Media laws and regulations of the GCC countries

Summary, analysis and recommendations

Dr. Matt J. Duffy
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Preface

It is our pleasure to present the GCC media laws and regulations report. We would like to take this opportunity to thank Dr Matt Duffy for the outstanding work he delivered and for making this report available. We would also like to acknowledge Mohamed Abdulla Osman Khalifa for his comprehensive translation of the GCC press laws used in this research.

Our first and foremost mission at the Doha Centre for Media Freedom is to advocate for press freedom and quality journalism. As a Qatar Based organization, we give special attention to the six countries of the Gulf Cooperation Council (GCC): Qatar, Oman, Saudi Arabia, the United Arab Emirates, Kuwait and Bahrain. In line with Article 19 of the Universal Declaration of Human Rights, our work is to guarantee the right to produce and receive free and independent information.

The GCC region has witnessed tremendous changes over the past years. Inspired by the uprising of the Arab spring, increased calls for press freedom have been made across the region. New media laws have been drafted and are still being discussed.

The political context added to the increased use of electronic media in the region have definitely reshaped the way journalists work and the way governments look at the media, with its opportunities and limitations.

At the Doha Centre, we measure a government’s compliance with press freedom principles by the legal environment it creates and enforces to support media freedom. The media landscape of a country cannot be understood without a thorough analysis of the legal mechanisms under which journalists work.
As such, we have decided to commission a research into the media laws and regulations of the GCC to expand knowledge on the regional media landscape and deepen awareness of the plight of journalists in this region.

From Oman to Saudi Arabia, Qatar to the United Arab Emirates, and Bahrain to Kuwait, this report highlights how journalists in the GCC exercise their professional rights and analyses the extent to which the existing legal environment enables media practitioners to fulfill their duties to the public in a fair and responsible manner.

We hope that this report will encourage respect for media freedom by creating a climate of healthy dialogue with the authorities concerned and providing regional media stakeholders with the necessary tools and resources to strengthen their media regulatory framework and, to a larger extent, freedom of expression at home.

The Doha Centre for Media Freedom
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Introduction

The recent upheaval in many parts of the Arab world has illustrated the power of a free flow of information. Residents throughout the region circumvented state control of media via new social technologies such as Facebook, Twitter and YouTube. The effects have been well documented and continue to progress.

The lack of free media in the Middle East helped exacerbate the region’s problems. While not without its drawbacks, a society with a free and active press can benefit from the news media’s persistent surveillance. A free press can ask questions about problems in a society such as corruption, discrimination, and a lack of jobs. With free and open debate, these issues can be addressed and rectified. In many countries—including most Arab nations—the heavy hand of state media control blocks this important duty of the news media. Perhaps had information flowed more freely prior to the Arab Spring, some of the unrest could have been avoided.

More than any other part of the Arab world, the Gulf Cooperation Council countries exemplify the approach advocating state-control of media. To varying degrees in these countries—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates—the state exercises tight control over the media. These governments generally value the cohesiveness and harmony of society more than any potential benefits of a free press. Their government systems—with kings rather than elected leaders—also lend themselves to this type of media control in which certain “red lines” aren’t to be crossed. But, with the ever-forward march of technology and communication, the days of simply “controlling the message” appear to be fading. Governments will not be able to stop the trend toward increased flow of information, but they may choose how to best respond to the new environment.

In the Arab Spring era, Qatar is the only GCC nation that has issued a proposal to change their media laws to create more freedom for journalists. Saudi Arabia and Oman have made changes to more tightly control the press and digital platforms. Bahrain has announced plans to change their laws to improve freedom for journalists but has also telegraphed signals of tighter control. The UAE and Kuwait have taken actions to restrict freedom of expression but have made no firm legal moves in one direction or the other.
This report represents an effort to help with the process of evaluating media laws in the GCC countries. As governments consider what policies to set up to deal with new realities, this research should help provide an understanding of the current landscape. When examining this landscape, we examined several elements that can affect journalism and free expression in any nation: penal codes, media laws, regulatory bodies and the overall effect of these specifics. At times, we also address how similar problems are handled in countries with greater protections for the press. Every nation, of course, has struggled with these issues—how to empower journalists to fulfill their duty while also protecting individuals and the society from potential harm.

No reform of journalism can occur solely from within the ranks of the profession. Local media law, court rulings and other government oversight greatly affect the type of journalism practiced. To create an environment in which journalists can fulfill their societal duty will require a revision of the laws that govern them.

About the indexes

As a starting point for each county’s media landscape, this report uses two international ranking systems. While some may accuse these ranking systems of bias, they do at least provide a valid starting point for a discussion about the relative amount of press freedom enjoyed in each country. Below is the GCC countries rankings and an explanation of the methodology behind each. rankings and an explanation of the methodology behind each.

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Reporters Without Borders, a press-advocacy group in Paris, measures the level of media freedom in each country by distributing a questionnaire with 44 main criteria. The survey—sent to journalists and media experts in each country—asks questions about any actions taken against journalists and bloggers including murders, imprisonment, physical attacks and threats. The questionnaire also examines government actions such as arrests, censorship, searches, and harassment. Respondents also attempt to weigh the level of self-censorship in each country as well as the media’s ability to investigate and criticize. The questionnaire also looks at financial ownership of press outlets as well as legal framework. The answers are tabulated into a score and ranked from best to worst in their yearly press freedom index.¹

Freedom House, an advocacy group based in Washington, D.C., bases their press freedom measurements on Article 19 of the United Nations’ Universal Declaration of Human Rights which states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers.” They collect data to monitor the relative free flow of information through surveys in each of the countries they monitor. The 23 different questions and 109 indicators broadly measure three areas: the legal environment, the political situation, and the economic landscape.²

The legal environment measures the types of protections for journalists and other communicators as well as regulations that could impede the free flow of information. The political situation examines government control of content in the news media as well as the level of independence, self-censorship and viewpoint diversity in local reporting. The economic landscape examines the structure of media ownership including transparency and concentration of ownership. Each question receives a numbered ranking—the lower the score indicates the more press freedom in a country. Scores vary from 1 to 100 and countries receive their “free,” “partly free,” or “not free” ranking based on the total.

