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Abstract

Lebanon's media laws are archaic and desperately need updating, but ensuring they reflect realities today requires a gargantuan effort by various stakeholders who've been at odds and often scuttle serious initiatives to move forward. Legislators, academics, journalists, civil society activists, and others have been attempting to catapult laws on the books into the 21st century, so far to no avail, but that could change. The only serious attempt to craft wording in tune with realities on the ground has come from Member of Parliament (MP) Ghassan Moukheiber, working with an NGO called Maharat (Arabic for skills), but even his draft law needs work and doesn't fully meet the country's requirements.

New Draft Media Laws for Lebanon Limping through Parliament

by Magda Abu-Fadil | magda.abufadil@gmail.com

Lebanon's media laws are archaic and desperately need updating, but ensuring they reflect realities today requires a gargantuan effort by various stakeholders who've been at odds and often scuttle serious initiatives to move forward. Legislators, academics, journalists, civil society activists, and others have been attempting to catapult laws on the books into the 21st century, so far to no avail, but that could change.

The only serious attempt to craft wording in tune with realities on the ground has come from Member of Parliament (MP) Ghassan Moukheiber, working with an NGO called Maharat (Arabic for skills), but even his draft law needs work and doesn't fully meet the country's requirements.

"I think the chances of getting through such a revolutionary bill could be real, if it is well supported by the community of journalists of Lebanon. I think such a bill would require a serious campaign of lobbying members of the parliamentary media committee, and I think this is a big challenge for the media community in Lebanon to stand up for their rights," he told me.

Unfortunately, he didn't expect that to happen easily. Journalists themselves drew very little attention to the bill, he lamented. "They need to push for their rights and they need to push for a better profession," Moukheiber insisted.

He feared that if no lobbying campaign were forthcoming, intractable, diehard opponents to substantive change would prevail and win the day, given their aversion to, and concern about, the modifications he and his colleagues were proposing.

The bill he put forth is being mulled over by Parliament's Media and Communications Committee that groups members from most of the country's political groups.

At press time, the committee had discussed 22 of 130 clauses in a draft bill submitted by MP Robert Ghanem, who heads a committee charged with modernizing the country's laws against Moukheiber's version that pared down the original 109 on the books to 75.

A draft bill by Lebanon's Press Federation was sidelined. The federation's version wasn't much of an improvement over Ghanem's or Moukheiber's.

Moukheiber believes his bill is open to lobbying and influencing.

Ghanem had rammed an additional 21 clauses to the original law that focused primarily on updating penalties and fines, rather than substantive issues like freedoms, new definitions of journalism, or online media. His rationale for the draft indicates how clueless he is about the direction the media have been taking in recent years. "We've adjusted the fines in this law, given the need to keep up with inflation and to ensure that such fines are deterrents commensurate with the gravity of crimes and their reflection on society," he wrote.

Another point he made was the importance of not attacking or questioning the Lebanese judiciary, and the need to reinforce penalties against those who slander judges.

A third Orwellian point in Ghanem's rationale is the addition of "some crimes, and information

related to them that bar publication, as per French laws, such as abortion, a minor's suicide, rape, etc."

Lebanon's print media law consisting of 109 clauses dates back to September 14, 1962 and is laughable. Its six chapters cover the following issues: definitions of publications, printing presses, licenses for Lebanese publications, foreign publications, definitions of various print media-related crimes, controls over publications' funds, sales, as well as Lebanon's two press unions, the Higher Press Council, and the press' disciplinary council.

Lebanese laws in general draw heavily on the Napoleonic code and Ottoman-era edicts – a throwback to colonial times and foreign rule. While France and modern-day Turkey that emerged from the Ottoman Empire have updated their laws, the Lebanese have yet to keep pace with the 21st Century, and are limping along.

A brief paragraph in Ghanem's draft law on "electronic publishing" stipulates that to keep up with advances in information technology and distance publishing through the Internet, a special chapter focused on organizing electronic publishing and related crimes was introduced to the legislation. One might think the parliamentarian wanted only to clamp down on websites, blogs, and social media, if he fully grasped what they were.

