Lebanon enjoys a relatively free and pluralistic media, which publishes and broadcasts in Arabic, French, English and Armenian. There is an established, well-educated media elite but full freedom is still, arguably, hindered by sectarian divisions.
This report examines Lebanon’s Constitution and its audio-visual legal framework, identifying the areas that do not meet international standards of best practice and recommending changes that would enhance the role of the media within the broader context of democratisation.

I. EXECUTIVE SUMMARY

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2. INTRODUCTION

Lebanese society, much like its media, has historically been noted for its diversity and inclusiveness. Yet, despite its apparent freedoms, this media often serves the interests of a political elite rather than working for the good of the general population.

As we will see in sections 2 and 3, Lebanon’s current media policy environment is a direct reflection of efforts to recover from the civil war in a country whose difficulties are compounded by the geopolitical complexities of its relationship with Syria and the rest of the Middle East, including Israel. In this and other respects the current media scene is not only as free as it pretended to be in the past but rather, they are usually far more familiar with European and North American media contexts and enjoy a long tradition of access to foreign media. However, the dearth of state policies to protect the profession renders journalists defenceless against the oligopoly of a few media tycoons. This seems likely to continue in the medium term because of the overwhelming sectarianism and the highly volatile situation in the region. The so-called “security of the state” and “civil peace” will likely remain untouchable principles taking priority over real freedom of the press.

During the recent years of harsh internal political confrontation, most of Lebanon’s media seem to have become the first tools of conflict among the political, religious, military and financial forces doing battle. The freedom and balanced coverage for which the Lebanese media – long considered trailblazers in the Arab world – were known has declined, with management now reluctant to reveal details about internal procedures and operations.

For the reasons mentioned above, more than most countries in the Middle East, the media situation in Lebanon today cannot be understood without taking into account the historical context in which it has evolved.

2.1. THE HISTORICAL CONTEXT

Lebanon’s history since independence has been marked by alternating periods of political stability and turmoil against a background of prosperity built on Beirut’s position as a regional centre for finance and trade. This dangerous instability has had a profound impact on the development of the media (mainly press) sector in the country.

In 1975, following increasing sectarian tensions, a full-scale civil war broke out in Lebanon. The Lebanese civil war pitted a coalition of Christian groups against the joint forces of the Palestine Liberation Organisation (PLO), left-wing Druze and Muslim militia. In June 1976 Syria sent its own troops, ostensibly to restore peace. In October 1976 the Arab League agreed to establish a predominantly Syrian Arab Deterrent Force, which was charged with restoring calm.

In September 1988, the Lebanese parliament agreed to the Taif Agreement, which included an outline timetable for Syrian withdrawal from Lebanon and a formula for the de-confessionalisation of the Lebanese political system. The war ended at the end of 1990, after massive loss of human life and property and having devastated the country’s economy.

Emerging from the bloody chaos of the civil war (1975–1990), Lebanon enjoyed a period of relative stability in the following decade with increased Syrian political and military influence over its territory under a policy known as “Pax Syriana”, which had the approval of the United States and the other main regional and international actors.

The internal political situation in Lebanon significantly changed in the early 2000s. After the Israeli withdrawal from southern Lebanon, the Syrian military presence faced criticism and resistance from the Lebanese population.

In 2004 the new French-American initiative against the Syrian presence in Lebanon along with its allies in the country was set in motion with UN Resolution 1559 and started one of the longest political crises that had ever occurred, not just between Beiruti and Damascus, but also between the Syrian-Iranian and the Israeli-American axes.

On July 12th 2006 Hizbullah launched a series of rocket attacks and raids into Israeli territory, where they killed three Israeli soldiers and captured a further two. Israel responded with airstrikes and artillery fire on targets in Lebanon along with a ground invasion of southern Lebanon, resulting in the 2006 Lebanon War. The conflict was officially ended by UN Security Council Resolution 1701, which ordered a ceasefire, on August 14th 2006. Four years later, after the death of more than 1,000 civilians in the Israeli-Hizbullah civil war, it was reported that in Beirut and Mount Lebanon (2008) and several explosions and political assassinations (2004–2007), the Dora Agreements formally put an end to the confrontation and paved the way for a fragile truce inside Lebanon.

In 2012 the Syrian revolution and war threatened to spill over into Lebanon, causing more incidents of sectarian violence, and armed clashes between Sunnis and Alawites in Tripoli. In August 2013 more than 677,702 Syrian refugees were in Lebanon. At the time of writing, as the number of Syrian refugees increases, the Lebanese Forces Party, the Kataeb Party and the Free Patriotic Movement fear that the country’s sectarian-based political system could be undermined.

The clashes culminated in the killing, on December 27th 2013 in a car bomb explosion in downtown Beirut, of the former minister of finance, Mohamad Chatah, a senior aide to the former prime minister of Lebanon, Saad Hariri.

Not only has the local media been deeply influenced by this dangerous polarisation but they have also gradually taken on the role of propagandists for opposing Lebanese political and sectarian groups. The Lebanese press corps has also suffered many casualties over recent years due to targeted attacks and armed conflicts. Today none of the newspapers or TV and radio stations can be described as immune to the ongoing conflict – and very few even attempt to maintain a neutral stance.

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It was privati...
Lebanon’s national legislature is a unicameral parliament. Its 128 seats are divided equally between Christians and Muslims, and proportionately between both the 18 different denominations and the 26 regions. Prior to 1990 the ratio stood at 6:5 in favour of Christians. However, the Taif Agreement, which put an end to the 1975–1990 civil war, adjusted the ratio to 6:5 in favour of Christians. However, the agreement was widely perceived as discriminatory for secondary education. Lebanon has adequate health facilities, although there is widespread reliance on private health care and a substantial proportion of the population remains uninsured.The influx of Syrian refugees since 2011 has increased competition for access to educational and health facilities, affecting both Syrians and lower-income Lebanese.

2.3. ECONOMIC OVERVIEW

Lebanon has a free market economy, to which banking, tourism and remittances from abroad make an important contribution. Lebanon enjoyed strong GDP growth between 2007 and 2010, averaging 7.5% a year. Due to the conflict in Syria and domestic political instability, Lebanon’s GDP growth slowed to 3% in 2011 and slowed further to 1.4% in 2012. The World Bank projects that growth in 2013 and 2014 will continue to be muted at approximately 1.5%.

Inflation, which had been steady at around 5% from 2008 to 2012, reached 10% between mid-2012 and mid-2013. This was in part due to the influx of Syrian refugees and the resulting flows of humanitarian assistance. Government debt levels remain high, at approximately 130–140% of GDP. Corruption significantly affects Lebanon’s economic performance.

Lebanon is classified by the World Bank as an upper-middle income country, with an average per capita gross national income of approximately US$10,000 in 2014. However, nearly a third of the country’s population is estimated to live below the poverty line. Poverty is concentrated in the Bekaa Valley, Tripoli and Akkar; as well as in the country’s 12 official Palestinian camps and numerous unofficial refugee communities (commonly referred to as “gathering”). Overall, it would seem that the low levels of economic opportunity in certain areas of Lebanon act as a push factor for external migration.

The conflict in Syria is likely to adversely affect Lebanon’s economy for as long as it continues by raising inflation, increasing unemployment, discouraging foreign direct investment and reducing tourism.

Most of Lebanon’s population has access to primary and secondary education, although a significant proportion relies on private facilities, particularly for secondary education. Lebanon has adequate health facilities, although again, there is widespread reliance on private health care and a substantial proportion of the population remains uninsured. The influx of Syrian refugees since 2011 has increased competition for access to educational and health facilities, affecting both Syrians and lower-income Lebanese.

### 3. CONSTITUTION

The introduction to the current Lebanese Constitution states that Lebanon is a parliamentary democratic republic based on the respect of common liberties, including freedom of expression and belief, as well as social fairness and equality in rights and duties among all citizens, with no preferences or favouritism shown to one group at the expense of another.

The following three rights are among those protected by the Constitution:

- The right to private ownership. Article 15 stipulates that ownership is protected by law and that no one shall be apprehended, detained or imprisoned except in accordance with the provisions of the law. It also subscribes to the nulum crimen sine lege principle under which no crimes or punishments can be established except by law.

- The right to access own schools, subject to compliance of the law. It states that all citizens, with no preferences or favouritism shown to one group at the expense of another.

- The right to express oneself in writing, or in speech, the freedom of the press, the freedom of assembly and the freedom of association shall be guaranteed within the limits established by law. Although Article 13 seemingly celebrates civil liberties, the broadly worded exct and discriminatory provisions on media and press regulated by the Penal Code, Press Law and Audio-visual Law, as well as the Military Justice Code, have enabled officials to trample on constitutional rights and curb freedoms of speech and expression.

### 3.1. Constitution

The Constitution divides the powers of the state into three branches of government: the legislative; the executive; and the judicial.

#### 3.1.1. Legislative branch

Article 16 of the Constitution originally vested the legislative power in a parliament composed of two separate bodies – a senate and a house of deputies. The Constitution gives every Lebanese citizen aged 21 and over the right to vote and thereby elect deputies to the house if he or she meets the conditions required by the electoral law in force. The house of deputies has the power to:

- legislation (Article 16);
- confirm or disapprove of the formation of the cabinet (Article 64);
- oversee the performance of the cabinet and its ministers and vote them out of office when necessary (Articles 37, 69);
- elect the president of the republic (Article 49);
- ratify certain categories of international treaties and agreements (Article 52).

#### 3.1.1.1. Legislative branch

The executive branch consists of the president, the head of state, and the prime minister; the head of government. The president elects the president for a non-renewable six-year term by popular vote on the basis of sectarian proportional representation.

**“Lebanon’s history since independence has been marked by alternating periods of political stability and turmoil… This dangerously unstable situation has had a profound impact on the development of the media.”**

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approve the annual budget of the state (Article 32).

3.1.1.2. Executive branch
In its original stipulation, Article 17 of the Constitution vested executive power in the president of the republic with the assistance of the ministers. The ministers are not members of parliament, although members of parliament can serve as ministers (Article 28).

3.1.1.3. Role of the president
Under the Constitution, the president has the power to:
- appoint and dismiss the prime minister and the ministers (Article 53);
- preside over meetings of the cabinet;
- make appointments to public office (Article 53);
- negotiate and conclude international treaties (Article 52);
- propose new legislation (Article 18);
- promulgate the laws as approved by parliament (Article 51);
- remit to parliament for reconsideration laws that it has already approved (Article 57);
- dissolve parliament (Article 55).

3.1.1.4. Roles of the prime minister and the cabinet
The roles of the prime minister and the cabinet are only briefly mentioned in the Constitution. There are few cursory references, such as those in Articles 53 and 66.

In its original version Article 53 stipulated that the president was to appoint the ministers and nominate one from among them to be prime minister. Article 66 gave the prime minister or a minister acting on his behalf, the task of delivering to the house a few cursory references to the ministers.

Presiding over ministerial meetings while discussing and reviewing matters of governance. However, these meetings are not considered to be cabinet meetings representing the executive branch. A cabinet meeting could not be officially held without the president’s attendance.

Participating with the president in the formation of the cabinet. The practice is for the president to first nominate the prime minister who in turn consults with the political groups in parliament and then reviews the results with the president. The president then issues a decree, countersigned by the prime minister, appointing the ministers and designating their portfolios.

Countersigning all other presidential decrees along with the ministers concerned.

Representing the cabinet before parliament.

Overseeing the work of the ministers.

The role of the prime minister, however, does not significantly infringe upon the power of the president, who always retains the authority to dismiss the prime minister at will.