¹ RWB, How the 2011-2012 Index Was Compiled.
² FH, “Methodology.”
Bahrain

Of the six GCC countries, Bahrain fell the furthest in press freedom rankings after the Arab Spring upheaval of 2011. On the Reporters without Borders rankings, Bahrain dropped 29 places to 173rd out of 179 countries. The organization blamed the drop on “its relentless crackdown on pro-democracy movements, its trials of human rights defenders and its suppression of all space for freedom.”\(^3\) International advocacy group Freedom House classifies its press status as “Not Free.”\(^4\) Bahrain’s drop in the rankings contrasts with its recent reputation for allowing criticism and debate in its media sector.

A 2003 report had noted “as freedom of speech is concerned there is an attempt towards liberalization.”\(^5\) Observers had seen slow, but steady improvement in media freedoms throughout most of the 2000s. The modest liberalizations of the media sector took place along with a national reform effort (“Bahrain 2030”) as the country attempted to modernize the state and diversify the economy.\(^6\) Despite some improvement, huge protests rocked Bahrain in early 2011, much of which centered on demands of reforms to the Sunni Muslim monarchy from its Shiite-majority residents.\(^7\)

The British effectively ruled Bahrain for more than 150 years after becoming a British protectorate in 1861. The United Kingdom used the island nation as a base to help protect their interests in the region, from Egypt to India. The British made a strategic decision in the late 1960s to relinquish oversight of Bahrain along with the last of their Arab possessions. Over the years of British oversight, Shiite-dominated Iran would periodically make claims of sovereignty over the country. The claims— and worry of Iranian influence in the country—continue to shake the foundations of Bahrain’s stability.

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\(^3\) Reporters Without Borders, “Syria, Bahrain and Yemen Get Worst Ever Rankings,” para. 5.
\(^4\) FH, “Freedom of the Press 2011 - Bahrain.”
\(^5\) Ibid.
\(^7\) Ibid.
Constitution

Bahrain ratified its Constitution after declaring independence as a British protectorate in 1971. The Bahrain Constitution guarantees freedom of expression and the press, within the confines of the nation’s laws. Article 23 of the Bahrain Constitution states that “freedom of opinion and scientific research is guaranteed. Everyone has the right to express his opinion and publish it by word of mouth, in writing or otherwise under the rules and conditions laid down by law.”

However, this robust defense of free expression is hampered by further restrictions. The constitutional article goes on to warn against infringing “fundamental beliefs of Islamic doctrine,” prejudicing “the unity of the people” or arousing “discord or sectarianism.”8 Article 24 extends these freedoms to printed material, “guaranteed under the rules and conditions laid down by law.” Both the Bahrain penal code and the press law of 2002 contain many “conditions laid down by law.”9

Penal code

The penal code, ratified in 1976, contains a myriad of restrictions that effectively hampers the freedom of the press and expression guaranteed in the Constitution. For instance, Article 165 promises an unspecified length of imprisonment for “any person who incites with the use of one of the publication methods to develop hatred of the ruling regime or show contempt towards it.”10 Such a provision could be viewed quite subjectively—any reporting on government corruption, for instance, could conceivably lead to inciting contempt. Article 168 provides for imprisonment of up to two years and a modest fine for “false or malicious news reports, statements or rumors” if these statements lead to public disturbances or pose a threat to security. Article 169 similarly outlaws “false or malicious” reports that harm Bahrain’s creditworthiness or interest.11 Again, the decision of what constitutes a false or

8 “Bahrain.”
11 Internews, Kuwait.
malicious report lies in the broad discretion of prosecutors and judges. Article 217 of the penal code calls for jail or a fine for disclosing information from a closed meeting of the country’s legislative body, the National Assembly. The same penalties can be proscribed to a journalist (or private person) who “dishonestly and in bad faith publishes the deliberations of public meetings of the said Assembly.”

Article 248 makes the same prohibition for any false report on public hearings. Laws related to the accuracy of reporting can be troublesome because enforcing them requires government officials to make a distinction between truth and falsehood. Many nations with strong press protections don’t attempt to penalize inaccurate reports unless they defame someone’s reputation. Many observers warn that “false news” laws can easily lead to censorship. The truth can be a contested matter and “prohibitions on publishing false news may be abused in an attempt to suppress unwanted allegations, whether or not they are true.”

The penal code also takes issue with the coverage of court cases and crimes. For instance, Article 245 promises a fine or prison sentence to those who publish information that may influence the outcome of a court case. Article 246 calls for similar punishment for any news reports of an on-going criminal inquiry, “court deliberations,” and “news reports concerning investigations or procedures regarding lawsuits of kinship, matrimony, custody, divorce, alimony and adultery.” The article also prohibits juvenile names being published as well victims of rape and sexual crimes. Countries with strong press freedoms put few limits on publishing of information handled by the courts because of a belief that the public benefits from an open, transparent legal system. Journalists often in many countries voluntarily choose to leave out names in their reports to protect the privacy of victims and the rights of the accused.