Lebanese American University assistant professor of journalism Yasmine Dabbous said even Moukheiber's draft legislation, submitted to parliament's Media and Communications Committee for review and discussion on February 24, 2011, did not take digital media into consideration. "Although the law includes a section about 'electronic and digital media,' it seems to treat the latter as if they have the characteristics of traditional media in many ways," she said. Dabbous added that the proposed law's wording ignored the fact that the Internet crosses borders and that anyone publishing in Nebraska could still be read/browsed in Lebanon.

A separate 185-clause draft law to regulate Lebanon's IT sector sent journalists, bloggers, and activists through the roof with rage, as it would have stifled them. (http://www.huffingtonpost.com/magda-abufadil/journos-press-freedom-act_b_616998.html)

Article 92 says anyone providing online services must apply for a license.

Article 82 of the draft would allow for warrantless search and seizure of financial, managerial, and electronic files, including hard drives, computers, etc., and Article 70 establishes the Electronic Signature and Services Authority as a new regulatory and licensing body with almost unchecked powers.

It was almost enough to call for open revolt. Legislators and government officials tasked with clamping down on money laundering and illegal online activities had dumped all manner of online-related issues into a blender and pushed a button. They were obviously badly briefed and oblivious to the indigestible outcome. So the bloggers, activists, and others embarked on a lobbying campaign to have the draft law rewritten to better meet their needs.

Dabbous, meanwhile, criticized penalties for media law violations, noting that some of the so-called offenses on the books were vague and could be used as excuses to penalize Lebanese media. She cited "content that endangers national security," or "content that breaches moral standards," as examples that were relative matters that could be stretched, or limited, based on political or personal biases.

Lebanon's original press law was passed when print meant newspapers and magazines, while the broadcast version underwent several permutations for radio and television and hasn't been seriously updated since 1994.

Leading Lebanese newspapers have, for the most part, been family affairs, with a plethora of new publications hitting newsstands during the country's 1975-1990 civil war, and reflecting the political and sectarian inclinations of their respective owners.

Subsequent domestic, regional, and international conflicts have also been mirrored in these publications, as well as in broadcast media that were established by different wartime militias and political parties. Militias such as the Christian Phalangists and Lebanese Forces and the Muslim Shiite Amal and Hezbollah groups set up their own print, broadcast and later online media and have been mainstreamed since the civil war. These groups have representatives in parliament and their members have served in various post-war ministerial cabinet posts.

"So far the most influencing parties have been the existing order of journalists and newspaper owners [Press Federation and Journalists Union] that have the added value of being invited to the discussion, and, therefore, they are influencing because they are present in the meetings," Moukheiber said.

Although the committee chairman and caretaker Information Minister Tarek Mitri seemed sympathetic to the cause, a committee staffer, speaking on condition of anonymity, told me MPs on the panel may not be open to drastic change and that deliberations may drag out for months given the political paralysis in the country and a seemingly endless constitutional/government crisis.

Mitri had also been working on a comprehensive media law that would include print, broadcast and online outlets, but took too long to reach the drafting stage and was stopped when the government he served resigned in January 2011.

As for the two unions concerned with the profession, a sizeable number of journalists heap nothing but contempt on them for being archaic. Mohammad Baalbaki, an octogenarian who has presided over the Press Federation for decades and represents publishers and owners of newspapers, is averse to modernization.

Melhem Karam, the Journalists Union (JU) president of 44 years, died in May 2010 (http://www.huffingtonpost.com/magda-abufadil/tug-of-war-over-lebanese_b_748349.html) and his organization has since been rudderless and leaderless, with different factions vying for the top post.

Both men had been noted for obstructing reforms and changes in their organizations. The two bodies are exclusionary and have barred many qualified journalists from their membership. The two unions exist to provide leadership along sectarian lines – Baalbaki is a Muslim and the late Karam was a Christian.

