

Freedom of Expression in the Arab World: Could It Really Be Free?

By Joseph F. Jacob



On August 28, 2011, the Syrian President issued new Media Law No. 108, part of the ongoing process of reform in Syria. The much-anticipated media law is premised on the preamble of Article 2 of the same law, that the media is free, independent, and shall not be restricted except in accordance with the Constitution and the country's laws.

Article 3 of the new media law states that the media profession is based on the principles of freedom of expression, constitutionally guaranteed rights, and international human rights declarations. Furthermore, it recognizes the citizens' right to be informed about the government and public affairs, such knowledge and information being necessary for the protection of the public good and the national identity. Article 4 of the law recites basic principles that the media

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should take into consideration when exercising freedom of expression, such as practicing "responsibly and conscientiously" while also respecting the "Press Code of Honor."

Article 38 of the Syrian Constitution guarantees the right of free expression in all mediums and the right to participate in a "supervising and constructive criticism" to ensure the safety of the nation, and further provides that the state guarantees freedom of the press in accordance with the law.

While holding out great promise, in practice these provisions are entirely undone by the following 105 articles that establish the mandatory code of conduct for journalists and publishers.

Set forth in Article 12 is a catch-all prohibition that is nothing more than an institutional supervision and control of the national media, as it prohibits media agencies from publishing or disseminating any information that may harm national unity, national security, or exploit religion, sectarianism, or denominationalism. It also prohibits publication of news related to the military, news excluded from publications by law, and any information that disrespects "State symbols." Any violation of this Article is punishable

by fines as well as the revocation of the publisher's license. Although there are no jail sentences for such violations, it is not clear whether a publisher who, after being convicted by the court and failing to pay the assessed fine (of up to \$20,000), would be able to avoid detention.

The Syrian Council of Ministers will be in charge of enforcing this law through a new National Media Council consisting of nine members selected from "experienced" media professionals. The media council will be in charge of issuing regulations that facilitate the application of this law, issuing licenses to journalists and publishers, and monitoring violations by media professionals through judicial intervention.

It would be futile to analyze and debate the entire manifesto, which seems to have placed the highest value on restoring the national identity—the Regime. The law appears to encroach on all aspects of the media profession from the qualifications of journalists and editors, compensation, ownership restrictions, editorial policies, monetary and financial information, and permissible advertisement ratios, all of which would be decided by the Council.

Media laws and policies that purport to tolerate and protect freedom of speech in most Arab countries typically are based on extensive state control of the media. These laws are aimed at preserving state content-monopoly over all communication, and they guard against challenges to societal taboos and redlines.

By forbidding prejudicial statements and publications,

the state has sought to promote a shallow peace and security by limiting the freedom of the media. Critical thinking, dissension, and innovation are notably absent from the public discourse and are deemed inconsistent with national norms and traditions.

Conceptually, even if encouraged or tolerated, free speech and the freedom of the media in the Arab world follow the values that emanate from patriarchy, theocracy, and despotism. Frequently, it is the public's self-imposed restrictions that have also hindered the expansion and development of civil public discourse. There is barely any free flow of ideas in a competitive marketplace, and absolutely no environment conducive to the airing of diverse and opposing views.

The availability of widely accessible information through global networks and social media, however, is increasingly challenging the status quo in Syria and elsewhere in the Arab world, eradicating social boundaries, and removing governmental restrictions. As seen in the Arab Spring, this new context of global, not national, media is inspiring a generalized defiance of the centuries-old authoritarian "top-down" approach that still exists in new legal texts such as the new Syrian Media Law. The promise of the Arab Spring lies, accordingly, not in the new legal texts and constitutions, many of which are no better than government practice under the previous Regime, but rather in the domestic influence of global communications that promise a true redemption, with time, of free speech and media. ♦

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