12 Buckley et al., Broadcasting, Voice, and Accountability, 136.
The Bahrain penal code also provides criminal penalties such as fines and prison sentences for defamation—written (libel) or spoken (slander). In many countries, civil courts handle libel and slander cases with penalties meted as monetary awards rather than prison sentences or fines. Article 364 of the penal code calls for six months in prison or a modest fine for committing libel that “affects one’s honor or puts families into disrepute.” Article 365 calls for up to two years in prison for slandering a public servant “on the grounds of discharging his duties, or if such slander affects one’s honor or puts families into disrepute or if it is understood to be intended for attaining an illegal purpose.” The penal code does specifically note that truth is a defense for libel. Article 367: “There shall be no crime if a perpetrator proves the truth of the accusation where such accusation is made against a public servant or an officer entrusted with a public service and where the occurrence is connected with the relevant office or service.”

Truth as a defense against libel is the hallmark of countries with strong protections for press freedom. In other GCC states such as the United Arab Emirates, libel lawsuits can be lost as long as reputation was damaged, regardless of the veracity of the report.

A public official used the defamation provisions in 2006 in an attempt to silence a prominent blogger, Mahmoud Al Yousef. The minister had him charged over comments on his blog about his department’s slow reaction to flooding. After being arrested and questioned, Al Yousef was freed on bail. The case was eventually dismissed after Al Yousef agreed to remove “offensive remarks” from his blog post—which apparently did not deal with the specific allegation against the minister. Al Yousef noted that Bahrain’s defamation laws and other restrictions essentially “criminalize” the “civic responsibility of criticism.” Observers say the looming threat of defamation prosecutions have effectively discouraged journalists from critical reporting of public officials.

14 Ibid.
15 Brass, “Defamation Laws Keep the Aggrieved Quiet.”
16 Toumi, “Bahraini Minister Agrees to Drop Suit Against Blogger.”
17 AFP, “Bahraini Blogger Libel Trial Begins,” para. 5.
18 BCHR, Journalist Faces Defamation Charges over Article on Corruption; FH, “Freedom of the Press 2011 - Bahrain.”
Another restrictive feature of the 1976 penal code is its “lese-majesty” provision. Lese-majesty laws (French for “injured king”) date back to Roman times and essentially prohibit anything that may offend the king or ruler of a country. The law’s broad definition can be used to suppress critical speech against the government. Article 214 promises a prison sentence for anyone “who offends the Amir of the country, the national flag or emblem.” In 2008, the government issued statements aimed at journalists that “warned against harming the dignity and image of the royal personality.” The Bahrain Center for Human Rights said the government regularly used the pretense of protecting the royal image to shut down electronic forums, arrest and prosecute journalists and bloggers, and threaten political groups and civil society institutions.

**Media law**

After Sheikh Hamad bin Isa Al Khalifa assumed the power in 1999, he embarked on efforts to modernize the country and ease tensions between Sunni and Shiite Muslims. Sheikh Hamad released a number of Shiite dissidents and moved the country toward reform. Bahrainis overwhelmingly supported a National Action Charter in 2001 that was followed by a new constitution in 2002 that officially established a constitutional monarchy in Bahrain, although the king retained absolute power. The constitution also called for equality between Sunnis and Shiites and guaranteed fundamental civil and property rights to all citizens.

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19  BCHR, Detainees in Newsletter and Website Case Beaten and Ill-treated; Journalists Warned over Dignity of Royal Image, para. 7.

20  BCHR, Detainees in Newsletter and Website Case Beaten and Ill-treated; Journalists Warned over Dignity of Royal Image.
In 2002, the government also revised its 1979 press law, promising the law would provide more protections than its predecessor.\footnote{Ibid.} While some liberalizing of the media sector did occur, many journalists found Decree Law No. 47 of 2002 still quite restrictive. The law authorized a myriad of further limits for journalists beyond the already restrictive penal code. The legislation contains 17 different categories of offenses for which the government may take action. For three actions, journalists may be imprisoned for up to five years: publishing material critical of Islam or the King of Bahrain, encouraging actions that undermine state security or advocating for a change in the government. The other 14 offenses can result in fines of up to roughly $5,000. Journalists at the time complained about the retention of imprisonment as a punishment and also that the government ministers could mete out penalties without any judicial oversight.\footnote{Internews, Kuwait.}

Article 19 of the new press law retained the Ministry of Information’s authority to license publications and a mandate to ban those that “harmed the regime, the official state religion, morality or different confessions in a way likely to cause a breach of the peace.”\footnote{RWB, “Press Law Amendments Hailed but Journalists Still Face Jail and Websites Risk Closure,” para. 11.} Such wording gives wide latitude of discretion to authorities in making censorship decisions. In many countries with strong protections for press freedom, governments do not require licenses to publish newspapers.

The government pledged to make modifications to the 2002 law, but after several attempts over the next decade, changes were never instituted.\footnote{Ibid.} Despite some misgivings, observers were pleased with the direction seen in proposed amendments to the press law announced in 2008. The changes would have eliminated jailing for journalists from the press code as well as any prior restraint censorship, ordering news producers outright to avoid reporting on certain information. However, observers complained that the

\footnote{IFEX, Despite Advances, Journalists Still Face Possible Jail Terms Under Prevailing Laws, Warns IFJ.}
proposed law still featured onerous restrictions. Also, the penal code and an anti-terrorism law enacted in 2006 could still send journalists to prison and encourage them to self-censor.25 (Anti-terrorism laws were also instituted in other GCC countries such as Saudi Arabia, providing the government with more tools to restrict the press.) The concerns were eventually moot because the proposed changes to the press law were never enacted.

Interestingly, the press law also attempts to impose ethical standards on journalists in Bahrain. For instance, in Article 37 journalists are encouraged to “take into account all the requirements of honor, integrity, honesty, ethics and traditions of the profession in order to preserve society’s ideals and values.”26 Article 42 of the act calls for a complete separation of “editorial and advertisement materials.” The law makes no specifications regarding punishments for journalists who violated these ethical guidelines.