It is unclear whether the cabinet constitutes an organ of the executive branch separate from the president. Does the cabinet have, for example, the legal power to register its disapproval of a presidential decree? It is doubtful, and certainly there is no evidence of the cabinet ever exercising any such power against the president.

3.1.1.5. Judicial branch
The Constitution addresses the judicial branch in one single article, Article 20, which stipulates that:

- Judicial power is exercised by the courts of all levels and jurisdictions within the framework prescribed by law that shall provide the necessary guarantees to both judges and litigants.
- The conditions and limits of judicial guarantees shall be determined by law, judges are independent in the exercise of their duties and their decisions and judgments are made in the name of the Lebanese people.
- However, the laws enacted to organise the judiciary do not meet the goals of Article 20. The executive branch, through the Ministry of Justice, plays a role in the appointment, promotion and assignment of judges, which brings the independence of the judiciary as a separate branch of government into question. Furthermore, neither the House of Deputies nor the cabinet has made any effort to establish a court with jurisdiction to decide on the constitutionality of laws or protect constitutional rights.

In a 1990 amendment, a constitutional court was established with limited jurisdiction. Under this amendment only the president, the speaker, the prime minister and a minimum of 10 deputies have the right to petition the court for a review of the constitutionality of laws and resolutions of deputies arising out of presidential or parliamentary elections. In addition, the heads of the religious communities were also given the right to petition the court on matters related specifically to personal status, freedom of belief, the exercise of religious rites and freedom of religious education. The law recognises 19 religious communities: 11 Christian, five Muslim and three Jewish communities.

3.1.2. Rule of law, autonomous churches and religious representation
Historically, the religious communities enjoyed a great deal of autonomy and freedom under the protection of Sharia law, allowing the religious communities to be represented when they were subjected from time to time by the rulers of the Islamic state. The drafters of the Lebanese Constitution could not ignore this, which they saw as a multi-denominational state, with Muslims losing their majority status for the first time. To ensure some level of equilibrium among all the components of the new state. Article 95 of the Constitution stipulated that: “As a temporary measure, and for the sake of justice and concord, the religious communities shall be equally represented in public employment and in the formation of the cabinet without causing harm to the interests of the state.”

Although Article 95 contradicted the equality principle that Article 7 so strongly guaranteed (see 3.1 above), it was positive in that it left open the opportunity, at least theoretically, for any individual to be employed in any public position or ministerial post. In other words, it did not assign specific positions to specific communities.

Article 96 provided for the division of the senate seats among the religious communities by allocating five seats to the Maronites, three to the Shiites and two to the Shiites in the Shia region, two to the Greek Orthodox, one to the Greek Catholics, one to the Druse and one to the minority denominations (all those not otherwise assigned specific seats).

Furthermore, Decree No. 1307 of 1922 and all subsequent electoral laws to which Article 24 of the Constitution referred, allocated seats to the members of the House of Deputies among the various religious denominations in numbers that varied over time.

Because of this apportionment on the basis of religious affiliation, for all practical purposes, many seats have come more to represent the religious communities whose seats they occupy than the whole nation or even the geographic districts that elect them.

3.1.3. The National Pact of 1943
In 1943 two political leaders, Bechara al-Khoury, the Maronite Christian president, and Riad al-Solh, the Sunni Muslim prime minister, agreed to the necessity of a two-thirds vote by the House of Deputies among the various religious communities for the establishment of the cabinet. Their agreement became known as al-mithaq al-watani or the National Pact.

The National Pact was, in essence, a political compromise between the two major religious communities to obtain independence and continue to govern the state on the basis of the religious representation provided for in the Constitution. However, following independence, customary practices expanded religious representation to include assigning certain offices to certain religious communities both in administrative and political positions, including the offices of president, prime minister and speaker of the house.

3.1.4. The Taif Agreement
The National Pact succeeded in ending the mandate but failed to transform Lebanon into a cohesive functioning state. The political positions of the various religious groups continued to be divided mainly along religious lines. It was only a matter of time before the political divide between Christians and Muslims exploded into a full armed conflict. This occurred in 1975 and lasted until 1989, when the surviving deputies elected in 1972 met in Taif, Saudi Arabia and agreed on a modest restructuring of the confessional regime to placate the warring factions and end the fighting.

The Taif Agreement required the cabinet to submit to the cabinet any legislation draft to which it was opposed. The agreement was made in good faith, but the commission was never implemented. After several drafts of a new electoral law failed to pass, the final version of the new electoral law was adopted on 14 August 1992, which is known as the Law No. 58 of 1992, after the date of its adoption.

The Taif Agreement stipulated the president of his constitutional powers and allowed Lebanon to elect a president with only one effective tool of governance – the president to appoint the members of the cabinet as agreed with the prime minister.

3.1.5. The Doha Agreement
A new version of the 1975 war started when, on May 7th 2008, a cabinet meeting lacking Shia representation adopted two decrees considered hostile to the Shia organisation of Hizbullah that were strongly rejected by the majority of the Shia community. Within days fighters allied with Hizbullah took over the Sunni area of West Beirut and forced the cabinet...
to retrace its decade. This was enough for all the parties involved to rethink their positions; meet in Doha in May 2008, and agree to:

• elect a consensus candidate to the post of president that had become vacant several months earlier;
• form a national unity government in which the opposition (Hizbullah and its allies) has veto power over major decisions;
• conduct a parliamentary election according to an earlier law thought to reflect a more accurate representation of the Christian religious communities.

In reality the Doha Agreement was an acknowledgement that no major decisions of the Lebanese government (or in fact no major decisions at the political level) can be effective without the consent of all major religious communities, regardless of how large the majority supporting the government in the house of deputies may be.11

3.2. THE PRINCIPLES GOVERNING THE MEDIA SECTOR IN THE CONSTITUTION

Article 13 of the current Lebanese Constitution contains the only provision affecting the media and it provides that “the freedom to express one’s opinion orally or in writing, the freedom of the press, the freedom of assembly and the freedom of association shall be guaranteed within the limits established by law.”

This article would seem to guarantee the freedom of expression, the freedom of the press and the freedom of assembly and association, which are fundamental rights for any mature media environment. However, implementation is another matter; and in practice the Lebanese media landscape is complex and contradictory.12

3.2.1. Freedom of peaceful assembly and association

Freedom of association is enshrined in the Constitution of Lebanon, but its implementation remains a problem. For example, the law regarding labour unions and youth organisations remains very restrictive.13

This Law for Associations, which is often referred to by its critics as “the Ottoman Law,” and dates back to August 3rd 1909, applies to those associations that are not covered by a separate law, so it does not apply to trade unions, co-operatives and press unions which are separately regulated. Associations subject to this law include clubs, NGOs, centres and parties. According to Article 2, the setting up of an association does not require prior licensing. What is needed is a registration number, which can be obtained by notifying the association to the Ministry of the Interior, and then by signing its internal regulations or bylaws, official practice has contravened the provisions of the law. The Ministry of the Interior, specifically, has consistently violated the terms of this law and the more general constitutional guarantee of freedom of expression and association, and has turned the process into a constraint that amounts to “quasi prior licensing”. This has been done by refusing to issue a registration number to new associations or simply by neglecting to respond to the notification sent by a new NGO or association seeking official status.

Public servants are prohibited from setting up and belonging to trade unions and federations and thus cannot enjoy freedom of association.

Moreover, although around 11% of the Lebanese population is Palestinian, Palestinians are not allowed to form any kind of civil society organisation or trade union. In addition, Lebanon has still not ratified the International Labour Organisation Convention No.87 (Freedom of Association and Protection of the Right to Organise) whose provisions could strengthen the normative framework.

This problem has an impact on the media sector as journalists are not allowed to practice unless they belong to the Union of Journalists. Without the protection of trade unions, journalists may be easily harassed and influenced by editors who are affiliated to one or another religious or political group.

3.2.2. Freedom of expression

The Constitution also stipulates freedom of expression in speech and in writing. However, genuine implementation and monitoring of these practices in accordance with international standards are still lacking in Lebanon.

Significant current barriers to freedom of expression include:

• The prohibitive cost of establishing a newspaper or journal. This ensures it is almost impossible for individuals who are not backed by a powerful lobby to set up a new publication. This hinders the free expression of a range of opinions and views.

• The political practices of the media. Continuous use of the media in the political power games compromise the independence of the sector. Such practices also hinder the individual citizen’s access to information.

• The censorship role played by the Sûreté Générale (General Security Police) – the institution has extensive and apparently elastic powers.

3.2.3. Access to information

Unlike Article 19 of the Universal Declaration of Human Rights, which Lebanon signed in 1972, Lebanese laws on freedom of expression and of the press do not recognise the right to “seek information”. This is attested by the absence of any piece of legislation guaranteeing access to information and by the difficulty Lebanese journalists experience in obtaining information, even from those official sources, agencies and ministries with a responsibility to inform the public about aspects of their basic activities.

A draft law on access to information that was proposed in 2009 would allow citizens to request documents and data held by public bodies. It was debated in the parliament in October 2012 but is still awaiting approval.

The study of the implementation of the Press Laws and of the Audio-visual Law, particularly the licensing process, is crucial for understanding the regulatory framework for the media in Lebanon. Although the implementation of the 1994 Audio-visual Law constituted in and of itself the first serious attempt to introduce the rule of law in the country after the civil war, it led to the era’s first major crisis of political legitimacy.

4. THE PRESS LAWS

The Lebanese print media have been governed by a series of press laws, most of which promoted the organisation of journalists and publishers. These post-independence laws and regulations include:

1. the Press Law of 1948, which regulated the affairs of print media and organised the journalists into one union;
2. the Press Law of 1952, which organised journalists into two unions – one for editors and one for editors – and set the stage for the granting of new newspaper licences;
3. the Press Law of 1962, which clearly defined the profession and the practice of journalism (this Law was amended by Legislative Decree 104/77 and then by Law 330/94).

Lebanese media are formally organised under the 1962 Press Law and the 1994 Audio-visual Law, but many aspects of these laws are respected only on paper. The 1962 law was officially enacted in order to “protect the press from random abusive interventions” and to shield the state and its citizens from biased campaigns in the press. As is the case with other Arab states’ press laws, the 1962 Press Law states vaguely that “nothing may be published that endangers national security… national unity… or that insults high-ranking Lebanese officials… or a foreign head of state”. It is possible, reading between the lines, to perceive behind these loaded and ambiguous expressions a subtle warning to reporters.

The law defines a journalist as being at least 21 years of age, having a bachelor’s degree and having been apprenticed for at least four years. Practising journalists do not require certification, although those with a degree in journalism must register with the trade union. Press cards, which must be renewed annually, are issued by the Ministry of Information. The 1962 law formally organises journalists into two syndicates; the Lebanese Press Syndicate (LPS), for owners and the Lebanese Press Editors Syndicate (LPES), for editors and reporters.

The 1962 Press Law, which remains in force today, also requires that any newspaper or periodical that wants to publish news on political events must first obtain a legislative decree granting it a Category I licence. This stipulation was made in response to the number of new “political” publications established during the 1950s.

