesty International, Morocco: Protesters, Activists and Journalists Detained over Rif Protests Must Be Released, 301.

<sup>304</sup> Freedom House, Freedom on the Net 2018: Morocco. Available at: <https://www.refworld.org/docid/5be16b04a.html>.

<sup>305</sup> Freedom House, Freedom on the Net 2018: Morocco. Available at: <https://www.refworld.org/docid/5be16b04a.html>.

<sup>306</sup> Transparency International, Morocco Whistleblowing Overview, MENA Paper 3/2015, p. 4. Available at: [https://www.transparency.org/whatwedo/publication/morocco\\_whistleblowing\\_overview](https://www.transparency.org/whatwedo/publication/morocco_whistleblowing_overview).

<sup>307</sup> Morocco Whistleblowing Overview, p. 5.

<sup>308</sup> Morocco Whistleblowing Overview, p. 1.

<sup>309</sup> Transformation Index BTI 2018, Morocco Country Report. Available at: <https://www.bti-project.org/en/reports/country-reports/detail/itc/mar/>.

Under the 2017 NGO law, it is illegal to engage in civil society activities without registering as an association.<sup>310</sup> Associations are required to work exclusively within the field of social development and are barred from political activities.<sup>311</sup> To conduct field research or polls on political topics, approval is needed from the relevant administrative authority.<sup>312</sup> Associations may be fined or dissolved for engaging in a broad range of activities, including actions that may destabilise national unity or security, offend law or public morals, call for discrimination, incite hatred, incite rebellion against the constitution or harm public health.<sup>313</sup> Consent is required for civil society organisations to obtain both foreign and domestic funding.

In practice, NGOs and their members have faced mass closures and harassment, including office raids, arbitrary arrests, travel restrictions and having personal assets frozen.<sup>314</sup> Article 98 of the Penal Code is frequently used to punish founders and members of NGOs who challenge the government in any way,<sup>315</sup> charging them with joining organisations that aim to overthrow the social or economic system of the State.<sup>316</sup> Human rights organisations have also been targeted via Article 78 of the Penal Code which, through a 2014 amendment, imposes life imprisonment for receiving foreign funding for vaguely defined purposes such as harming the national interest.<sup>317</sup>

Both the Press Law and the Penal Code include a number of problematically defined content restrictions which have been used to limit freedom of expression. For example, provisions prohibiting the spreading false news or information have in practice increasingly been used to charge journalists, academics and bloggers.<sup>318</sup> Other problematic provisions include vague references to contradicting the Constitution, distributing material which violates public morals, addressing religious doctrines that disturb the peace or advocating against the basic principles of the State.<sup>319</sup> Criminal penalties are imposed for slander, insulting the courts, army, People's

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<sup>310</sup> Law 70/2017, Law of Associations and other Foundations Working in the Field of Civil Work [NGO Law], preamble. Translation available at: <http://www.icnl.org/research/library/files/Egypt/law70english.pdf>.

<sup>311</sup> NGO Law, Article 13.

<sup>312</sup> NGO Law, Article 14.

<sup>313</sup> NGO Law, Article 14.

<sup>314</sup> Freedom House, Freedom in the World 2019: Egypt, <https://freedomhouse.org/report/freedom-world/2019/egypt>; and Tahrir Institute for Middle East Policy, TIMEP Brief: NGO Law, 14 November 2018, available at: <https://timep.org/reports-briefings/timep-brief-ngo-law>.

<sup>315</sup> ICNL, Research Monitor: Egypt. Available at: <http://www.icnl.org/research/monitor/egypt.html>.

<sup>316</sup> Penal Code, Article 98. Translation available at: <https://www.refworld.org/country,LEGAL,,LEGISLATION,EGY,,3f827fc44,0.html> (this version does not include all the most recent amendments).