"The problem with the Journalists Union is that they consider themselves an 'order' but they're not in the true sense of the word," Moukheiber opined. In French the JU refers to itself as the "Ordre des Redacteurs de la Presse Libanaise [Order of Editors of the Lebanese Press]," a misnomer by any stretch of the imagination.

Asked what chances his draft bill had of passing, given the country's highly politicized and sectarian media environment, Moukheiber said his version of the new law called for simple transparency and disclosure. "We are introducing these two concepts as a major deviation from the principle of licensing," he explained. "We simply want the reader or the viewer/citizen to know who controls the media financially and politically and [for] the recipient to decide upon the value that he or she wants to give to the information he/she reads."

Liberalizing ownership of media outlets and introducing stringent rules of transparency and disclosure will be a tall order. The process of owning and starting a newspaper, for example, is complex and goes against all press freedom norms.

Article 27 of the existing law, and with which MP Ghanem agrees, stipulates that publishing anything in print is prohibited without first obtaining the requisite license from the Minister of Information, and, after having consulted with the Press Federation.

On ownership of newspapers, Yasmine Dabbous said if the current law were applied rigorously, few media would remain in operation. So a change in the ownership structure allowing anybody to publish a newspaper and not to be bound by licenses would be a welcome change.

In December 2010, the JU called for a board meeting to discuss new bylaws and other matters. The rules were to be voted on ahead of submission for approval by the Minister of Information, which is required by Lebanese law.

The JU was founded in 1942, and established as a recognizable entity in accordance with the print media law of 1962. Under its first founding clause, the JU is considered an independent syndicate that enjoys internal administrative and financial independence. The clause stated the JU oversees its members' rights and defends them, and that its bylaws recognize the print media laws.

The JU's members are editors of all print media published in Lebanon who are registered with the union but who may not be owners of publications like members of the Press Federation. However, the late JU president Karam wore both hats. He was an editor and publisher/owner of several newspapers and magazines in Arabic, French and English -- much to the chagrin of Lebanese journalists and in clear violation of the rules.

The union is the only representative of print media journalists and claims to be the only spokesman for them. But in reality it's not.

Clause 5 defines a journalist as:

- Every journalist registered with the union who regularly pays his fees, abides by laws and regulations regarding the media.
- Whoever is a full-time journalist and is not a member of another union.

Retired journalists registered with the union enjoy the same rights and responsibilities as non-retirees.

According to the bylaws, a journalist eligible for membership should be:

Of Lebanese nationality for over 10 years, and at least 21 years old; who fully enjoys civil and political rights; is not indicted for any offense or crime; is a holder of a BA in journalism or media studies from a recognized university that is accredited by Lebanon's Ministry of Higher Education, or holder of a BA in another major, provided he/she undergoes journalistic training for a year; and can obtain a statement from his/her publication attesting to his/her registration with the National Social Security Fund.

That's the first set of obstacles.

So, journalism graduates who were excluded from membership in the union and who still ended up in media jobs established the Lebanon Press Club in Beirut (<http://www.press-club.org>) in a bid to bolster their careers, to invigorate the field, and to organize related activities, their

website claims. But the club's activities haven't really made a lasting impact and the website is thin at best, so marketing itself as an alternative to the JU has been underwhelming.

The union, for its part, proclaims that a journalist's rights and responsibilities include abiding by principles of honor, honesty, and truthfulness, and that a journalist should perform professionally, abide by the union's decisions and recommendations, defend his/her colleagues, and respect them.

Fair enough, and according to Article 8 of the bylaws, the JU pledges to defend its members and stand by them against any attacks. Application of the last point has sometimes been selective over the years.

On another matter, the JU board can create a three-member disciplinary committee to review offenses and mete out acceptable decisions. Offenses submitted to the committee include: a complaint by a member against another member claiming personal insult or damage to his/her work; an indictment or prosecution for a crime, requiring suspension or ouster from the union; and slandering the union president, its board, or its members.