The 1963 Press Law was then amended by Legislative Decree 104/977 and then by a new set of modifications incorporated in Law 330 of 1994. These modifications introduced new more formidable controls over the print media that included the right to detain and impose fines on journalists and publishers for slandering the Lebanese president or other heads of state or insulting sectarian strife, prior to their actual conviction of any offence by a court. The Lebanese press objected to the changes, just as it had objected to the prior restraint provisions contained in Decree 104/977. The government responded to the objections by eliminating both the pre-conviction penalties and the provisions that would have allowed the government to suspend a publication’s licence pending a court’s

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1. An English translation of the Doha Agreement is available at: www.mislebanon.com/MediaArchivess/English/143023.
6. The “Law of Press and Freedom of Expression” No.87 (Freedom of Association and Protection of the Right to Organise) which was incorporated in Law 330 of 1994. These provisions were situated in Law 330 of 1994 under the title “political” publications established during the 1950s.
7. The 1963 Press Law was then amended by Legislative Decree 104/977 and then by a new set of modifications incorporated in Law 330 of 1994. These modifications introduced new more formidable controls over the print media that included the right to detain and impose fines on journalists and publishers for slandering the Lebanese president or other heads of state or insulting sectarian strife, prior to their actual conviction of any offence by a court. The Lebanese press objected to the changes, just as it had objected to the prior restraint provisions contained in Decree 104/977. The government responded to the objections by eliminating both the pre-conviction penalties and the provisions that would have allowed the government to suspend a publication’s licence pending a court’s
decision. The government also reduced the level of fines to be imposed on convicted violators from 500 million to 200 million Lebanese pounds ($298,000–$118,000 at the time of writing) and amended the legislation so that criminal penalties applied only to offenses cited in the Penal Code.

4.2. THE AUDIO-VISUAL LAW
In October 1994, the Lebanese government, in an effort to gain control over the plethora of private radio stations that had begun broadcasting during the civil war, enacted Law 382/94, known as the Audio-visual Law. This law ended the state's theoretically monopolistic over electronic broadcasting and made Lebanon the first country in the Middle East to establish a regulatory system that allowed private radio and television broadcasting to be both produced and distributed within its borders. And, with the Press Law governing the print media, the 1994 Audio-visual Media Law distinguished between Category I licenses, which allowed for the broadcast of news and political programs, and Category 2 licenses for television stations that did not intend to broadcast news. Officials also set licensing fees for each category.

The 1994 Audio-visual Law establishes a "licensing board" as the National Audio-visual Media Council, or AVMC. Its 10 members were selected along confessional lines, half of which are appointed by the state, half by private media, and half that were appointed by the minister of information, or the General Directorate of the Sûreté Générale. The council’s main role is to review licence applications (e.g. video tapes, audio-cassettes, CDs, DVDs) and to make recommendations to the minister of information, or the General Directorate of the Sûreté Générale. This "50% limit", it should be noted, was derived from the Muslim–Christian aggregate proportion of the Lebanese population.

4.4. OTHER NON-REGULATED MEDIA SECTORS
4.4.1. Cinema and theatre
In contrast to the constitutional and other protections securing freedom of the press and of terrestrial broadcasting, cinema and theatre, along with leaflets, were (and continue to be) excluded from such guarantees.14 According to Legislative Decree No. 55/1967, all leaflets that are not published in periodicals, regardless of their content, require prior clearance by the General Directorate of the Sûreté Générale. A law regulating cinema, introduced on November 27th, 1947, established prior restraint or censorship concerning the exhibition of both imported and locally made films.

4.4.2. Cable and internet
To date, cable distribution remains unregulated. According to some (outdated) estimates, up to 1,300 illegal satellite television distribution companies are operating in the country serving up to 780,000 of the country’s 800,000 subscribers, leaving the only two legal cable operators with only 20,000 subscribers.15 The illegal companies are engaged in the unauthorised re-transmission of broadcast programming and charge their customers as little as $10 per month for these “pirate” pay-television services.16 This illicit industry is “so popular that the revenue from illegal cable distribution is estimated to be between 60 and 70 million dollars a year, and the government is faced with a dilemma with regard to regulating the sector: on the one hand there is a strong need to regulate cable TV, but on the other hand such regulation would deprive thousands of families of their main source of income.”17

Cable piracy continues to be a thriving business in the country, much to the disappointment of local legal operators, international cable TV networks and organisations working for the protection of intellectual property rights. The transmission of content (whether broadcasting or not) through the internet is not regulated.

4.5. MAIN PROVISIONS OF THE LEBANESE AUDIO-VISUAL LEGAL FRAMEWORK
4.5.1. Licensing permission for the establishment of media outlets
Official permission – whether by the Council of Ministers (Article 1), the minister of information, or the General Directorate of the Sûreté Générale – is needed for the creation of practically every mass medium of expression. Thus, newspapers, periodicals, terrestrial television and radio stations, satellite channels and even leaflets cannot exist without prior approval from official authorities. The only notable exception, which has made Lebanon a haven for publishers in the Arab world, is the printing of books. Any audio-visual material, whether locally produced or imported, intended for private use (e.g. video tapes and movies, CDs and DVDs) is in theory excluded from these restrictions although the Sûreté Générale reviews, for approval before distribution, all imported CDs and DVDs.

To date, both cable distribution and the internet remain unregulated (illegal internet cafes, however, are all over the country and internet users are estimated at 300,000, approximately 15% of the overall population), which is considered comparatively high for the region.18

4.5.2. Licensing requirements
4.5.2.1. Lebanese ownership requirement for press and TV
The Press Law of 1962 (as amended by Legislative Decree No. 104/1977) has a series of requirements regarding the nationality of those permitted to set up or run a public periodical in the country. For instance, in the case of a single owner, he or she must be a journalist and fulfil the requirements spelled out in Article 22 (see 4.1 above). More importantly, foreigners are forbidden from owning any share in the Lebanese press. Only Lebanese nationals or Lebanese companies (where all shareholders are Lebanese) are entitled to a licence (Articles 30 and 31).

This requirement is in sync with other Lebanese commercial laws, such as Decree No. 11641/1969 of January 4th 1969 (“commonly known as the “law of ownership by foreigners”), which regulates the ownership of television by foreigners in Lebanon.

According to Dr Nabil Dajani, specific historical considerations accounted for this “law of foreign ownership” and for the resulting Lebanese ownership restriction. Since Nasser’s coup d'etat in 1952, Lebanon had successfully replaced Egypt as a haven for the Arab press, drawing the interest (and money) of Arab governments seeking an alternative outlet for their views and policies. The Lebanese press, with a very low circulation number for dailies (barely exceeding 60,000 copies), according to one estimate, was “so popular that the revenue from selling newspapers was $298,000–$118,000 at the time of writing). And, more importantly, “the profit from the sale of newspapers did not sustain itself through advertising revenues alone, and the newspapers therefore had to turn to other means of income, such as financial assistance from outside sources”19 in exchange for editorial support. Indeed, many critics denounced the situation as one where the Lebanese periodicals were “margotaged”; “in debt to those who possess money and can afford to rent them”, and catering to “their subscribers and not for their readers.”

Terrestrial broadcasting shares with the print media the common requirement of Lebanese ownership, (Satellite broadcasting is not subject to the same restrictions.) The 1994 Broadcast Law, however, is even more restrictive than the Press Law on the matter, further requiring that any buying or selling of shares in a broadcast corporation in the future (i.e. after the initial granting of licences) be subject to prior approval by the Council of Ministers (Article 15).

4.5.2.2. Religious pluralism in ownership requirement
The nationality of the shareholders in private broadcasting was not a controversial issue during the licensing period (1996). Another restriction concerning the nature of ownership was far more contentious, and was used as a major reason for rejecting several applications. Namely, the requirement that the press and broadcasting are not subject to the same restrictions.) The 1994 Broadcast Law, however, is even more restrictive than the Press Law on the matter, further requiring that any buying or selling of shares in a broadcast corporation in the future (i.e. after the initial granting of licences) be subject to prior approval by the Council of Ministers (Article 15).

4.5.2.3. Anti-concentration of ownership requirement
The 1994 Broadcast Law seeks to control concentration of ownership by forbidding...
For instance, several shareholders in Future of circumventing the concentration of “indirect ownership” was a major way In the case of licensed television stations, purpose of Article 13 was entirely defeated. The implementation the 1994 Broadcast Law deals with restrictions on cross-media ownership. The 1994 Broadcast Law deals with restrictions on cross-media ownership. In sum, not only is the 1994 Broadcast Law apparently blind to cross-ownership involving several media streams, it also includes no concept of market share with which to put the concentration of ownership into perspective. In other words, it is possible, theoretically, for a single corporation with a licence for one radio and one television station to be overwhelmingly dominant in terms of national audience share (up to 100% of market share) and own as many national newspapers and cable operations as it wished, again regardless of market share. Worse still, this possibility paves the way, legally, for a single corporation to own all newspapers and cable operators in the country and to control all broadcasting through ownership of one radio and television corporation, and to emerge and establish itself as a single media monopoly in the country. Moreover, knowing that this corporation can be exclusively owned by one parent and his/her adult children and siblings, one family could theoretically and legally dominate the entire radio/ television/newspaper/cable media market in Lebanon. 4.5.2.3. Forbidding forced reduction of market share under the guise of pluralism Article 35 of the 1994 Broadcast Law appears to make no reference to the concept of market share. In other words, the law requires at least 10 shareholders for each broadcasting station, it has no provisions concerning confessional pluralism among shareholders; this is particularly significant considering that the convention since the emergence of the Lebanese Republic after Second World War has been to include representatives from the existing confessions in all public administrations and elected bodies. However, as discussed at 4.5.2.2, above, the NAC re-introduced confessionalism into the Broadcasting Law by a “dubious licensing requirement is the embodiment of a tension between two parties the interest of the owner of the media corporation and a minister’s right of reply. An individual law distinguishes between an individual’s “right of reply” (Articles 4–11 of Legislative Decree No. 11/1977) whereas the legislative decree (No. 104/1977) whereas all periodicals without exception were subject to prior censorship. Decree No. 1/1977, but prior censorship of the press has been introduced on more than one occasion when the country was going through acute political or security crises. In one such instance, on January 1, 1977, the government licensing board of Information after consultation with the Press Union (Article 33) in the case of starting a new political periodical, however, the major hurdle affecting freedom of expression, is the need to acquire two existing titles – these sell for up to $800,000 for a day in order to open up a new periodical. In the case of private terrestrial broadcasting financial requirements include the cost of the licence itself ($167,000 for television), but there is also an annual “rent” fee ($67,000). Although the new licensing law considers the annual fee to be a heavy burden that affects the survival of mostly small stations in a limited market like Lebanon, the government’s first 13) but prior censorship of the press has been introduced on more than one occasion when the country was going through acute political or security crises. In one such instance, on January 1, 1977, the government licensing board of Information after consultation with the Press Union (Article 33) in the case of starting a new political periodical, however, the major hurdle affecting freedom of expression, is the need to acquire two existing titles – these sell for up to $800,000 for a day in order to open up a new periodical. In the case of private terrestrial broadcasting financial requirements include the cost of the licence itself ($167,000 for television), but there is also an annual “rent” fee ($67,000). 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are categorically prohibited from covering. These include ongoing criminal investigations, secret court hearings, court cases related to divorce and custody, and all closed ministerial and parliamentary sessions (Article 12 of Legislative Decree No. 104/1977).

All of these content restrictions, with the notable exception of libel, which is defined by law, are worded in vague terms and are therefore open to abuse by the authorities attempting to use the law to justify the muzzling of journalists. Indeed one of the main points of concern is that the government’s policy is at best, inconsistent: although certain items are prohibited, and often generate little or no imported material infringes on public order to reduce the risk of unpredictable outcomes, professionals resort to self-censorship in order to avoid problems with the public sector, and the army. Lebanese journalists are often accused of threatening public safety, ‘insulting’ or ’inciting confessional strife’.

Any infringement of the ministerial ban is punishable with a prison sentence, a fine or both. According to the same article, any publication originally printed outside Lebanon cannot then be printed in the country without a licence respecting the terms of the 1962 Press Law and Legislative Decree No. 7/1953. However, the more recent law No. 152/1999 allows international non-Arabic language periodicals that are in circulation outside Lebanon to be printed in the country. The licence to print in Lebanon is granted by decree, after consultation with the union of press owners. In order to obtain this licence the international publication has to be legal in its country of origin and to have a representative office in Lebanon, if the publisher wishes to distribute copies in Lebanon, the international publication is then subjected to the provisions of the Press Law of 1962.