<sup>317</sup> Article 19, Egypt: Court Orders Freezing of Prominent Human Rights Defenders, 19 September 2016, available at: <https://www.article19.org/resources/egypt-court-orders-freezing-of-assets-of-prominent-human-rights-defenders/>; and Amr Hamzawy, Legislating Authoritarianism: Egypt's New Era of Repression, 16 March 2017, Carnegie Endowment for International Peace, available at: <https://carnegieendowment.org/2017/03/16/legislating-authoritarianism-egypt-s-new-era-of-repression-pub-68285>.

<sup>318</sup> Penal Code, Article 102; and Salma Islam, "In 'fake news' crackdown, Egypt is a world leader on jailing journalists bloggers and social media users", Los Angeles Times, 18 December 2018, available at: <https://www.latimes.com/world/la-fg-egypt-fake-news-arrests-20181218-story.html>.

<sup>319</sup> Penal Code, Articles 98A, 133, 178; and Press Code as described in English by Article 19, Egypt: 2018 Law on the Organisation of Press, Media and the Supreme Council of Media Legal Analysis, available at: <https://www.article19.org/wp-content/uploads/2019/03/Egypt-Law-analysis-Final-Nov-2018.pdf>.

Assembly or other authorities, insulting a public official, insulting the President or vilifying foreign leaders.<sup>320</sup>

The Anti-Terrorism Law of 2015 authorises the police to monitor all online and social media activity in order to prevent terrorist actions.<sup>321</sup> The Anti-Cyber and Information Technology Crime Law, adopted in 2018, allows for online surveillance and broad authority to block and filter online content.<sup>322</sup> Investigative authorities may block a website whenever they deem the content to amount to a threat to internal or national security or the economy.<sup>323</sup> The Press Law also gives the Supreme Council extensive powers to block or censor websites without prior judicial authorisation.<sup>324</sup> In practice, websites are frequently blocked, including over 500 between May 2017 and February 2018.<sup>325</sup> Furthermore, the growing number of arrests of those who use online media to criticise the government has led to increased self-censorship amongst activists and journalists.<sup>326</sup>

Public meetings may not be political in nature<sup>327</sup> and a meeting may be suspended even after notification is given if the Minister of Interior determines that it is likely to threaten security or the peace.<sup>328</sup> The law does not indicate what level of crime is required in order to justify dispersing a gathering, resulting in vague grounds being used to authorise sometimes lethal force.<sup>329</sup> In practice, excessive force and arbitrary arrests are used to suppress demonstrations.<sup>330</sup> Charges such as inciting others to commit crimes through speech at public gatherings,<sup>331</sup> instigating others to overthrow or hate Egyptian rulers<sup>332</sup> and delivering speeches that slander the government<sup>333</sup> are

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<sup>320</sup> Penal Code, Articles 179, 181, 184, 185, 303 and 305.

<sup>321</sup> Freedom House, Freedom on the Net 2018: Egypt. Available at: <https://www.refworld.org/country,,,EGY,,5be16b1c4,0.html>

<sup>322</sup> Association for Freedom of Thought and Expression, Egyptian Parliament approves Cybercrime Law Legalizing the Blocking of Websites and Full Surveillance of Egyptians, 20 June 2018. Available at: [https://afteegypt.org/en/digital\\_freedoms-2/2018/06/20/15358-afteegypt.html](https://afteegypt.org/en/digital_freedoms-2/2018/06/20/15358-afteegypt.html)

<sup>323</sup> Youssry Saleh and Partners, Egypt: Anti-Cyber and Information Technology Crimes Law in Egypt, 23 September 2018. Available at: <http://www.mondaq.com/x/737244/White+Collar+Crime+Fraud/AntiCyber+and+Information+Technology+Crimes+law+in+Egypt>

<sup>324</sup> Article 19, Egypt: 2018 Law on the Organisation of Press, Media and the Supreme Council of Media. Available at: <https://www.article19.org/wp-content/uploads/2019/03/Egypt-Law-analysis-Final-Nov-2018.pdf>

<sup>325</sup> Freedom House, Freedom in the World 2019: Egypt. Available at: <https://freedomhouse.org/report/freedom-world/2019/egypt>

<sup>326</sup> Freedom House, Freedom on the Net 2018: Egypt. Available at: <https://www.refworld.org/country,,,EGY,,5be16b1c4,0.html>

<sup>327</sup> Law 107/2013 for Organising the Right to Peaceful Public Meetings, Processions and Protests, Article 5. Available at: <https://www.refworld.org/docid/551a5f2a4.html>

<sup>328</sup> Law 107/2013, Article 10.