The legal authority to regulate websites comes from an addition to the 2002 press law. The government added “electronic media” to the law’s purview, providing the information ministry with wide leverage in regulating speech in new media environments such as the Internet and social media. Despite objections of website owners and civil society observers, the Ministry of Information blocked or shut down more than 100 political, anti-Islam and pornographic websites in the 2000s.27 Among sites blocked were Mahmood Al Yusuf’s blog, the Bahrain Center for Human Rights and several other political blogs just before the 2006 elections.28 To legally defend shutting down websites, the government apparently used Article 19 of the press law that allows the banning of publications that may cause harm to the government. The Bahrain Telecommunications Company (owned largely by the government) also practices censorship of the Internet by blocking access to national and international NGO sites.29

27 OpenNet, Bahrain: OpenNet Initiative.
29 RWB, World Report - Bahrain.
In 2009, the Ministry of Information decreed that it could shut down a website without any court review and also outlawed the use of devices to get around local filters (e.g. VPNs.) In an attempt to block pornographic sites, the ministry also blocked political, human rights and Shia community forums that same year.\(^{30}\) The regulation of local television or radio stations isn’t necessary since the government retains a complete monopoly on broadcast media.\(^{31}\) In 2011, an opposition news station was forced to broadcast from London after it failed to secure a license in the country.\(^{32}\) The station said its signal was blocked from inside Bahrain. In countries with strong protections for press freedoms, government decisions that infringe on media outlets’ speech (such as closure or prior restraint) are reviewable by an independent judiciary. Such a review ensures that government officials aren’t arbitrarily using their authority to squelch coverage perceived as unfavorable.

**Current media landscape**

Given the regulatory environment, most of the outlets in Bahrain are either government-owned or present government viewpoints. Of the four main newspapers, only Al-Wasat offers any opposition opinions. Local radio and television outlets are government owned as well.\(^{33}\)

The media restrictions outlined above provides the setting for the uprising that started in Bahrain in 2011 that led to scores of deaths and widespread allegations of torture. After the worst of the violence in Bahrain, the government appointed an independent body to investigate the factors that led to the protests and ensuing chaos. The Bahrain Independent Commission of Inquiry, widely lauded as a reputable team of international human rights experts, released a 513-page report detailing their investigation. The report documented 46 deaths, 559 allegations of torture, and more than 4,000 cases of employees dismissed for participating in protests.\(^{34}\) The commission

\(^{30}\) OpenNet, Bahrain: OpenNet Initiative.  
\(^{31}\) RWB, World Report - Bahrain.  
\(^{32}\) Atkinson, Bahrain TV Station Struggles as Signal Blocked.  
\(^{33}\) “Bahrain Profile.”  
\(^{34}\) Ibid.
summarized the lack of freedom of the press in Bahrain: “These journalists alleged that the media in Bahrain is heavily censored by the (government) and does not represent the views or outlook of the vast majority of Bahrainis. It was alleged that in some cases, simply expressing a point of view or factual information that differs from or contradicts the (government’s) position could result in the suspension or termination of employment at a media organization.” 35

The Bahrain report goes on to describe the type of self-censorship that exists in Bahrain as a result of decades of tight legal control. “Several journalists alleged that in addition to self-censorship, their editors frequently edited their articles and reports in order to reflect the (government’s) position,” the report states. “It is alleged that there is an unspoken policy governing what journalists can and cannot write in newspapers.” 36 This type of self-censorship is often described in GCC newsrooms as “red lines”—journalists simply learn how to operate within the boundaries that will keep them free from government harassment. This type of self-censorship severely inhibits the positive role journalism can play in society.

In its recommendations section, the BICI report recommended simply that the government “consider relaxing censorship and allowing the opposition greater access to television broadcasts, radio broadcasts and print media.” 37 In March 2011, the government announced that its National Commission, a government group set up to institute the BICI’s recommendations, had presented the government with a Media Reform Plan (MRP) that followed the guidance in the BICI report. 38 French media experts helped draft the

35  IAtkinson, Bahrain TV Station Struggles as Signal Blocked.
36  Ibid., 406.
37  Ibid., 401.
38  Habib, “National Commission Says Media and Educational Reform Moving Forward.”
media reform plan that called for relaxed censorship and programs to help ensure participation from all groups in Bahrain media. The MRP also calls for the creation of a High Media Council, the consolidation of media laws into one law and the establishment of an educational institute to train journalists. The government reported that they would implement the recommendations. By June of 2012, the government had not yet created the High Media Council nor presented any revisions to its media laws.

The new minister of state of Information Affairs said in May 2012 that she would like to see Bahrain introduce new regulations on social media. A former journalist, Samira Rajab said the move was needed to ensure public safety because of the “irresponsible use of such media” during the ongoing strife in the country. The media reform plan did not include a call to tighten regulation of social media but did call for the government to “relax censorship.” The latest moves in Bahrain appear to be toward more regulation of speech rather than less.

39 Nagraj, “Bahrain Mulls Social Media Law.”
40 Habib, “National Commission Says Media and Educational Reform Moving Forward.”
Kuwait

Kuwait enjoys the highest press freedom ranking from Reporters Without Borders of any GCC country—no. 78 out of 179.\textsuperscript{41} Of the GCC nations, Kuwait is also the only country to tout a “Partly Free” press status from the international advocacy group Freedom House. The NGO ranks the other five countries as “Not Free.”\textsuperscript{42} But the events leading up to and after the Arab Spring have made observers more cautious, noting increasing “self-censorship, intimidation, and government pressure.”\textsuperscript{43} The country’s reasonably free press status can be attributed to its Constitution as well as reforms placed after the liberation of Kuwait from Iraqi forces in the early 1990s. Unlike the other GCC nations, Kuwait boasts several privately owned newspapers that feature relatively robust discussions and varied opinions. The nation also benefits from an active Parliament where many ideas are openly and freely discussed.