As far as other imported international media are concerned, a broad range of products are checked before their local release by the Sûreté Générale (newspapers, books, CDs, DVDs, films, videos and magazines). The Sûreté Générale is charged with ensuring that no imported material infringes on public morals, discusses religion or controversial political issues or presents a pro-Israeli (or even pro-Jewish) stance. The Sûreté Générale also monitors foreign films and television programmes (either shown in or broadcast in or from Lebanon) for material related to religion.

4.6.3. Self-censorship

The implementation of censorship laws and directives on content is mostly dependent on the prevailing political climate. As a consequence, not only political elites generally practise self-censorship in order to avoid problems with the law, but the Lebanese press corps has helped institutionalise this by introducing an arguably overzealous code of ethics on more than one occasion since the mid-twentieth century.

In such a precarious legal landscape, it is unsurprising that many media professionals resort to self-censorship in order to reduce the risk of unpredictable retribution by the authorities, particularly on sensitive issues such as those relating to gay men and lesbians.

4.7. LAWS ON DEFAMATION

4.7.1. Types of defamation

Defamation in general is defined in the Lebanese Penal Code and not in the Press Law of 1962, or the Broadcast Law of 1994. Of the three recognizable forms of defamation, two are defined in the Penal Code (thom and kadeh), while a third one is defined in the Penal Code (Article 25 of the Penal Code).

The Penal Code distinguishes between these three crimes of defamation, kadeh, kooch, and thom (Articles 383 and 385) as follows:

• thom (or libel) is the attribution of a fact to a person (factual allegation), resulting in injury to his or her honour and dignify even if only in the course of casting doubt about or questioning the character of this person;

• kadeh is any verbal insult or utterance showing contempt, as well as any expressions or drawings that are injurious, without referring to specific facts (about the person being insulted);

• kooch refers to any injurious or insulting words or gestures.

Given the vagueness of these definitions, the courts have played a significant role in determining cases where defamation has occurred. There have been instances where statements made about certain individuals, even without facts that hurt their reputation, were found defamatory even when these statements were cast in innocuous terms. Similarly, the courts have great powers in determining whether or not a specific word is an insult.

According to the Penal Code, defamation becomes a crime and is more severely punishable when “published” or made public, whether through the act of publication and/or broadcasting or simply by occurring in public (Article 209). When not published, defamation (especially kooch and thom) is not considered a criminal act, it is only a prison sentence, only a fine (Articles 582 and 584 of the Penal Code).

4.7.2. Entities protected by defamation laws

Both the Penal Code and the Press Laws protect public interest. In addition to the “public interest”, the Penal Code also applies to broadcasting list the categories and groups of people protected by defamation laws. In addition to private individuals, we find the president of the republic, the flag or any other national symbol, judge, all employees (including security officers) in the public sector; and the army. Lebanese laws also protect foreign countries from public defamation, their flags or national symbols, in addition to their ministers, presidents and political representatives in Lebanon (Article 292 of the Penal Code). Equally prohibited is the insulting (thom) or incitement to contempt of “any of the officially acknowledged confessions” (or religious sects) (Article 25 of the Penal Code) and of public religious practices and rituals (Articles 474 of the Penal Code). In general, malicious intent or “actual malice” is a pre-requisite for establishing the crime of defamation, although malice is often presumed by the mere fact that the defendant has made the injurious and defamatory statements. However, it is possible for defendants to prove in court that “special circumstances” justified the (defamatory) statements they made.

Lebanese defamation laws significantly constrain freedom of expression in the country and have earned Lebanon very low scores in this respect when compared with other countries.

Two specific aspects of the Lebanese defamation laws demonstrate the extent to which such laws in Lebanon restrict the ability of both the general public and the media to criticise and scrutinise the government – a right that should be taken for granted in a democracy first, the deferential treatment of individual citizens protected by these laws (see 4.7.3. below) and second, media defences in defamation charges (see 4.7.4. below).

4.7.3. “The law of the kings and heads of state”

The Lebanese Penal Code punishes those who are found guilty of defamation crimes against the people and institutions that are highest (up to two years imprisonment) when the reputation of the heads of state is injured. For the heads of state are harmed (Articles 383 to 389 in the Penal Code, 17 to 23 in the Press Law). The informal title “the law of the kings and heads of state” given to libel provisions related to presidents and other world leaders dates back to the early 1960s. At the time, heads of state who resented being criticised in the Lebanese press consistently pressured the Lebanese president to introduce amendments to the Press Law in order to shield them from criticism. Eventually, an amendment to the Press Law was introduced in 1965 by a special decree by President Helou.

4.7.4. When truth is a defence in libel cases

The two key defences against libel charges in Western democracies are “truth” (and to a lesser extent) “the public interest”. In the case of Lebanon, the public interest justification is non-existent, except in the case of Lowechel public servants, while the truth defence applies selectively, depending on who is being defamed. When private individuals and heads of state are libelled, defendants “are not allowed to prove the truthful nature of their allegations” and thereby acquire themselves in a court of law (Articles 583 and 292 of the Penal Code). By contrast, Article 387 of the Penal Code allows the acquittal of the defendant on the basis of truth if the libelled party is a public servant. Court interpretations have extended this article to members of parliament as well. According to Boutros, the fact that Article 387 allows truth as defence in libel cases involving public servants serves the public interest. It makes it possible for journalists to scrutinise (some) public servants and to expose crimes committed in the course of their duties. However, the highest public servant in the country (i.e. the president of the republic) has a personal status and therefore has the greatest potential to abuse his position, remains largely untouched because of the nature of the Lebanese penal code.

4.7.5. Implementation of defamation laws

Given the high level of legal protection afforded to the Lebanese president against defamation, there has been no dearth of lawsuits against the media in Lebanon, and especially the print media, which have often been accused of criticising or underestimating his capacity by casting him in a negative light.

The Lebanese military has also used the legal protection provided to the army by libel laws in order to stifle freedom of expression and to ward off criticism. In a recent case it charged Muhammad Maghraby, a lawyer and human rights


[44] Ibid.


advocate, with the crime of “defaming the military establishment and its officers”. The prosecution of Mughniy followed testimony he had previously given at the European Parliament about human rights abuses (insults and torture) committed by the military against his clients.

4.7.5.1. Reasons for arresting journalists and the legality of implementation

The current Lebanese Press Law is a significant improvement in many respects when compared to previous amendments (i.e. Legislative Decree No. 104/1977), especially with regard to penalising and detaining journalists and the legality of prosecution. The single most significant amendment enhancing freedom of expression concerns the total abrogation of the “preventive detention” of editors and journalists accused of infringing regulations dealing with content-related crimes (Article 16, 20–23 and 25 respectively). By spreading false news, and inciting confessional and racial hatred (ibid., Article 12), journalists can still be imprisoned in cases of libel, blackmail, threatening public safety by spreading false news, and inciting confessional strife and threatening the safety of the state” (Article 25 of Legislative Decree No. 104/1977 as amended by Law No. 330/1994). In addition, a publication is threatened with a suspension or closure for six months, fines and a prison sentence of a maximum of six years if it is repeatedly found guilty of “inciting confessional strife and threatening the safety of the state” (Article 25). This seems to set a similar standard to those found in several Western democracies.

A licensed publication can be suspended temporarily because of other content-related infringements. For libelling a head of state, a first-time infringement leads to prison terms for the editor (a maximum of two years) and fines, whereas a second infringement leads to a doubling of the fines and another prison sentence, and to the suspension of the publication for two months (Article 23 of Legislative Decree No. 104/1977 as amended by Law No. 330/1994). In addition, a publication is threatened with a suspension or closure for six months, fines and a prison sentence of a maximum of six years if it is repeatedly found guilty of “inciting confessional strife and threatening the safety of the state” (Article 25).

Similarly, the Broadcast Law of 1994 specifies the penalties – mostly closure – incurred by a licensed broadcaster in infringement of any of the content- or licence-related provisions of Legislative Decree No. 104/1977 and related laws (namely the Penal Code and the Press Law) (Article 35). For a first offence the minister of information can close the station for a maximum of three days. For a second offence committed within a year of the first, the Council of Ministers can close down the station for a minimum of three days and a maximum of one month (the NAC has only consultative powers in this respect). Article 35 makes it possible, however, to contest the decision in a specialised court of law.

The Broadcast Law of 1994, by making a member of the executive (i.e. the minister of information), and not the courts, the sole authority responsible for temporarily shutting down stations in infringement of the law (for administrative or content-related reasons specified in this law), opened the door to potential abuse of power. There is a clear conflict of interest when the target of media criticism (the government) is also the arbiter.

4.7.5.3. Implementation of closure laws

In contrast to the Press Law, the 1994 Broadcast Law gives the minister of information the prerogative to ensure that content requirements are being observed (Article 35). For a first infringement of disrespecting content requirements the minister of information can prevent a station from broadcasting for a maximum of three days. A second infringement can lead to closure for up to one month. In both cases, the ministerial decision can be contested with the relevant courts.

It is worth noting that the NAC is given only a “consultative” function in this respect, and has none of the monitoring and enforcement powers of the independent regulatory authorities in several Western democracies.

The only case in post-civil war Lebanon in which a licensed television station (Murr TV or MTV) was permanently shut down was the result, not of implementing the 1994 Broadcast Law, the Press Law or the Penal Code, instead the closure of MTV was based on a single article in Election Law No. 171 of 6/1/2000.

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Finally, whereas Law No. 531/1996 clearly states that interruption of satellite services is the prerogative of the Prime Minister, it was the prime minister who, on January 1st 2000, made a personal decision to interrupt the satellite feed of the channel NTV and its “problematic” would-be competitors in Saudi Arabia. The interruption took place even before the Council of Ministers could convene as on January 9th to agree on such a decision. Thus, Law No. 531/1996 (Doly 50, Journal 4th January 2000).

4.7.6. Laws for the media in the Arabic language and in non-Arabic languages

Lebanese media laws address the issue of language in some of their provisions. The Press Law of 1962, indirectly makes it possible to issue publications in Lebanon in languages other than Arabic as long as the managing editor is “proficient in the language of the publication” (Article 23, paragraph 5). Article 50 of the Press Law, which largely addresses issues of content control over “foreign publications” entering the country, is silent on the issue of language.

As far as the 1994 Broadcast Law is concerned, its related Broadcast Media Specifications makes it mandatory to broadcast at least 30 minutes of news in Arabic language. In effect this means it is possible to broadcast almost entirely in non-Arabic languages. The 1996 Law (the “New Law”) established larger districts, while the 2000 law (the “New New Law”) established larger districts without any clear and consistent criteria being in spite of a 1996 Constitutional Council decision (49%) ruling that a single uniform criterion should be used in the delimitation of election districts.

4.8.1. Electoral system

The composition of the chamber, as provided by Article 24 of the Constitution, is based on the following principles:

• equal representation for Christians and Muslims;
• proportional representation among the confessional groups within each religious community;
• proportional representation among geographic regions.

“Equal representation for Christians and Muslims” is understood to mean that each should have the same number of MPs. The current distribution of the seats, when compared to the official figures of registered voters, privileges the principles that apply to religious/confessional groups over geographic regions.

Regions are not proportionally represented: areas with concentrations of Muslim voters are under-represented (in particular in the south of the country). It is possible to respect all three criteria of Article 24, but not if Christian political players insist that most “Christian seats” are elected by majority Christian electors. Such a demand, accepted by the New Law, violates Article 24 of the Constitution by creating inequalities in the value of the vote: a seat in a redrawn Christian district is elected by fewer voters than one in a Muslim area, making a Muslim vote worth less than a Christian vote.