<sup>329</sup> UPR Joint Report on Freedom of Assembly, 15 March 2014, p. 3. Available at: [https://afteegypt.org/wp-content/uploads/2014/11/UPR-Joint-report-on-freedom-of-Assembly-AFTE-EIPR-CIHRs.EN\\_.pdf](https://afteegypt.org/wp-content/uploads/2014/11/UPR-Joint-report-on-freedom-of-Assembly-AFTE-EIPR-CIHRs.EN_.pdf)

<sup>330</sup> ICNL, Research Monitor: Egypt. Available at: <http://www.icnl.org/research/monitor/egypt.html>

<sup>331</sup> Penal Code, Article 174.

<sup>332</sup> Penal Code, Article 85.

<sup>333</sup> Penal Code, Article 201.

often brought against protesters. Furthermore, many protesters have been placed on the terrorism list, resulting in increased surveillance and punishment following subsequent arrests.<sup>334</sup>

More positively, in July 2019, a draft law was passed by the House of Representatives and sent to the State Council for revision which would replace some of the most troubling provisions of the 2017 NGO law.<sup>335</sup>

## Lebanon

Lebanese NGOs do not formally need permission to register but must notify the Ministry of the Interior when they are created, and then receive a signed receipt acknowledging this.<sup>336</sup> A 2006 Circular issued by the Minister clarified the process, indicating that the Ministry will only refuse to issue a receipt if the information provided is incomplete or if the goals of the association are illegal or contrary to public morals.<sup>337</sup> In practice, some issues remain with the Ministry delaying in issuing receipts for months at a time, creating barriers for NGO operations.<sup>338</sup> The main challenge, however, for most NGOs is a lack of sustainable funding, as well as a highly sectarian environment which limits opportunities for engaging with the government.<sup>339</sup> Furthermore, NGOs may need to operate carefully to avoid charges under the Penal Code, such as under Article 316 for altering the economic or social structure of the State.<sup>340</sup> The Penal Code also provides for the disbanding of any organisation when a staff member commits an offence which is punishable by two or more years' imprisonment.<sup>341</sup>

The Penal Code criminalises defamation of public officials, the President and the military forces, which are often used for social media posts critical of the government.<sup>342</sup> The Press Law also contains prohibitions on insulting the head of State and foreign leaders, as well as a troublesome prohibition on publishing news that contradicts morals or public ethics, or is opposed to national or religious feelings or unity.<sup>343</sup> The Audiovisual Media Law prohibits broadcasting content about

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<sup>334</sup> Human Rights Watch, Egypt: Events of 2018. Available at: <https://www.hrw.org/world-report/2019/country-chapters/egypt>.

<sup>335</sup> Parliament Approves NGOs Law Canceling 2017 Bill, Egypt Today, 16 July 2019. Available at: <http://www.egypttoday.com/Article/2/72849/Parl-t-approves-NGOs-law-canceling-2017-bill>.

<sup>336</sup> 1909 Ottoman Law on Associations Law, Articles 2 and 6. Translation available at: <http://www.icnl.org/research/library/files/Lebanon/ottomaneng.pdf>.

<sup>337</sup> Ministry of Interior Circular No. 10/AM/2006. Translation available at: <http://www.icnl.org/research/library/files/Lebanon/10-AM-2006-En.pdf>.