Kuwait’s Constitution, which sets up a constitutional monarchy with a strong Emir and an elected parliament, was ratified in 1961 after the country gained independence from Great Britain. The Constitution guarantees freedom of expression, within in the limits of the law. Article 36 states: “Freedom of opinion and scientific research shall be guaranteed. Every person shall have the right to express and propagate his opinion verbally, in writing or otherwise, in accordance with the conditions and procedures specified by law.” Article 37 makes further guarantees for the press: “Freedom of the

\textsuperscript{41} Reporters Without Borders, “Syria, Bahrain and Yemen Get Worst Ever Rankings.”
\textsuperscript{42} “Freedom of the Press.”
\textsuperscript{43} FH, Kuwait, para. 1.
press, printing and publishing shall be guaranteed in accordance with the conditions and manner specified by law.” As in other GCC countries, the penal code and press laws specify many instances in which freedom of the press can be infringed. Observers note these provisions have “been used to stifle legitimate expression, particularly expression perceived as relating to religion, morality, or heads of government.”

Penal code

Passed in 1960, Kuwait’s penal code creates several restrictions for freedom of expression and freedom of the press. Article 204, for instance, proscribes up to three years’ imprisonment and a roughly $10,000 fine for anyone who “prints or sells or distributes or exhibits pictures or drawings or forms of anything immoral.” The vagueness of this directive leaves broad discretion to authorities in determining objectionable material. Article 204 goes on to provide an exception for printing, selling or displaying immoral pictures and drawings if published according to “accepted rules of science or art as that is the basis of participation in scientific and artistic advancement.” However, observers report that the exception for artistic merit is routinely ignored.45 In 2000, the article was used to prosecute an acclaimed author and publisher for works deemed to be “blasphemous” and “obscene.” Article 16 of the penal code also provides penalties for defamation—any act that may damage the “reputation, dignity or standing of any person.”

Article 111 of the penal code provides further protection against religious offense. The article offers one-year imprisonment or a fine of roughly $10,000 to anyone who distributes “opinions that include sarcasm, contempt, or belittling of a religion or a religious school of thought, whether by defamation of its belief system or its traditions or its rituals or its instructions.” The broad

44  Internews, Kuwait, 4.
45  Internews, Kuwait.
nature of the edict can dampen freedom of expression. Recently, the government cited Article 111 when it sentenced the editor of a pro-Shiite newspaper to 6 months in prison. 47

Media law

Many matters dealing with freedom of expression and the press are dealt with in the revised 2006 Press and Publications Law. The revised law replaced the 1961 version, which carried far more prohibitions for journalists. An explanatory note attached to the law addresses the difficulty of ensuring freedom of expression while safeguarding other freedoms in a society. Striking a balance, the note warns, is “considered one of the most delicate issues and the most intriguing and interesting matters.” 48 Still, the law contains 12 separate sections outlining prohibitions on reporting. In addition, the press law allows any citizen the ability to press criminal charges against a journalist they suspect of violating the law. Such a provision provides a generous opportunity for the harassment of journalists.

The 2006 press law did liberalize the media landscape in Kuwait. Publishers must still obtain a license from the Ministry of Interior to start a newspaper. But, the ministry must provide an explanation for refusal within 90 days, meaning applications can’t simply be ignored. Media licenses can no longer be revoked without judicial oversight. 49 In countries with strong press freedoms, newspapers do not have to receive a special license to operate.

The press law gives the Ministry of Interior permission to ban all books, films and magazines it determined to be morally offensive. However, a 2011 report said the ministry does “not actively interfere with or restrict access to news, and the Kuwaiti media are considered more critical and outspoken than those in the rest of the region.” 50

47 “Six-month Prison Sentence for Newspaper Editor - Reporters Without Borders.”
48 Kuwait Press and Publications Law.
49 FH, Kuwait.
50 Ibid., para. 4.
While eliminating the threat of jail for many offenses, the law still allows for the punishment in cases of insults to God, the prophets or Islam. Those found guilty of offending Islam or religion can go to jail for one year and receive a roughly $72,000 fine. The law also prohibits criticism of the Emir, disclosure of private information and any calls to overthrow the government.\textsuperscript{51} The press law has been applied to electronic media as well as newspapers.\textsuperscript{52}

Article 21 of the law contains restrictions that appear overly broad and could be used to stifle the press. For instance, Article 21 says its illegal to “disdain or insult” judges or public prosecutors. Even broader is the prohibition against “influencing the value of the national currency or what would lead to worries about the economic status of the country.” A journalist simply reporting on poor sales numbers from a Kuwaiti firm could potentially run afoul of such a provision.

The Kuwaiti law warns against defaming public employees, but only by “attributing statements or acts not true to him which would cause harm or insult to his person.” The “not true” portion of the law should help ensure that journalists accurately reporting information that is damaging to a public sector employee would not be restricted. In other Gulf countries, such as the United Arab Emirates, truth is not necessarily a defense against a charge of defamation.\textsuperscript{53}

Article 17 of the media law directs the editor of newspapers to “search for accuracy and truth” in their reports. As a general rule, broad media laws that try to mandate that news outlets report the “truth” have been unsuccessful. While a noble goal, government officials who disagree with journalists over their perception of the “truth” often abuse the laws.\textsuperscript{54} Article 17 could potentially be used to punish journalists for “false statements,” a practice said to have a “significant chilling effect on freedom of expression.”\textsuperscript{55}

\textsuperscript{51} FH, Kuwait.
\textsuperscript{52} Freedom House, Freedom of the Press: Kuwait.
\textsuperscript{53} Brass, “Defamation Laws Keep the Aggrieved Quiet.”
\textsuperscript{54} Buckley et al., Broadcasting, Voice, and Accountability, 124.
\textsuperscript{55} Ibid., 137.
In another overly broad prohibition, the article also prohibits “causing harm to the relationships between Kuwait and other Arab or friendly countries.” Reporting on atrocities in Syria, Libya or Egypt would presumably conflict with this part of the statute. This section represents an area where the letter of the law is not necessarily enforced. In countries with free media systems, laws don’t include long lists of prohibitions regarding what types of stories journalists may cover.