4.8.2. Media/campaign

The Lebanese media landscape is characterised by confessionalism as the political institutions.

By convention the head of the journalists’ Union is a Christian, while the head of the Publishers’ Union is a Muslim. Confessionalism and the power of political families also determined who gained licences for private TV stations under the 1994 Audio-visual Law.

The New Law contains detailed provisions on media conduct during elections. This is positive, given that the earlier law contained only one article on the issue, which was violated by almost all the media. Prior to 2000, 56 analysts had raised concerns about the strong bias of much of the private media: “the general rule is not to criticise” – for example, obliging candidates to submit, ad three days before publication to the Supervisory Commission. This might prevent advertising reacting quickly to developments. It should be sufficient for a copy of any advertising request to be shared with the commission without a specific detail, particularly since the New Law does not task the commission with reviewing ads before they are published. The New Law regulates election coverage as well as advertising, requiring public media to remain impartial. They may not “carry out any activity that might be considered to be part of a campaign or misrepresent information”. They can express opinions that are not necessarily “impartial”.

This paragraph raises a number of concerns. The most obvious is that it applies to public media (Article 68 appears to be aimed at private media, but article 138 in 2000 law is not clear on this). The obligations are sweeping and vague. For example, “omitting” information is arguably unavoidable for journalists whose task it is to make editorial choices on what to report and what not. While the objective of preventing confessional violence is laudable, the notion of “triggering ethnic sensitivities” is unclear and could be applied to anything said on confessional issues. Furthermore, it obliges media to screen paid advertisements provided by political groups before broadcasting, leaving considerable scope for controversy.

Article 68, paragraph 5 indicates that the Supervisory Commission “shall ensure balance in media access (…) among competing lists and candidates by binding media companies to host all competitors – list representatives or individual candidates – under the same conditions in terms of timing, duration and programme types.” This represents a significant degree of control over all audio-visual media, including private media.

The Supervisory Commission should consult all audio-visual media before determining its guidelines.

Article 75 states that the Supervisory Commission can decide whether candidates’ access to foreign satellite media should be part of the “advertising and media spaces allocated by the commission to each list or candidate”. This is important, given the influence of Al Jazeera, for example. However, this provision raises a number of questions: the law gives no authority to the commission to allocate advertising space. The article could therefore only mean that the commission may decide that foreign channels have the same obligations as Lebanese media regarding paid advertising that might trigger religious, confessional or ethnic sensitivities or acts of violence, as well as from “distorting, screenings, falsifying, omitting or misrepresenting information”. The new advertising provisions are a novelty in Lebanese elections and would constitute significant progress if they were to be implemented. Some provisions are unenforceable, for example, obliging candidates to submit, ad three days before publication to the Supervisory Commission.

The New Law establishes regulation for paid media advertising by obliging all media companies to sell advertising space to all candidates at the same price. Electoral ads must be marked as such and indicate the advertising party. Requests for advertising and the relevant material (videotape or print ad) should be submitted not only to the media company but also to the Supervisory Commission at least three days before the desired publication.

The new advertising provisions are a novelty in Lebanese elections and would constitute significant progress if they were to be implemented. Some provisions are unenforceable, for example, obliging candidates to submit, ad three days before publication to the Supervisory Commission. This might prevent advertising reacting quickly to developments. It should be sufficient for a copy of any advertising request to be shared with the commission without a specific detail, particularly since the New Law does not task the commission with reviewing ads before they are published. The New Law regulates election coverage as well as advertising, requiring public media to remain impartial. They may not “carry out any activity that might be considered to be part of a campaign or misrepresent information”. They can express opinions that are not necessarily “impartial”.

This paragraph raises a number of concerns. The most obvious is that it applies to public media (Article 68 appears to be aimed at private media, but article 138 in 2000 law is not clear on this). The obligations are sweeping and vague. For example, “omitting” information is arguably unavoidable for journalists whose task it is to make editorial choices on what to report and what not. While the objective of preventing confessional violence is laudable, the notion of “triggering ethnic sensitivities” is unclear and could be applied to anything said on confessional issues. Furthermore, it obliges media to screen paid advertisements provided by political groups before broadcasting, leaving considerable scope for controversy.

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By convention the head of the journalists’ Union is a Christian, while the head of the Publishers’ Union is a Muslim. Confessionalism and the power of political families also determined who gained licences for private TV stations under the 1994 Audio-visual Law.

The New Law contains detailed provisions on media conduct during elections. This is positive, given that the earlier law contained only one article on the issue, which was violated by almost all the media. Prior to 2000, 56 analysts had raised concerns about the strong bias of much of the private media: “the general rule is not to criticise” – for example, obliging candidates to submit, ad three days before publication to the Supervisory Commission. This might prevent advertising reacting quickly to developments. It should be sufficient for a copy of any advertising request to be shared with the commission without a specific detail, particularly since the New Law does not task the commission with reviewing ads before they are published. The New Law regulates election coverage as well as advertising, requiring public media to remain impartial. They may not “carry out any activity that might be considered to be part of a campaign or misrepresent information”. They can express opinions that are not necessarily “impartial”.

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Candidates or lists can file complaints with the Supervisory Commission. The commission must decide within 24 hours whether or not to raise the case with the Court of Publications. Where it finds a breach of the electoral law on media conduct, the commission can issue a warning to the media outlet, oblige it to publish an apology or require it to give an official response to the allegation. The commission can also take the case to the Court of Publications, which has the power to fine the media outlet, partially or fully, for up to three days or, in case of recurrent violations, currently suspend it for three days. As well as complying to the commission, aggrieved parties may also file a request with the public prosecutor who can sue the outlet concerned at the Court of Publications. The Court of Publications normally renders its judgment within 24 hours. Its decisions can be challenged at the Court of Appeals.

4.8.3. System for complaints and appeals

The New Electoral Law of 2000 provides for only two specific instances where complaints or appeals may be made. First, complaints against decisions on voter registration imposed by registration committees can be lodged with the higher election committees – but only until March 30th each year (Article 39). This leaves no possibility of making a later complaint should voters discover just before an election that they have been deleted from the electoral rolls.

4.8.4 Representation of women

Women are under-represented in Lebanon’s political institutions. There is only one female minister, and in 2005 only six women were elected among the 128 MPs (4.7%), all of whom were uncontested and were elected largely thanks to their family backgrounds. This is far below the global average of 17.2%. The current election law contains no specific provisions to increase women’s representation. Generally, electoral systems with large election districts are more favourable to women’s representation because the larger the district, the greater the possibility of a woman who is part of a bloc or list winning a seat. The new electoral system, therefore, with its greater number of small districts (2–10 seats) militates against the election of women to parliament. In addition, the cross-confessional set-up of most lists makes it even more difficult for women to be elected because political leaders may consider it advantageous to present men in cases where a particular confession only has one or two seats.

4.9. The National Council for Audio-Visual Media (NAC)

The National Council for Audio-Visual Media (NAC) was established by the 1994 Broadcast Law. The function of the NAC was to be similar to that of its French counterpart, the Conseil Supérieur de l'Audiovisual (CSA). It should be noted that, initially, the government sought to control all phases of the licensing process, from studying applications to allocating frequencies, to granting or withdrawing licences. The NAC was absent from the government’s initial draft of the 1994 Broadcast Law and was only introduced later under parliamentary pressure in order to check governmental control of broadcasting.

Articles 17 and 18 of the 1994 Broadcast Law specify that the NAC shall comprise 10 members, half of whom are to be appointed by the Council of Ministers and the other half by parliament, following the appointment procedure used when selecting the members of the Lebanese Constitutional Council. Since this law makes no mention whatsoever of who is to preside over the NAC, the possibility for the minister of information to be president of this council is not precluded. However, the minister is an unlikely candidate, especially because, according to Article 35 of Law No. 382/1994, the NAC “meets on its own initiative or upon the initiative of the minister of information.”

Article 18 of the 1994 Broadcast Law seeks to secure the independence of the NAC members and to deal with conflicts of interest by prohibiting them from being members of elected bodies or civil servants in public administration, or from conducting any activity “in contradiction with their function within the council”. The same article specifies that these members are to be chosen among “Lebanese intellectuals, artists, scientists and professionals”. This very loose description of the qualifications of the NAC members is justified because it makes it possible to select a council “consisting of a wide selection of individuals who have the needed qualifications” for such a position.

This loose description, however, could be abused (by not requiring, for instance, the appointment of telecommunications engineers, or media scholars and lawyers, and so on), allowing the appointment of members who lack the qualifications necessary for undertaking a task that requires expertise in the field of communication.

In fact, the majority of the members of the first National Audio-visual Council come from backgrounds not directly related to either technically, artistically or academically to the field of communication.

Equally important, if not more important, than the professional qualifications of the appointed members was the complaint of their political independence from the three major heads of state (i.e. former Maronite President Hrawi, Sunni Prime Minister Hariri, and Shia Speaker of Parliament Berri), just a few weeks after the formation of the NAC there were serious doubts concerning the independence of the newly created regulatory body. The headline of a national newspaper accused the majority of the members of “belonging to Hariri”. This same newspaper quoted a member of the NAC as saying “he was proud of his friendship with Prime Minister Hariri” (As-Safir, November 14th. 1995). Another member of the NAC, Halim Baydoun, was known to be the vice-president of the board of directors of Solidere, the controversial property company associated with Hariri.

In order to avoid future criticisms, later amendments to the 1994 Broadcast Law included the need to have “objective criteria” applied when appointing members of the national council in order to avoid the mistakes that surfaced during the implementation of this law in 1996 (As-Safir, March 5th 1998).

Leaving aside the problem of the appointment and independence of the NAC members, although the Lebanese NAC was supposed to emulate the French CSA, with members of both councils appointed in the same way as were members of the Constitutional Council in their respective countries, the NAC and the CSA clearly differ when it comes to the powers conferred on them by law. The CSA, for instance, has a range of duties and powers that are not even closely matched by those of the NAC. In cases where there is failure to comply with media laws, it can impose fines, suspend the licence or even withdraw it.

The most important functions and powers of the NAC conferred by the 1994 Broadcast Law (Articles 17–23, 35 and 47), can be summarised as follows. The NAC’s role is to:

- study the licence applications and ensure they meet the conditions set out in the 1994 Broadcast Law and the related Broadcasting Specifications of the Decree (No. 7997/1996);
- give an “advisory” or “consultative” (i.e. non-binding) opinion to the Council of Ministers regarding the rejection or the approval of licence applications, and to publish this opinion in the Council’s Gazette;
- give its (non-binding) opinion concerning the Book of Specifications (this booklet is to be drafted by a committee set up and supervised by the Council of Ministers, the latter giving its final approval of the guideline book with a ministerial decree) (Article 23);
- give its opinion in case the minister of information decides to suspend a licensed station for infringement of the law.

Although the NAC may seem to have some of the general powers of the CSA, especially concerning licensing and content control, a close reading of the 1994 Lebanese Broadcast Law and its details (or lack thereof) concerning these powers gives an entirely different picture. For instance, the NAC can only give a “consultative opinion” to the Council of Ministers concerning broadcasting applications, fines and the suspension of licences. In other words, this opinion is not binding in any way on the Council of Ministers, which retains the final word concerning sanctions and the granting or withdrawing of licences.