<sup>338</sup> ICNL, Civic Freedoms Monitor: Lebanon. Available at: <http://www.icnl.org/research/monitor/lebanon.html>.

<sup>339</sup> Civil Society Facility South, Mapping Civil Society Organisations in Lebanon, 2015, p. 114. Available at: <http://www.icnl.org/research/library/files/Lebanon/BRD%20-%20Mapping%20CSOs%20in%20Lebanon.pdf>.

<sup>340</sup> Penal Code, Article 316. Translation available at: [https://docs.google.com/viewerng/viewer?url=https://www.alkarama.org/sites/default/files/2016-11/LBN\\_Penal+Code\\_selected+articles\\_EN.pdf](https://docs.google.com/viewerng/viewer?url=https://www.alkarama.org/sites/default/files/2016-11/LBN_Penal+Code_selected+articles_EN.pdf).

<sup>341</sup> Penal Code, Article 108.

<sup>342</sup> Human Rights Watch, World Report 2018: Lebanon. Available at: <https://www.refworld.org/docid/5a61ee55a.html>.

<sup>343</sup> Press Law of 1962, as described in Chadia El Meouchi and Marc Dib, Media Law in Lebanon: An Overview. Available at: <http://www.medialawinternational.com/page148.html>.



unauthorised political or religious gatherings and bans content that seeks to affect the economic or financial wellbeing of the nation, is propagandistic or promotes diplomatic relations with Israel.<sup>344</sup>

Lebanon's Telecommunication Interception Law (Law 140/1999) contains privacy protections and generally requires a court order before telecommunications may be intercepted. However, Article 9 permits communication interception under the authorisation of the Ministries of Defence or the Interior with the approval of the Prime Minister in order to gather information regarding combating terrorism, crimes against the State or organised crime. In practice, there has reportedly been widespread surveillance by General Security of civil society, possibly using this provision.<sup>345</sup> While Lebanon does not have a cybercrime law in place, the Cybercrime and Intellectual Property Rights Bureau has reportedly relied on provisions in the Audiovisual Media Law and the Penal Code to target online speech, including by interrogating numerous activists about posts on social media platforms which have criticised leaders.<sup>346</sup>

## **Saudi Arabia**

The government of Saudi Arabia passed the Regulation on Associations and Foundations in 2015 as the first comprehensive legal framework governing NGOs.<sup>347</sup> This development represents some progress in streamlining and easing the ability of civil society to operate legally. Registration decisions are supposed to occur within 60 days, although it is not clear what happens if this does not occur.<sup>348</sup> However, the new law also contains broadly worded grounds to justify limiting registration, such as if the association's by-laws contradict public morals or breach national unity, and the Minister of Labour and Social Development has extensive monitoring powers over the activities of registered organisations.<sup>349</sup> Associations may be dissolved unilaterally by the Minister of Labour and Social development if they are deemed to have undermined public order or committed an act that harms national unity.<sup>350</sup> There are also some suggestions that the 2015 law has provided legal cover for continued targeting of civil society groups.<sup>351</sup> A further concern is that the Bylaw on Collection of Donations from 1996 requires approval before undertaking

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<sup>344</sup> Audiovisual Media Law of 1994, as described in Freedom House, Freedom of the Press 2016: Lebanon. Available at: <https://freedomhouse.org/report/freedom-press/2016/lebanon>.

<sup>345</sup> State of Privacy Lebanon, Privacy International, January 2019, available at: <https://privacyinternational.org/state-privacy/1081/state-privacy-lebanon>; and Human Rights Watch, Lebanon: Investigate Large-Scale Surveillance Reports, 24 January 2018, available at: <https://www.hrw.org/news/2018/01/24/lebanon-investigate-large-scale-surveillance-reports>.

<sup>346</sup> AccessNow, "When 'cybercrime' laws gag free expression: stopping the dangerous trend across MENA", 12 September 2018. Available at: <https://www.accessnow.org/when-cybercrime-laws-gag-free-expression-stopping-the-dangerous-trend-across-mena/>.