Article 24 specifically outlines the judicial review for any prosecutions (fines, bans or jail terms) under the media law. The aggrieved party may take their case first to a lower court and that decision may be appealed to two higher courts. Judicial review is an important component of any system with strong press protections. Media freedom suffers when government officials (i.e., prosecutors or ministers) may exercise power over media outlets without an independent review from the judiciary. Critics in other Gulf countries such as Bahrain complain about a lack of judicial review over decisions made by government ministries.

A strong protection for media freedom in Kuwait is Article 8 of the media law that specifically prohibits prior restraint: “The newspaper shall not be subject to any prior censorship.” Countries with strong protections for press freedom have generally outlawed the practice of telling publishers what not to publish. The 17th-century British author John Milton made the first arguments against prior restraint in “Aeropagitica,” a treatise objecting to the act of government licensing for books. He suggested that before a text could be rejected (e.g., as blasphemous or defamatory), it should first be “examined, refuted, and condemned” rather than prohibited before its ideas have a chance to be expressed. Milton and other scholars do not necessarily object to creating boundaries for acceptable speech, but just to drawing the boundaries before the speech has been uttered.

56 Kuwait Press and Publications Law.
57 Milton, Aeropagitica.
In 2010, the government increased its enforcement of the media laws. More than 600 violations of the law were reported, a “dramatic increase” from the year before.\textsuperscript{58} The government has proposed adding additional restrictions to the press law after a television station aired story deemed offensive by some of Kuwait’s tribal families. The amendments, which haven’t been adopted, would increase penalties for libel and slander. They would also criminalize speech that threatened “national unity.”\textsuperscript{59}

In December 2010, the Ministry of Interior ordered Al Jazeera to shut down its Kuwait City bureau after the networked covered protests. It’s unclear what law the government used to justify the closure, but a letter to Al Jazeera said the reason for the closure was “the latest developments and your interference in Kuwait’s internal affairs.”\textsuperscript{60} The prohibition affects only their ability to report in the country, the network is still available to Kuwaitis.

Despite the revisions to the press law, criminal defamation charges are still in place and can lead to prison terms. In 2010, the founding editor of Arabic editions of Foreign Policy and Newsweek magazine spent 49 days in jail while awaiting charges after he accused the pro-government media of stirring up religious strife in the country. The editor faced charges over his newspaper articles including “slight to the personage of the emir” and “instigating to dismantle the foundations of Kuwaiti society.”\textsuperscript{61} He was found guilty of criminal defamation and sentenced to one year in prison, but the sentence was reduced to three months. The rest of the charges are still pending. A variety of Kuwaitis brought the charges against him including the Emir’s son and the prime minister. The Kuwait Journalists’ Association recently reported that more than 90 criminal defamation cases are currently awaiting adjudication.\textsuperscript{62} One observer warned “heavy fines (resulting from criminal defamation cases) recently handed down by some judges have undermined some of the advances made by the local and foreign press.”\textsuperscript{63}

\textsuperscript{58} FH, Kuwait.  
\textsuperscript{59} Ibid.  
\textsuperscript{60} AJE, “Kuwait Closes Al Jazeera Office,” para. 4.  
\textsuperscript{61} Freedom House, Freedom of the Press: Kuwait.  
\textsuperscript{62} Ibid.  
\textsuperscript{63} RWB, World Report - Kuwait, para. 4.
Current media landscape

Kuwait boasts a comparatively free media environment with more than a dozen privately owned newspapers that are “largely independent and diverse in their reporting.” The country also boasts several privately owned television stations in addition to the state-run Kuwait TV. No privately owned radio stations are devoted to news and information. This comparatively liberal media environment in Kuwait has seen some challenges since the pro-democracy uprisings in the Arab world started in 2011.

In March 2012, the Ministry of Information successfully prosecuted a pro-Shiite newspaper editor over two articles he published, resulting in a six-month prison sentence and the suspension of the daily newspaper Al-Dar. After a two-month absence, the newspaper continued publication along with a pledge to limit its coverage of Shiite protests in Saudi Arabia and Bahrain. The newspaper editor avoided jail by paying a fine. To take action against the paper, the information ministry invoked “national security” and “civil order” provisions of Article 111 of the penal code, and paragraphs 2 and 7 of Article 21 of the 2006 media law.

Kuwait authorities have recently used their power to suspend publications and have scrutinized TV channels following reports on tribal interests. In 2012, the Ministry of Interior shut down a daily newspaper because it aimed to promote “discord between communities and incitement to public disorder and to advocate hatred of some religious groups and elements of society.” A television channel that aired comments critical of tribal leaders was also reported to be the subject of prosecution. The government cited provisions in the penal code and the 2006 press law.