The 1994 Broadcast Law does introduce some limits (albeit minor ones) to the licensing power of the ministry, first by requiring the NAC to publish its justified opinion in the Official Gazette and, second, by allowing rejected applicants to contest the government’s decision.
with the State Advisory Council (Articles 19 and 24 of the Law). Apparently these limits (or “corrections”) to the licensing power of the ministry were introduced by the opposition during the parliamentary discussion in view of the approval of the Broadcast Law: unable to push for a stronger, more independent NAC that would have exclusive responsibility for granting licences, the opposition had to “compromise” by making the NAC more of a “partner” with the government. In any case, it is a small “power” compared with that of the ministry.42

Both the 1994 Broadcast Law and the related guidebook for operating conditions (the Book of Specifications) reiterate that broadcasting companies are subject to the control of the NAC “in accordance with the provisions of Law No. 382/1994”. However, nothing is specified about the nature or extent of that control. According to Article 47 of the 1994 Broadcast Law, one must assume that the control referred to, in addition to studying the licence applications, includes a general oversight role in the monitoring of broadcast electoral programming standards or quotas. As-Safir mentioned in the law and its guidebook. Such controls would probably include the monitoring of broadcast electoral programming (namely dramas) and facilities to carry out its monitoring role. The committee recommended, among other things, reducing the powers of the minister of information in cases of infringements and simultaneously increasing the NAC’s powers, especially regarding the issuing of warnings, imposition of financial sanctions and the ability to initiate legal proceedings through a specialised audio-visual court (to be set up) against broadcasters who were in infringement of the law (As-Safir, March 31st 1999).

Unfortunately the recommendations of the commission were never implemented to date, a decade after the 1994 Broadcast Law was introduced, the NAC still lacks the budget, personnel and facilities to carry out its monitoring duties. The council is forced to carry out its monitoring of programme content with “the help and equipment” of the ministry or the Lebanese Sûreté Générale. It should be noted that the Sûreté Générale, legally responsible for pre-censoring films according to the law of 27/11/1947 (as discussed at 4.4.1. and 4.4.2. above), is also thought to be monitoring and pre-censoring non-political programming (namely dramas) on Lebanese television.

As such, the minister of information as the highest broadcasting authority seems to outweigh the NAC, especially since it is ultimately the minister who, and not the NAC, who can authorise the suspension of operations of a broadcaster who is in infringement of the law. The NAC, once again, is left with a “consultative” role in which their opinion is non-binding (Book of Specifications, Chapter Five, Paragraph 9). In 1998, two years after the implementation of the 1994 Broadcast Law and the allocation of broadcasting licences, the Hariri government admitted that the NAC was unable to carry out its functions as specified by law, and newspapers spoke of the NAC’s state of “paralysis” (As-Safir, January 9th 1998). A year later a parliamentary committee was set up in order to study the 1994 Broadcast Law and propose amendments to deal with weaknesses and loopholes, especially with regard to the monitoring role of the NAC. The committee recommended, among other things, reducing the powers of the minister of information in cases of infringements and simultaneously increasing the NAC’s powers, especially regarding the issuing of warnings, imposition of financial sanctions and the ability to initiate legal proceedings through a specialised audio-visual court (to be set up) against broadcasters who were in infringement of the law (As-Safir, March 31st 1999).

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In brief, whether in the area of licensing or content control, the Council of Ministers is the legal authority overseeing satellite broadcasting, Law No. 531/1996 for satellite broadcasting, moreover, makes no direct mention of how broadcasting is deemed to be in infringement of the law by the Council of Ministers can challenge the Council’s decision.


5. THE MEDIA LANDSCAPE

Print, radio, television and digital media markets are diverse in Lebanon, with dozens of politically approved publications, radio stations and broadcast companies. A relatively high percentage of the population is also online.

5.1. PRINT MEDIA

The Lebanese press has about 60 licensed political publications, including around 10 broadsheets, almost 80 weeklies and four monthly magazines reporting a total circulation of 220,000 (2008). However, there are no accurate figures on the circulation and distribution of newspapers in Lebanon and each paper makes self-promoting claims. According to the Ministry of Information, Al As-Safir (The Messenger) and An-Nahar (The Day) are the most-read newspapers in the Arabic language, with, respectively, 50,000 and 45,000 issues daily. Whether these figures are accurate or not, the largest circulation dailies in Lebanon are certainly An Nahar; Al As-Safir and Al Akhbar (The News, founded in 2005). Al Balad (The Country), 2006 also has a large circulation when first established but it has subsequently decreased.

The print media market is therefore “pluralistic enough”, in line with the tradition of the Lebanese press in the last few decades.

5.2. RADIO

Currently there are around 40 radio stations in the country (30 AM 22 FM, and four short-wave) broadcasting to 85% of the Lebanese population (285 million receivers). Five stations account for the largest share of the market. Apart from the state-owned (iHeart Lebanon) Radio Lebanon, one of the first radio stations in the Arab world, founded in 1939, their different political and religious affiliations.

As with the print media market, the radio media market is also pluralistic enough.

5.3. TELEVISION

Although the application of the Audio-visual Law led to the closure of a number of TV channels, there are still nine television broadcast stations in Lebanon. These show the existence of a vibrant and pluralistic market, which reaches more than 97% of the adult Lebanese audience. In addition, the country has two digital cable television companies, Cable Vision and Econet.

With the exception of the state-owned and scarcely viewed Télé-Liban (founded in 1959, it really came into its own in 1977 in a merger with La Compagnie Libanaise de Télévision and Télé-Orient), the other eight Lebanese TV stations are directly linked to the different political and religious factions of the country (the pro-Western parliamentary majority vs. the pro-Iranian opposition). The result is a generally low standard in reporting local, regional and international events, while the news agenda is deeply influenced by the different affiliations.

Access to satellite television has grown substantially over the last decade. In 2012 the Telecommunications Ministry said it was drawing up plans to launch a “smart media city” project, similar to the one already implemented in Egypt, which would improve the telecommunications infrastructure and allow additional satellite television stations and production studios to be set up.

5.4. ONLINE AND DIGITAL MEDIA

In 2012, 61% of the population had access to the internet.43 Thanks to the relatively high penetration of internet services in urban areas, in the last decade almost all the newspapers have started to exploit the internet. At first the new sites appeared as electronic versions of their paper parents, but some of them have now been transformed into more useful sources of information with several updates per day.

In addition to the websites of the main local newspapers, more information about Lebanese political, economic and cultural events can be found on numerous websites such as Naharnet, owned by the an-Nahar editorial group; Now-Lebanon, close to the “pro-Western” parliamentary majority; and Tayyar, affiliated with Michel Aoun’s FPM party.

These websites are followed mostly for their “breaking news” services and their partisan political analysis. Even though it is not always a reliable source of information, LibanCall and other media outlets offer a SMS urgent-news service, valid only in Lebanon and available for 50c a month. In addition, self-proclaimed independent sites such as El Nahr, LebnanWire, LebanonPress and AkhtaraNawm can satisfy readers interested in broadening their knowledge of different Lebanese issues. Web television and video news in internet newspapers are still scarcely used. The dominant source of web-TV is YouTube and the various social network platforms such as Facebook.
6. MEDIA ORGANISATIONS

There are a handful of state-owned and private news agencies operating in Lebanon, as well as international news services. The press trade unions are, however, regarded as inefficient and are swayed by their political and sectarian loyalties.

6.1. NEWS AGENCIES

The main Lebanese news agency is the state-owned National News Agency (NNA). Founded in 1961 and now located in the Ministry of Information building in central Hamra Street, the NNA has dozens of reporters in Beirut and across the region. Recently a new NNA website has appeared, with pages in French and English along with Arabic, but the frequency of online news updates is still below international standards.

Another local news service is the smaller private Central News Agency (CNA), it aims to compete with the NNA in the local market, but does not seem to have the same penetration in the Lebanese territories.

International news agencies’ political, economic, social and cultural features, for example from the Arabic services of Reuters, Agence France Press and Deutsche Presse-Agentur, usually find considerable space in Lebanese media outlets, as do their news bulletins, which are often quoted by the local TV and radio stations and news websites.

6.2. TRADES UNIONS

As established in its charter, the Lebanese Press Editors Syndicate (LPES) formally performs the functions of both a trade union protecting the interests of its members and an accountability body monitoring the conduct of journalists and providing guarantees for their professionalism and ethics. However, many reporters interviewed in Beirut in 2009 stated, on condition of anonymity, that both the Press Syndicate (LPS) and the LPES have, for decades, been ineffective institutions in existence merely to give the impression that Lebanon respects international press organisation standards. Around 75% of Lebanese journalists accredited by the Ministry of Information are not listed as LPES members. The LPS in fact fulfils neither the role of a trade union nor that of an accountable professional association. Moreover, in Beirut, officials of neither the LPS nor the LPES, when contacted, was able clearly to describe the nature and the function of the Higher Press Council. According to local observers, the LPS and LPES continue to be dominated by the political and sectarian carve-up; the Sunni Muslim Muhammad Baabaki has been LPS president since 1989, while the LPES has, for over 40 years, been presided over by the Christian Maronite Melhem Karam, a media tycoon who also owns one of the principal publishing houses in the Arab world.

6.3. OTHER MEDIA OUTLETS

In Lebanon there is no single authoritative source of media statistics, but a great deal of media news, reports and surveys can be found on the internet. The most reliable are published by SKeyes Media, Club de la Presse, the Maharat Foundation and the Institute for Professional Journalists (IPJ), and include the blog of Magda Abu-Fadil, former director of the Journalism Training Program at the American University of Beirut.

In the last decade some independent media associations have been created in Lebanon to help compensate for the lack of effective professional associations. One of the most active is the Maharat Foundation, a group of relatively young journalists who have experienced the obstacles to free journalism in Lebanon. Their aims are, among other things, to increase the professionalism of the media and to limit the effects of self- and government-imposed censorship.

7. MEDIA MARKET STRUCTURE

The Broadcast Law of 1994 is the only Lebanese legal text dealing with advertising, in a market dominated by a single media group. Subsidies and bribes paid by political and business interests leave the industry open to editorial bias.

7.1. FAIR ALLOCATION OF ADVERTISING

The Broadcast Law of 1994 is the only Lebanese legal text regulating the media that deals with advertising. It contains content-related provisions (Articles 36 and 37) in addition to a single anti-monopoly article (Article 39) that requires each advertising agency (or “regie”, as agencies are commonly known in Lebanon) to service no more than one television and one radio station at a time. In practice, however, it seems the advertising market is monoplyised by a single media group led by the Lebanese advertising mogul Antoine Choueiri. It is estimated that Choueiri (or his group) has control of 92% of the national advertising market and 72% of the satellite market in the Gulf region.

The advertising market in Lebanon is extremely limited and is not able to sustain the breadth of media outlets operating in the country.43 The total population of Lebanon (around four million) is too small to allow for the financial self-sufficiency of the many licensed political newspapers and a multitude of radio and television stations. Given the lack of financial self-sufficiency and the low salaries of the average newspaper journalist, media professionals and institutions are forced to seek revenue and subsidies from elsewhere, including from foreign entities, in exchange for editorial support. This allows foreign and business interests to use the media to pursue their agendas and exert influence on internal and regional affairs.

In addition, handing out bribes to newspapers and journalists is commonly accepted as normal behaviour and is even justified by some on account of the poor salaries and lack of benefits available to journalists.