<sup>347</sup> ICNL, Civic Freedom Monitor: Saudi Arabia. Available at: <http://www.icnl.org/research/monitor/saudi-arabia.html>.

<sup>348</sup> *Ibid.*

<sup>349</sup> *Ibid.*

<sup>350</sup> ICNL, Saudi Arabia Philanthropy Law Report, p. 23. Available at: <http://www.icnl.org/news/Saudi%20Arabia%20Philanthropy%20Law%20Report.pdf>.

<sup>351</sup> Human Rights Watch, Saudi Arabia: Prosecution for Forming Human Rights Group, 15 November 2016. Available at: <https://www.hrw.org/news/2016/11/15/saudi-arabia-prosecution-forming-human-rights-group>.

domestic fundraising or receiving foreign funding, while donations from non-Saudi citizens are not allowed (effectively meaning foreign donations are not allowed).<sup>352</sup>

Saudi Arabia does not have a codified criminal law; rather, it applies a particular interpretation of Shari'a religious law. Criminal penalties may be imposed for a number of broad offences such as distorting the kingdom's reputation or breaking allegiance with the ruler.<sup>353</sup> In addition, a number of statutes specifically criminalise certain forms of speech and are frequently used as a tool for silencing critical voices, including laws governing the press, terrorism and cybercrime. For example, a 2011 royal decree amended the Press Law to ban content that causes harm to the general interest of the country, jeopardises its stability, stirs up sectarianism, contradicts Sharia Law, incites disruption to State security or public order, or slanders the Grand Mufti or senior clerics or statesmen.<sup>354</sup>

Similarly, the Counter-terrorism Law of 2014 defines acts such as disturbing public order, destabilising the State, endangering national unity or harming the reputation of the State as terrorist crimes.<sup>355</sup> A 2017 regulation makes it a terrorist offence to describe the King or Crown Prince in a way that is offensive to religion or justice.<sup>356</sup> Since the implementation of the 2014 Counter-terrorism Law, many members and founders of civil society organisations have been prosecuted for "terrorist offences" such as misleading public opinion or defaming the reputation of the King.<sup>357</sup> Those prosecuted for these offences may be tried before the Specialised Criminal Court, about which serious due process concerns have been raised.<sup>358</sup>

The Cybercrime Law of 2009 is consistently used to prosecute those who voice criticism. Online publication or storage of material that is deemed to impinge on public morals is punishable by up to five years' imprisonment<sup>359</sup> and maintaining a website that promotes terrorist ideals is subject to ten years' imprisonment.<sup>360</sup> The government routinely blocks access to websites belonging to

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<sup>352</sup> ICNL, Saudi Arabia Philanthropy Law Report, p. 26. Available at:

<http://www.icnl.org/news/Saudi%20Arabia%20Philanthropy%20Law%20Report.pdf>.

<sup>353</sup> Human Rights Watch, Saudi Arabia: Events of 2018. Available at: <https://www.hrw.org/world-report/2019/country-chapters/saudi-arabia#58df9a>.

<sup>354</sup> Al-Jazeera, Saudi Arabia Tightens Media Laws, 1 May 2011. Available at: <https://www.aljazeera.com/news/middleeast/2011/05/20115135621233618.html>.

<sup>355</sup> Amnesty International, Saudi Arabia: New Terrorism Law is Latest Tool to Crush Peaceful Expression, 3 February 2014. Available at: <https://www.amnesty.org/en/latest/news/2014/02/saudi-arabia-new-terrorism-law-one-more-tool-crush-peaceful-protest>.

<sup>356</sup> Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, p. 6. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/363/55/PDF/G1836355.pdf?OpenElement>.

<sup>357</sup> *Ibid.*, p. 7.

<sup>358</sup> American Bar Association Center for Human Rights, Saudi Arabia: Counterterror Court Targets Activists, 24 May 2019. Available at: [https://www.americanbar.org/groups/human\\_rights/reports/saudi-terror-court-targets-activists](https://www.americanbar.org/groups/human_rights/reports/saudi-terror-court-targets-activists).