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64 Ibid., para. 4.
65 “Kuwait Profile: Media.”
66 Milton, Areopagitica.
67 RWB, “Vote Campaign Marred by Attacks and Prosecutions Against Media,” para. 6.
The result of these many restrictions, prosecutions and government warnings leads many journalists to simply self-censor their reporting. “There are effectively some ‘red lines’ that the emirate’s journalists cannot cross,” writes one observer. “The person of the head of state and members of the royal family or people holding key posts all remain sensitive subjects that are not raised. The level of self-censorship among Kuwaiti journalists is still quite high.”

The only recent discussion regarding media laws has focused on tighter—not looser—restrictions. For instance, in April 2012, the Minster of Information called for more regulation of social media sites such as Twitter following cases of alleged blasphemy and sectarianism. The government has already used existing legislation to prosecute similar cases. In April 2012, a Sunni Muslim writer received a seven-year jail sentence after a ruling that he had insulted Kuwait’s Shiite minority on Twitter. And police arrested a Kuwaiti Shiite in March 2012 and accused him of insulting the Prophet Mohammad (PBUH) on Twitter. Both arrests led to small protests. In May 2012, Kuwait’s parliament approved strengthening the penalty of the country’s blasphemy laws to allow for executions. However, the government quietly announced that the law would not be enacted.

Creating regulations to prohibit speech that could lead to a disruption of public order are inherently difficult. As one international media law text puts it: “Although security and public order are social interests of the highest order, without which all rights are at risk, they are at the same time almost impossible to define precisely and are hence inherently susceptible to abuse.” In many countries, public order restrictions on speech are reserved to cases involving “imminent lawless action.”

68  RWB, World Report - Kuwait, para. 5.
69  Westhall, “Kuwait to Regulate Social Networking Sites-minister.”
70  Westhall, “Kuwait to Regulate Social Networking Sites-minister.”
71  “Govt Said to Discard Law on Blasphemy.”
72  Buckley et al., Broadcasting, Voice, and Accountability, 127.
Saudi Arabia

The Kingdom of Saudi Arabia features one of the most restrictive media landscapes in the world. In its 2011 report, Reporters Without Borders ranked Saudi Arabia at 158 out of 179 countries. The press in Saudi Arabia receives little protection to practice critical journalism. In general, the government sees the news media as a tool to help promote government interests and a harmonious society.

Saudi Arabia was founded by Abdul-Aziz bin Saud in 1932 after he conquered various lands on the peninsula that would later bear his name. The kingdom has never adopted an official Constitution, but in 1992 it adopted the Basic Law of Saudi Arabia by royal decree. The basic law insists that the king must comply with Sharia (Islamic) law and the Quran. Officially, the country’s constitution are said to be the Koran and the Sunnah (the traditions of Muhammad), but no written modern constitution has ever been adopted.73 The king rules the country and about 2,000 members of the royal family, descendants of Abdul-Aziz bin Saud, hold most of the nation’s wealth and power.

Constitution (basic law)

Unlike the other countries in the GCC, Saudi Arabia’s “basic law” does not protect freedom of expression. Article 39 covers expression by stating that “information, publication, and all other media shall employ courteous language and the state’s regulations, and they shall contribute to the education of the nation and the bolstering of its unity.” The article goes on to expressly prohibit any communications that “foster sedition or division or harm the state’s security and its public relations or detract from man’s dignity and rights.”74 The basic law explains that statutes determine

73 Robbers, Encyclopedia of World Constitutions.
74 Basic Law of Saudi Arabia.
the proper boundaries of acceptable speech. Another article shows the importance placed upon collective harmony in the Saudi system. Article 12 of the basic law declares that the “state will prevent anything that may lead to disunity, sedition and separation.”\(^{75}\) The absence of any protection for free expression and a focus on social harmony creates a highly restrictive space for the news media to operate.

The kingdom doesn’t have a written penal code. Instead “the security forces and courts rely on vague and somewhat elastic concepts of criminal legislation” leading to a nebulous playing field in which journalists and others operate.\(^{76}\)

**Media law**

Saudi Arabia amended its 1963 press law with the 2003 Press and Publications Act, which led to a more liberal press environment. The move was seen as the royal family’s view that a more liberal press was in their best interest “in light of expanding global information from satellite television and the Internet.”\(^{77}\) The press takes some liberties, reporting on “bad news” such as fires and occasionally criticizing some policies. Still, red lines are never crossed: Criticism of the country’s rulers or its foreign policies, such as its stance toward the Arab-Israeli conflict.\(^{78}\) The government doesn’t exercise prior restraint in all outlets but takes action quickly when alerted to problematic news reports.\(^{79}\) The effect is a press that exercises self-censorship and stays inside the “red lines.”

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75 Ibid.

76 RWB, Saudi Arabia, para. 2.

77 Rugh, Arab Mass Media, 67.

78 Rugh, Arab Mass Media.

79 Karolides, Encyclopedia of Censorship.
The 2003 press law does offer basic guarantees for a free press. Article 8 states that “freedom of expression is guaranteed in the different media of publication within the limits of Sharia Rules and Law.” The law then goes on to offer a long list of types of prohibited journalism.

Article 9 provides several areas that allow for restrictions in speech including public order, incitement of criminal acts, harming the economy, and not being objective.

The article first mandates that printed material “shall not lead to breach of public security, public policy or serving foreign interest that conflict with national interest.” The article also bans anything that excites “fanatical instincts or stir(s) up discord among citizens.” With these broad directives, authorities have wide latitude in determining what type of reports may be prohibited in order to maintain public order.

Article 9 also prohibits the incitement of criminal conduct as well as disclosing secrets of criminal investigations or legal trials. It also prohibits injuring “the economic or health situation in the country.” The latter rule is particularly broad and could conceivably be used against a journalist simply reporting on poor sales numbers for a Saudi company.