Subsidies for Lebanese papers come in a variety of forms. One consists of the patron government or group effectively hiring out the entire publication for a yearly or monthly fee. Under this arrangement, the patron pays all production costs as well as staff salaries during the period of the contract. Another form of subsidy is through payments to promote specific programmes or causes. The amount of these payments depends on the patron but can be significant, as was revealed during a 1997 press conference held by the former president of the Lebanese Publishers Association, Zuheir Osseiran. Osseiran was announcing his resignation from the presidency because of a disagreement with his cabinet members over a payment of one million Lebanese pounds (at that time worth $200,000) that he had received from the late King Saud of Saudi Arabia. Osseiran claimed that the money was paid to him personally in return for promoting the image of the deposed king in the Arab world and that he would not share it with other members of the association. Osseiran also revealed that he had earlier distributed to Lebanese publishers another payment – which he claimed he could document – of $100,000 from the former king.45

7.2. MEDIA OWNERSHIP

The Press Law contains two control mechanisms to secure the financial and the editorial independence of local newspapers: Lebanese ownership and control of income. Ownership must be exclusively Lebanese in order to prevent local media from becoming mouthpieces for foreign Arab governments. The second provision aims at securing and monitoring the financial independence of licensed newspapers. According to Article 48 of the Press Law, the minister of information has the power to control the income of licensed periodicals.

43. Ibid.
and to take action against any licensed publication whose “profits cannot be accounted for legally”. Despite these “protective” provisions in the text of the law, implementation has proved mostly inadequate. As Dajani observes, the technical hurdle related to Lebanese ownership has been easily circumvented: foreigners wishing to own a Lebanese paper have registered their shares under the name of Lebanese citizens as a cover, having concluded secret agreements with them.46 Similarly, the Press Law has been incapable of securing the financial independence of Lebanese newspapers.

7.2.1. Diverse ownership

Modern press legislation in Lebanon and the boom that took place in the press sector as a result of the liberal 1952 legislative decree introduced by President Chamoun to regulate the licensing of periodicals resulted in an increased number of privately owned political dailies. For a short period prior to the introduction of Legislative Decree No. 74/1953, which limited the number of print licences, Beirut alone boasted more than 50 dailies.47 Many of these titles still exist today and some of them are leading newspapers with distinct ideological or political orientations (e.g. As-Nahar, Ash-Sharq, As-Safir, and so on).

The Press Law itself does not require diversity in ownership but could be said to encourage it, since it contains nothing to prevent the licensing of privately owned periodicals. For a short period prior to the introduction of Legislative Decree No. 74/1953, which limited the number of print licences, Beirut alone boasted more than 50 dailies. Many of these titles still exist today and some of them are leading newspapers with distinct ideological or political orientations (e.g. As-Nahar, Ash-Sharq, As-Safir, and so on).

Although Legislative Decree No. 74 of 13/4/1953 limited the numbers of 25 political dailies and 20 political periodicals (see also 4.7.6.1.), the law did not provide for the existence of non-Arabic political publications; out of the 25 political dailies allowed, ten can be published in a language other than Arabic. As for the political periodicals, eight out of 20 can be in a language other than Arabic. This policy has resulted in a Lebanese newspaper scene that is not only diverse politically and confessionally, but also linguistically/rhythmically.

In contrast with the Press Law, where pluralism in ownership is not required, the stipulation for pluralism in the ownership of private audio-visual media is clearly spelled out in the 1994 Broadcast Law (Article 13). As discussed at 4.5.2.3., above, the implementation of this law for terrestrial broadcasting resulted in the licensing of four television stations. Despite the fact that these “diverse” stations obtained their licences without having to meet any professional criteria, as previously argued, they still to some extent reflect the confessional diversity of the Lebanese population – or at least the larger confessional groups.

In terms of language use, unlike the Press Law, the 1994 Broadcast Law has a clear provision concerning the mandatory use of the (standard) Arabic language for 30 minutes of a day – beyond this there are no requirements to broadcast in Arabic (see also 4.7.6.).

7.2.2. Expression of pluralistic views

The Press Law, understandably, has no provisions relating to the expression of pluralistic views. The various rationales that have historically been used internationally to justify the regulation of broadcasting (as opposed to newspapers) and to enforce positive requirements, e.g. the “now repealed” Fairness Doctrine in the US (Francois, 1994, 515) and other directives requiring that programming be diverse and pluralistic, do not apply to newspapers. Theoretically, any individual, political party or ethnic or linguistic group of people can voice their opinion and concerns through ownership of a newspaper. Indeed, it is the aggregate number of these diverse owned newspapers that supposedly guarantees pluralism of views in the country. However, with the current system of licensing the press, only rich and powerful individuals or corporations can actually afford to buy the two existing titles/newspapers and to close them down in order to open up a new political daily. This restrictive and undemocratic licensing system for publications constitutes a major barrier to the expression of truly pluralistic views, especially for new political parties or civil society groups who try to access the media in order to express their views known.

The 1994 Broadcast Law, in accordance with Western laws that require the inclusion of diverse views by licensed private broadcasters, clearly recognition the need to have programming that reflects “the pluralistic character of expression and opinions” (Article 7). Its related Book of Specifications, or Decree No. 7997/1996, is more concrete in this respect, requiring licensees to “broadcast at least one political programme a week which is based on above objectivity and excludes the single opinion in the programme, whether it consists of one episode or more” (Chapter 3, part 7 on programming). It should be noted that pluralism in the Lebanese media laws is understood in its narrowest sense (see also 4.5.2.3.), and is not in line with the concepts of media pluralism and cultural diversity referred to in documents of the Council of Europe or European Union, such as the 1997 Amsterdam Treaty Protocol on Public Service Broadcasting. In conducting interviews with media experts and practitioners in Lebanon for this report, we noted a unanimous adherence to the same narrow understanding of diversification and pluralism – i.e. exclusively political or partisan pluralism. For example, the manager of news and political programming at Future TV defined pluralism as “hosting individuals from different political leanings and professions in the news.” (al-Fayed 2006).

This is not to say that television broadcasting in Lebanon is not, in practice, acting increasingly as an outlet for a diversity of views or as not allowing marginalised groups for the first time to air their opinions at length without being framed negatively. An episode of Al holl bi holl (“The solution is in your hands”) which aired on May 2nd and 9th 2006 on New TV dealt with homosexuality in a remarkably open way confronting the reluctant studio audience (who had just voted against the acceptance of homosexuality) with a group that continues to be alternately shunned by and ridiculed in the local media (see also 4.6.1. above).

7.2.3. Access to the media

On the one hand, the public has the right to receive national media outlets. This especially applies to terrestrial broadcasting, cable TV phone lines, and so on, which require a proper infrastructure in order to reach the entire population and provide “universal access.” Lack of access is common, however, because private broadcasters and their advertisers have an interest in covering or targeting only major cities, where potential viewers/buyers are concentrated. Article 10 of the 1994 Broadcast Law attempts to counter this by requiring licensees of all categories to “cover all Lebanese regions.”

In theory, the public has the right not only to receive information from media outlets but also to be able to express ideas through them. This type of access is important for the healthy exchange of ideas in a democracy.

Cable distribution is not regulated so there is no legal provision for access. (“The only law that has been used to sue and arrest cable operators on a variety of occasions is the Lebanese Copyright Law of 1999.”) The two only “legal” operators in Lebanon are operating at a loss, having to compete with some 600 illegal cable companies. The illegal operators offer very low subscription prices – often less than $10 a month – and provide cable access to most Lebanese households.48

46 “Disoriented Media in a Fragmented Society”, by Nabil Dajani, op. cit.
47 Page 39.
48 “Pirate’s paradise when stealing is the norm”, by Peter Speetjens, op. cit.
8. CONCLUSIONS AND RECOMMENDATIONS

Although ostensibly free, the Lebanese media find themselves stifled by several legal, political, economic and cultural restrictions, which limit freedom of expression. This calls for an overhaul of the judiciary and electoral system, which must occur multilaterally.

Reform in Lebanon must be multilateral and carried out on several fronts simultaneously. Unless the judiciary and the electoral system are reformed in such a way as to implement the rule of law in the country, it is doubtful whether the mostly private commercial media could carry out reform themselves. Without a holistic approach to change, reforms of the media laws could well prove unenforceable.

8.1. CONCLUSIONS

Despite some superficial indications that the media in Lebanon are comparatively free, the sector finds itself in several difficult predicaments – legal, political, economic and cultural. These predicaments, in general, reduce both the effectiveness of the freedom of Ministers in the country and the ability of the media to act efficiently as a watchdog of government and to promote the rule of law. Critical or potentially critical, media and members of civil society are at present held in check by political-economic power elites who enjoy the support of a largely subservient judiciary and are generally untouched by the rule of law.

There are, of course, some general guarantees of freedom of expression in the Constitution and in the text of several media laws, but these guarantees are curtailed by a plethora of often loosely worded restrictions that undermine constitutional and legal protections.

The power exerted by the political-economic elites is often the result of provisions in the media laws that protect the interests of those in power rather than promoting the public interest. A good example of media laws that fail to operate in the public interest are the defamation laws that have turned legitimate targets of scrutiny and criticism (e.g. presidents, the military, judges, and so on) into untouchable figures.

Lebanon, although a pioneer in introducing the first law for regulating private broadcasting in the Arab world, is now lagging behind as it has proved unable, since 1994, to update either this law or the Press Law of 1962 in keeping with technological and other changes. Not a single amendment to the broadcast and press laws has been introduced since 1994. In addition, the legislative field is, in some cases, characterised by the total lack of a regulatory framework for the internet, the cable industry and for the practices of the media during election periods.

Finally, and most importantly, the judiciary has failed on several occasions to act as an independent arbiter to restore balance in the unequal power relationship between the public, civil society and the media on the one hand, and the government on the other.

As long as the executive and other powerful players cannot be safely criticised, and as long as the judiciary cannot consistently be relied upon to act independently (from government) and to fight corruption (and cannot be criticised itself when it fails to do so), the Lebanese media, even when willing to act in the public interest, cannot be expected to work freely and to promote the rule of law in the country.

8.2. POLICY RECOMMENDATIONS

8.2.1. Independence

a) Fundamental guarantees of media independence:

i. Freedom of association should be guaranteed by freeing the media from bureaucratic hurdles.

ii. Freedom of access to information should be guaranteed, at minimum, by introducing a related provision in the text of media laws.

b) The NAC should be granted independence and enforcement powers (see recommendations in the following section).

c) Periodicals should not be licensed (only registered), and the current restrictive system for licensing political periodicals should be removed.