<sup>359</sup> Anti-Cyber Crime Law 2009, Article 6. Translation available at: [https://www.citc.gov.sa/en/RulesandSystems/CITCSys/tem/Document/LA\\_004\\_%20E\\_%20Anti-Cyber%20Crime%20Law.pdf](https://www.citc.gov.sa/en/RulesandSystems/CITCSys/tem/Document/LA_004_%20E_%20Anti-Cyber%20Crime%20Law.pdf).

<sup>360</sup> Anti-Cyber Crime Law 2009, Article 7.

NGOs such as the Saudi Civil and Political Rights Organisation (now officially dissolved) and the Arab Network for Human Rights Information, based in Egypt.<sup>361</sup>

All public assemblies are banned based on a circular from the Ministry of Interior. Spontaneous demonstrations are not allowed and persons who participate in them may be imprisoned, flogging of subject to travel bans, typically based on fatwas (religious edicts) issued by the Commission of Senior Scholars.<sup>362</sup>

## Tunisia

Tunisian NGOs are governed by Decree 88 on Associations, enacted in 2011 and representing one of the strongest laws in the region in terms of protections for civil society. Organisations, including those that express political opinions,<sup>363</sup> may register by sending a letter of notification to the Government Secretary General.<sup>364</sup> The environment is generally enabling although there may be delays in the publication of this letter, which has implications for operational activities like opening bank accounts. Some consider this deliberate while others attribute it to limited capacity at the General Secretariat's office.<sup>365</sup>

It is a matter of concern that the government has recently initiated attempts to amend or limit some of the positive aspects of Decree 88. Some proposed amendments would add additional reporting requirements and limit the registration by notification approach.<sup>366</sup> Furthermore, Law 52/2018 introduced a requirement that NGOs wishing to register must obtain a fiscal identification similar to the requirements for companies. Although ostensibly for transparency reasons, it can be difficult for NGOs to meet the same requirements that economic enterprises must follow and the heavy penalties for non-compliance could undermine the ability of NGOs to operate.<sup>367</sup>

Although the 2014 Constitution protects the right to assembly, the 1969 law which continues to regulate public meetings and demonstrations includes problematic provisions, such as strict prior notification requirements and broad discretion for authorities to ban assemblies deemed to

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<sup>361</sup> Freedom House, Freedom on the Net 2018: Saudi Arabia. Available at: <https://freedomhouse.org/report/freedom-net/2018/saudi-arabia>.

<sup>362</sup> ICNL, Civic Freedom Monitor: Saudi Arabia. Available at: <http://www.icnl.org/research/monitor/saudi-arabia.html>.

<sup>363</sup> Decree 88 on Associations, Article 4. Translation available at: <http://www.icnl.org/research/library/files/Tunisia/88-2011-Eng.pdf>.

<sup>364</sup> Decree 88 on Associations, Article 10.

<sup>365</sup> Yara Shahin, Pushing Back Against Narrowing Civil Space for Civil Society in Tunisia, CSIS Human Rights Initiative, 2018, p. 5. Available at: [https://csis-prod.s3.amazonaws.com/s3fs-public/publication/181220\\_PushingBackTunisia\\_0.pdf](https://csis-prod.s3.amazonaws.com/s3fs-public/publication/181220_PushingBackTunisia_0.pdf).

<sup>366</sup> ICNL, Research Monitor: Tunisia. Available at: <http://www.icnl.org/research/monitor/Tunisia.html>.