An interesting twist is reference to unruly meetings: According to Article 19, the JU president may call on Lebanese internal security forces [the police] to impose order at general meetings.

On financial matters, Article 55 stipulates the JU does not accept donations from countries, companies, or individuals until they're submitted to, and are approved by, the union's board, and that condition-laden donations are not accepted.

But, it adds, the JU can accept donations or gifts related to JU-related projects. Critics say that's open to interpretation, and sources within the union who spoke on background said it left the door wide open for corruption and kickbacks.

"The media are a reference and a responsibility; they're a public trust and a right, they're not anyone's private property," veteran talk show host Tanios Deaibes told journalism students in January 2011, adding that Lebanon needed new print and broadcast media laws to protect professional journalists. He should know. Deaibes has long complained about slipping print and broadcast journalistic standards and has sought to overhaul the country's antiquated media laws.

Equally antiquated are the legislators drafting the new media laws. Being media savvy, computer literate, tech-oriented, and present online is not their forte. Moukheiber is in the minority of those who work diligently, market themselves, and who are concerned with having media laws in tune with realities on the ground (<http://www.ghassanmoukheiber.com/default.aspx?mLang=E>). Although he's held countless meetings with various stakeholders, he realizes the task ahead is gargantuan.

Broadcast journalists, for example, don't have unions to represent them, and their media are subject to regulation by the National Audiovisual Media Council – an ineffectual body of members half selected and half appointed along sectarian lines. Yet a council member drafted a new broadcast media law aimed at hemming in illegal satellite TV stations disseminating news and other programs from Lebanon, Lebanese daily Assafir reported.

The most brazen violation of existing laws, according to the draft law, is how some satellite stations circumvent licensing and regulatory procedures to air their programs from Lebanese territory by claiming to be representatives of foreign-based organizations. These channels use facilities and equipment to uplink to satellites to broadcast after having obtained permission to

do so fraudulently since Lebanon-based outlets have to secure licenses first.

It becomes messier when ownership crosses borders, or when Lebanese owners hold stakes in multinational media operations. But it's also convoluted domestically. "Given the sectarian fault lines, radio and TV stations were allocated licenses according to the different religious and/or political groups," said Najat Charafeddine, an anchor and presenter at Future TV, owned by the Hariri family. "Since 2005, the media have been sharply divided, so everyone's priorities got lost in the fray," Charafeddine said, adding that each TV station became very sensitive to what was being broadcast and how that might adversely affect its standing.

Finally, the debate in Lebanon not only focuses on whether there should be one law or several pieces of legislation to deal with print, broadcast, and online outlets, but also on the definition of what constitutes journalism and who journalists are. Given the traditional inside-the-box mindset, it's no surprise editors, publishers, owners, and those controlling broadcast media who benefit from the status quo don't want to change the landscape.

Perhaps equally pressing is the need for access to information law, which journalists had not worked hard enough to demand before Moukheiber and the Maharat Foundation (<http://www.maharatfoundation.org>) began to promote it with the help of the Lebanese Transparency Association, the American Bar Association, and other organizations. Their efforts resulted in an Arabic-language publication entitled *Access to Information: A Multi-Sector Directory for Lebanon*.

A section in the booklet says the media would benefit from such legislation, as it would contribute to the dissemination of more accurate and objective information and reinforce the media's credibility. It underlined the importance of the media's serving as a watchdog of political events and the equally important task of doing so accurately. Finally, it underscored the impact of timely dissemination of information on the decision-making process.

In recent years Lebanese media have suffered from what detractors consider slipping standards, lack of professionalism, and shoddy ethics. The highly politicized environment, sectarian differences, economic setbacks, accumulated corruption, as well as domestic and regional instability have been factored into the mix.

A major overhaul of all laws affected the media is an urgent necessity.

Magda Abu-Fadil co-authored an article on Lebanese Media Laws for Internews and the Stanhope Centre for Communications Policy Research. A PDF version on Lebanon is available at <http://www.internews.org/regions/mena/amr/default.shtm>.