8.2.2. Regulatory system

a) Periodicals should not be licensed (only registered), and the current restrictive system for licensing political periodicals should be removed.

c) Similarly, the distinction between political (i.e. Category 1) and non-political (Category 2) broadcast licences should be removed.

d) Foreign ownership should be allowed to some extent, for example, with a stipulation to keep the majority of the shares in Lebanese hands.

e) More sophisticated cross-ownership rules should be introduced. These should be based on market share, for instance, and take into account other media such as cable and newspapers (currently they only deal with radio and television).

f) Better and clearer anti-concentration rules should be introduced, including a clear definition of what is meant by “direct” and “indirect” ownership. These rules, to be more effective, should also prevent the adult children of the same shareholder from being counted as independent shareholders.

g) The cost of broadcasting licences should be reasonable and not used as a structural mechanism for excluding some qualified applicants.

h) The National Audio-visual Council (NAC) should become independent of the government and be responsible for allocating licences (i.e. the Council of Ministers should not be able to control the licensing process).

i) The NAC should also be more transparent and accountable in its functions as a regulatory body (i.e., by holding public hearings during the licensing process, by publishing quarterly or yearly studies about the output of the Lebanese broadcast media, and so on).

j) The NAC should replace the minister of information when it comes to content control. It should be transparent, allow public hearings when allocating or reviewing licences, be provided with its own facilities and personnel in order to carry out its monitoring function, and be able to issue warnings and penalties when stations infringe upon content requirements.

k) Appropriate courts, and not the minister of information, should be responsible for deciding whether a station in infringement of content requirements should be closed down temporarily.

l) Satellite television stations should not be licensed by the Council of Ministers. The NAC should be given responsibility for regulating satellite broadcasting (in terms of licences and content control).

m) All licence applicants should be able to contest the decision of the appropriate licensing authority through the court system.

n) Official prior restraint on leaflets, theatre productions and films should be lifted entirely. o) A law for cable operation and distribution should be introduced.

p) A law for internet regulation should be introduced.

q) Laws for new media (e.g. cable and internet) should be in harmony with existing media laws (especially concerning content requirements), should take into consideration the specificity of each medium (e.g. content requirements on cable should be more lax than those of free terrestrial broadcasting). Ideally, this could be a law on convergence of the media.

r) Fair discussion and criticism of the situation of the economy and the Lebanese currency should be allowed and should not be punished.

s) Concepts related to content controls such as “decency” and “national security” should be precisely defined in order to prevent abuses in their application and a consequent decrease in the margin of freedom of expression in the country.

t) Defamation laws should be amended in order to allow for more freedom when criticising public servants, officials in high positions, the military, all heads of state, and so on.

u) Truth should be a legitimate defence in all libel cases, not just in those involving public servants.

v) Blasphemy laws, if they cannot be repealed altogether, should be redefined in such a way as not to be equated with indecent language. In other words, people who do not believe in God should be able to express with impunity this “belief”, and blasphemy laws should, at best, become rules restricting the vilification of recognised religious groups.

w) Sanctions for libel should be higher when the libelled party is a private person, and lighter when the libelled party is a public or official person, in order to increase the margin of freedom of expression and enrich political debate in the country.

x) International publications should not be subjected to prior censorship upon entering Lebanon or when being issued via satellite in the country.

y) Specialised courts should be exclusively responsible for dealing with cases related to the infringement of content requirements in all media (whether these require licences or not).

z) Prison penalties for journalists and broadcasters found by the courts to be in infringement of content requirements should be abolished. Only financial fines should be allowed.

8.2.3. Censorship

a) Even during “exceptional circumstances”, the print media should be able to contest the Council of Ministers’ decision to introduce prior restraint.

b) Informal and illegal prior censorship of television drama by the Sûreté Générale should be abolished.

c) The Council of Ministers should not deal with satellite content (especially the issue of political programming) and should not
impose positive requirements forcing companies to produce programmes in order to “enhance” the image of the country abroad.

d) Foreign publications should not be confiscated based on decisions made by the minister of information.

e) Foreign newspapers sold in Lebanon should not be subjected to the local licensing system (as is currently the case).

8.2.4. Electoral framework

a) The delimitation of electoral districts should be reviewed in order to ensure the equality of the vote and to seek ways to limit the role of confessionalism in political life, rather than enhancing it.

b) Unreasonable restrictions on the right to vote should be abolished; namely security forces should be allowed to vote and naturalised citizens should enjoy the same voting rights as other citizens.

c) The equal right of anyone to stand for election is violated by the fact that all seats are allocated to specific confessions by law, citizens with other, or no, beliefs cannot run for election. The implementation of the Taif Agreement’s requirement that candidates’ accounts should be published. In the short term the Supervisory Commission should decide to provide free or paid airtime on an equal basis to all official candidates.

d) The concept of pluralism in the media should also mean ownership by practitioners and politicians as well.

e) The right to stand in elections is a fundamental right and should not be subject to an administrative fee.

The right to stand in elections is a fundamental right and should not be subject to an administrative fee.

8.2.5. Media independence from external influences

a) Proper checks on a station’s financial situation and independence from illegitimate sources of funding should be regularly carried out by the appropriate regulatory body (e.g. the NAC).

b) Advertising monopolies should be prevented and indirect ownership of advertising agencies whose purpose is to circumvent the anti-monopoly law abolished.

c) Content requirements (positive or negative) related to the “reputation” of Lebanon and other foreign countries should be removed in order to reduce the extent of foreign influence on local media content.

d) A set of general anti-corruption laws should be introduced that apply to media practitioners and politicians as well.

e) The concept of pluralism in the media should not be confined or restricted to ownership within a single broadcasting station that is diversified from a confessional point of view. Pluralism in the media should also mean ownership by linguistic/ethnic minorities. Content should be pluralist, not just by representing different opinions but in ensuring these opinions reflect the diversity of the country from a regional, confessional, ethnic, linguistic, socio-economic and any other relevant perspective.

9. LIST OF MEDIA OUTLETS, ORGANISATIONS AND LAWS

9.1. NEWSPAPERS

al-Akhbar
al-Balad
al-Hayaat
al-Mawasif
al-Musawar
al-Nashra
al-Watan
an-Nahar
as-Sofr
Concept-Mathour
Executive
L’Hebdo Magazine
L’Orient-Le Jour
Lo Reune du Liban
Le Commerce du Levant
Monday Morning
The Daily Star
The Middle East Reporter (MER)

9.2. RADIO

Ishhaa an-Nur
Radio Liban
Radio Voix du Liban
Sawt al-Ghadd
Sawt al-Shaab

9.3. TELEVISION

al-Manar TV
Future News
FutureTV
LBC
MTV
NBIN
New TV
OTV
Télé-Lumière

9.4. ONLINE MEDIA

AkhbarAlayawm
Elnashra
Lebanese Press
Magda Abu-Fadil’s blog on Lebanese Press Trade Unions
Naharnet
NowLebanon

9.5. NEWS AGENCIES

Agence France Press in Arabic (AFP)
Central News Agency
Deutsche Presse-Agentur in Arabic (DPA)
National News Agency (NNA)
Reuters in Arabic

9.6. TRADE UNIONS

Lebanese Press Syndicate
Magda Abu-Fadil’s blog on Lebanese Press Trade Unions
Skyeyes Media

9.7. LAWS AND REGULATIONS

Lebanese Constitution
1962 Press Law
1996 Broadcast Law
1994 Satellite Law
2008 Electoral Law

9.8. INSTITUTIONS

Ministry of Telecommunication
National Audio-visual Council (NAC)
Reporters Without Borders on Lebanon NGOs:
• IREX
• Freedom House
• Solidar
• Internex
• Democracy Reporting International

9.9. ORGANISATIONS AND LAWS

NGOs:
• Reporters Without Borders on Lebanon
• National Audio-visual Council (NAC)
• Ministry of Telecommunication
• Lebanese Press Syndicate
• Lebanese Press Trade Unions
• Press Trade Unions
• Solidar
• Internex
• Democracy Reporting International

9.10. LIST OF MEDIA OUTLETS,

9.11. ORGANISATIONS AND LAWS

9.12. LAWS AND REGULATIONS

9.13. INSTITUTIONS
10. SOURCES

- “Attacks on the Press: Lebanon”. Committee to Protect Journalists. Available at: www.cpj.org/attacks/03/mideast/03/lebanon.html.
- “Broadcasting in the Arab world: a survey of the electronic media in the Middle East”, by Douglas Boyd Iowa State University, Iowa, 1993.
COMMENTARY ON LAW 330 OF 1994, AMENDING THE LEGISLATIVE DECREES

In the case of print media, as stated in Article 25 of Law No. 330/1994, the Public Prosecutor is entitled to exercise post-publication censorship by confiscating those issues that contain material “insulting to one of the officially recognised religions in the country, or which might lead to conflation and racial strife or which might threaten public safety”. The role of courts is of additional significance, with the prerogative to impose prison sentences (of up to three years) and fines that can reach a maximum of 100 million Lebanese pounds. It is worth noting that Article 25 of Law No. 330/1994, although still quite restrictive, especially so because it includes prison sentences for content-related “crimes”, is a significant improvement over its 1977 version. Prior to the 1994 amendment, it was possible for the Public Prosecutor to stop the publication of a periodical for up to one month, before the case was even referred to the courts. The amended article does away with the temporary suspension (of a publication) prior to processing the case in court.

When it comes to periodicals, prior restraint (prior or pre-publication censorship) is permissible under “exceptional circumstances” related to internal or external threats to national security (Article 39 of amended Legislative Decree No. 104/1977). In this case, the Council of Ministers is the official body responsible for introducing and lifting prior restraint through a ministerial decree. Worse even than giving the Council of Ministers broad powers to censor publications (and thus, providing limitless possibilities for abuse during times of crisis), the article precludes the possibility of contesting the government’s decision to impose prior restraint by resorting to the relevant courts. In other words, the media cannot even contest the government’s decision in a court of law.

“Exceptional circumstances” aside, Article 3 of the 1994 Broadcast Law, similar to the case of Article 1 of the Press Law, clearly states that “the audio-visual media are free”, and are therefore not subjected to prior censorship in the way films or plays are. However, although prior censorship is not legal as far as the terrestrial broadcast media are concerned, in practice all local television dramas require clearance from the Sûreté Générale before being produced and broadcast. Usually, television scriptwriters send a copy of their script, which is then stamped, “page by page”, as a mark of official approval. In any case, Law No. 382/1994 for terrestrial broadcasting clearly states that any decision by the Council of Ministers concerning sanctions for not respecting content requirements can be taken to the State Advisory Council for review (Articles 24 and 35).

In contrast with the Press Law of 1962 and the Broadcast Law of 1994 (Section 1.2.6.), Law No. 531/1996 for satellite transmission is highly restrictive concerning its (pre-)censorship rules. Article 3 paragraph 4 requires applicants not to air any directly or indirectly political programming without prior approval from the Council of Ministers (neither the Ministry of Information nor the NAC, but directly the prime minister), this being granted through a ministerial decree. Moreover, the same article requires getting the prior approval of the minister of information concerning the general programming grid. When a satellite station is in infringement of the listed content controls, the minister of information has the responsibility to report this to the Council of Ministers, which can decide to “immediately interrupt broadcasting for a maximum period of one month”, with no possibility of appealing the decision or asking for financial compensation. Indeed, Law No. 531/1996 for satellite broadcasting makes no direct mention of any judicial proceedings that might be resorted to by broadcasters who would like to challenge the Council of Ministers’ decision that they are in infringement of content requirements. It may be argued, however, that challenging the government’s decision concerning satellite broadcasting is still possible because Article 3 of Law No. 531/1996 states that the provisions of Law No. 382/1994 are also applicable to satellite broadcasting.

Because of the regulatory vacuum in which the cable distributors are operating, the scene is chaotic, with many citizens complaining to the authorities about pornographic material being distributed through cable. The only form of cable censorship which exists is informal or community-based and is practiced by the individual cable operator who has to cater to the needs and demands of its clientele in a specific geographical area. Thus, it is not unusual to receive some pornographic channels in some of the “liberal” and more affluent parts of the Lebanese cities, whereas in some of the more conservative neighbourhoods it is not even possible to receive Fashion TV with its scantily dressed models.

Although Lebanon still lacks legislation that regulates the internet, the content of this new medium is nonetheless subjected to censorship by the Sûreté Générale, who apply the content-related provisions of existing restrictive print and broadcast laws, as well as the Penal Code, to the web. In the most well-known case to date, on April 3rd 2000 officers from the vice squad stormed the offices of Destination, a major Lebanese internet service provider. The raid followed the registration of a domain name, gaylebanon.com, for a website directed towards gay and lesbian Lebanese. Only after the owner of the ISP was arrested could his lawyer explain that ISPs do not “broadcast” any content and that it only provides the possibility to surf the internet, leaving the users free to navigate the web. Apparently, the prosecution of the owner of Destination and of Kamal El-Batal, the director of a Lebanese human rights organisation (MIRASD), who publicised the case, took place in a military court. It was obvious that the authorities, while considering the dissemination of the problematic web content as “broadcasting”, were not willing to apply justice through the specialised court that deals with press and broadcasting issues (i.e. the Publications Court).