<sup>367</sup> Yara Shahin, Pushing Back Against Narrowing Civil Space for Civil Society in Tunisia, CSIS Human Rights Initiative, 2018, p. 13, available at: [https://csis-prod.s3.amazonaws.com/s3fs-public/publication/181220\\_PushingBackTunisia\\_0.pdf](https://csis-prod.s3.amazonaws.com/s3fs-public/publication/181220_PushingBackTunisia_0.pdf); and Amnesty International, Tunisia Must Take Immediate Steps to Address the Recommendations of the Special Rapporteur on Freedom of Assembly and Association, 9 July 2019, available at: <https://www.amnesty.org/download/Documents/MDE3006032019ENGLISH.pdf>.

represent a threat to public order.<sup>368</sup> Tunisia has also been under a state of emergency since late 2015, under which additional restrictions on freedom of assembly have been authorised.<sup>369</sup>

A potentially concerning draft state of emergency law was discussed in parliament in March 2019. The current law, which allows authorities to suspend all activities of NGOs and search premises on national security grounds, subject to approval from the executive branch, is subject to an ongoing constitutional challenge.<sup>370</sup> The new draft law would remove these oversights and allow the President to declare a state of emergency unilaterally, which could then be extended for six months at a time.<sup>371</sup> It would also remove the need for a court order to monitor anyone who is suspected of undermining security of the State.

Other key concerns include provisions in the Penal Code which are problematically vague or shield public figures from criticism. These include Article 121, which prohibits disseminating news which could harm public order or public morals, Article 128, which prohibits accusing public officials of crimes without proof, and Articles 125 and 67, which prohibit insulting an officer or head of State.<sup>372</sup>

## United Arab Emirates

NGOs in the UAE are regulated by the Ministry of Social Affairs at the federal level as well as governing bodies within the particular emirate they operate in.<sup>373</sup> Registration is mandatory and the law places strict limits on the operations of registered organisations. Dubai's 2017 NGO law, for example, requires NGOs to seek authorisation to receive donations, to organise or participate in conferences, meetings or lectures within or outside of the UAE, to invite "very important persons" (which is not defined) to Dubai and before nominating a member to the board of directors.<sup>374</sup> Similarly, Decree 9 on Fundraising requires approval from the Islamic Affairs and Charitable Activities Department before organisations may accept any donation.<sup>375</sup> Throughout the UAE, it is a crime to advocate for donations to be given to unregistered charities and NGOs.<sup>376</sup>

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<sup>368</sup> Law 69-4 of 1969. Available (in French) at: <http://policehumanrightsresources.org/wp-content/uploads/2016/03/Tunisia-Law-No.-69-4-1969-Public-Assemblies.pdf>.

<sup>369</sup> ICNL, Research Monitor: Tunisia. Available at: <http://www.icnl.org/research/monitor/Tunisia.html>.

<sup>370</sup> Amnesty International, Tunisia Repressive State of Emergency Bill a Threat to Human Rights, 15 March 2019. Available at: <https://www.amnesty.org/en/latest/news/2019/03/tunisia-repressive-state-of-emergency-bill-a-threat-to-human-rights/>.

<sup>371</sup> *Ibid.*

<sup>372</sup> Human Rights Watch, Tunisia: Bloggers Held for Criticizing Officials, 25 January 2019, available at: <https://www.hrw.org/news/2019/01/25/tunisia-bloggers-held-criticizing-officials>; and Amnesty International, Tunisia: Attack on Freedom of Expression Must End, 2 February 2018, available at: <https://www.amnesty.org/en/latest/news/2018/02/tunisia-attack-on-freedom-of-expression-must-end/>.

<sup>373</sup> ICNL, UAE Philanthropy Law Report, 2018, p. 2. Available at: <http://www.icnl.org/research/UAE%20Philanthropy%20Law%20Report-%20updated%20-%20Feb%202018.pdf>.

<sup>374</sup> Law No. 12 of 2017, as described by Clifford Chance, New NGO Framework in Dubai. Available at: [https://www.cliffordchance.com/briefings/2017/11/new\\_ngo\\_frameworkindubai.html](https://www.cliffordchance.com/briefings/2017/11/new_ngo_frameworkindubai.html).

<sup>375</sup> ICNL, UAE Philanthropy Law Report, 2018, p. 3. Available at: <http://www.icnl.org/research/UAE%20Philanthropy%20Law%20Report-%20updated%20-%20Feb%202018.pdf>.

<sup>376</sup> Federal Decree Law 5/2012 on Combating Cybercrime, Article 27. Translation available at: [http://ejjustice.gov.ae/downloads/latest\\_laws/cybercrimes\\_5\\_2012\\_en.pdf](http://ejjustice.gov.ae/downloads/latest_laws/cybercrimes_5_2012_en.pdf).

Arrests and convictions of persons engaged in advocacy or criticism of the government are common. A number of legal provisions enable this. The Penal Code contains criminal penalties for offences against reputation (defamation), as well as for insulting the State President and other public figures, or the flag or national emblem.<sup>377</sup> Other crimes include offending Islam, insulting recognised religions, approving or encouraging sin, or establishing or organising an association aimed at resisting the teachings of Islam.<sup>378</sup>

The UAE has also relied on cybercrime and terrorism laws to target civil society voices who are critical of the government. Various activists have been charged for online speech regarding human rights violations.<sup>379</sup> The strict application of the cybercrime law has resulted in a number of activists being jailed for insulting others,<sup>380</sup> harming national unity or public order<sup>381</sup> or calling to change the ruling system of the State.<sup>382</sup> Terrorism offences include vague provisions such as threatening the governance system<sup>383</sup> and declaring opposition to the State online.<sup>384</sup>

Between 85-90% of the residents of the UAE are foreign citizens who have even more limited rights to participate in civil society activities.<sup>385</sup> In most cases, only citizens can establish civil society organisations, for example.<sup>386</sup> Arbitrary detentions of foreign nationals are regularly reported.<sup>387</sup> Authorities have also stripped individuals of their citizenship as a punishment for peaceful dissident activities.<sup>388</sup>

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<sup>377</sup> Penal Code, Articles 176 (read together with Article 8), 372 and 373. Translation available at: <https://www.adjd.gov.ae/sites/Authoring/AR/ELibrary%20Books/E-Library/PDFs/Penal%20Code.pdf>.

<sup>378</sup> Penal Code, Articles 312 and 317.

<sup>379</sup> Human Rights Watch, Free Rights Defender Ahmed Mansoor, 12 April 2019. Available at: <https://www.hrw.org/news/2019/04/12/uae-free-rights-defender-ahmed-mansoor>.

<sup>380</sup> Decree Law 5/2012 on Combating Cybercrime, Article 20.

<sup>381</sup> Decree Law 5/2012 on Combating Cybercrime, Article 24.

<sup>382</sup> Decree Law 5/2012 on Combating Cybercrime, Article 30.

<sup>383</sup> Federal Law 7/2014 on Combating Terrorism Offences, Article 14. Translation available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/98658/117474/F399649256/LNME-FED-LAW-7-2014.pdf>.

<sup>384</sup> Federal Law 7/2014 on Combating Terrorism Offences, Article 15.

<sup>385</sup> Civicus, Monitor Tracking Civic Space: United Arab Emirates, available at: <https://monitor.civicus.org/country/united-arab-emirates/>; and Freedom House, Freedom in the World 2018: United Arab Emirates, available at: <https://freedomhouse.org/report/freedom-world/2018/united-arab-emirates>.

<sup>386</sup> ICNL, UAE Philanthropy Law Report, 2018, p. 2. Available at: <http://www.icnl.org/research/UAE%20Philanthropy%20Law%20Report-%20updated%20-%20Feb%202018.pdf>.

<sup>387</sup> Amnesty International, United Arab Emirates 2018. Available at: <https://www.amnesty.org/en/countries/middle-east-and-north-africa/united-arab-emirates/report-united-arab-emirates>.

<sup>388</sup> Human Rights Watch, UPR Submission: United Arab Emirates, June 2017. Available at: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=4817&file=EnglishTranslation>.