Finally the law requires that journalists “observe objective and constructive criticism that aims at public interest and which is based on facts and evidence.” Deciding on clear delineations of constructive versus destructive criticism may prove difficult. Deciding which criticism serves the public interest and which stokes discord could also be a challenging task. In countries with developed press freedoms, the government avoids issuing directions about types of coverage or banning “false news.” While noble in their approach, such government demands invariably lead to self-censorship.

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80 Saudi Arabia: Law of Printing and Publication.
81 Ibid.
Article 18 of the press law calls for the censoring of foreign media if it injures Islam, the government, public morality, or conflicts with ethical standards. The section of the law can be seen in action. Imported print publications in Saudi “are excised or blackened or pages are glued together.” In practice, censored material includes critical news items, pictures in fashion magazines of bare skin, and references to religions other than Islam.

The press law uses language that suggests prior restraint: “When permission is given to a printed matter the following shall be taken into consideration...” However, in practice the level of direct government oversight varies between media outlets, with many journalists simply exercising self-censorship and respecting understood taboos. All news outlets must receive a government license and authorities have the power to fire journalists if they are displeased with their work. Article 36 specifically authorizes collection (without compensation) of printed material deemed to be in violation of the statute.

Article 9 and Article 35 both concern defamation. Article 9 states that printed material “shall not prejudice the dignity and liberty of persons or lead to their blackmail or injure their reputation or commercial names.” The law applies to individuals as well as business reputations and does not include truth as a defense for libel (written defamation) or slander (spoken defamation). Article 35 expands on the defamation penalties. It directs journalists who have “imputed to another an incorrect statement” or published “erroneous news” about them, to publish a correction for free. They are also “entitled to claim compensation.” Article 35 puts extra emphasis on the defamation occurring as a result of an error, a sign that truth could potentially be used to defend against a charge of libel, a common defense in countries with strong protections for the media.

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82 Karolides, Encyclopedia of Censorship, 494.
83 Rugh, Arab Mass Media.
84 Ibid.
Article 38 of the press law provides stiff penalties for journalists who violate its rules. The law allows for a fine of up to 50,000 Saudi Riyals (about $13,500) as well as the closure of the outlet for up to two months. Contrary to other published reports, the media law doesn’t specifically proscribe imprisonment for any offense. But, it does note that the law doesn’t supersede “more serious penalties” from other laws. In practice, journalists can be jailed for what they report for other offenses such as “instigating protests” or upsetting public order. The result of these prohibitions is a media environment that is consistently ranked “among the most repressive in the Arab world in 2010.”

Saudi Arabia has the strictest blasphemy enforcement of any GCC nation, although the definition of the crime is inexact. “Saudi Arabia does not have a penal code,” writes one observer, “and the crimes of ‘insulting Islam’ or ‘cursing God’ are not precisely defined.” The result of this nebulous system is many cases in which critics complain freedom of expression has been severely hampered. Saudi frequently jails and sometimes executes citizens and expatriates accused of blasphemy. A journalist, Rabah al-Quwai’l, was charged with blasphemy for Internet writings in 2005. And another journalist and blogger, Hamza Khashgari, is currently awaiting trial in 2012 for tweets he posted and quickly deleted concerning the Prophet Mohammed (PBUH).

**Current media landscape**

Saudi Arabia is served by about 10 daily newspapers which are all privately owned, although their owners are either linked to the government or members of the royal family. Radio and television broadcast outlets are also controlled by the government. Despite its illegal status, satellite television is widely watched and has become an important source for foreign news.
The government uses more than just the media law to control the media. The Ministry of Culture and Information officially oversees media outlets and they routinely “use laws and royal decrees to restrict media freedom.”\textsuperscript{90} The press is allowed to raise critical issues, such as the handling of floods in 2010 that left 123 Saudis dead, but journalists tend to stay well within the “red lines” of coverage. One report noted that any easing of censorship is “more often the result of clashes at the highest political level between reformists and conservatives with their different social agendas than of any struggle for greater freedom on the part of Saudi journalists.”\textsuperscript{91} The government also keeps an eye on foreign journalists by having official minders accompany them and report on their work.\textsuperscript{92}

During the Arab Spring uprisings, Saudi Arabia has looked to further restrict both traditional and social media. In April 2011, the Sunni kingdom was rocked by small protests in the Eastern area of the country with a sizable, restive Shiite population. That same month, a royal order increased the penalties for a variety of publishing offenses including anything that “jeopardized its stability or offended clerics.”\textsuperscript{93} The ban came after clerics had issued fatwas saying that participation in protests was against Islamic law. Thus, any publication criticizing the fatwa would face a new penalty that included fines of up to $133,000, shutting down of publications, and banning writers from contributing to any media.

The kingdom also took aim at the increasing numbers of bloggers who were attempting to circumvent traditional media outlets. At least two bloggers were detained in April 2011 along with 160 other Saudis accused of instigating unrest.\textsuperscript{94} The country also reportedly blocked several websites

\textsuperscript{90} Saudi Arabia: Stop Trials for “Insulting” Islam.  
\textsuperscript{91} RWB, Saudi Arabia, para. 3.  
\textsuperscript{92} RWB, Saudi Arabia.  
\textsuperscript{93} Alsharif, “Saudi Arabia Tightens Hold on the Media,” para. 1.  
\textsuperscript{94} Alsharif, “Saudi Arabia Tightens Hold on the Media.”
in Saudi reporting on events in the country as well as unrest in neighboring Bahrain.\(^95\) In another incident attacking new media, three online television reporters were detained without charges for two weeks. They had aired a series of web TV reports that detailed social problems such as inflation, sex discrimination and the lives of young people. The move was seen as “clearly an attempt to intimidate them and get them to censor themselves.”\(^96\)

In the wake of the Arab Spring, the Saudi government appears to be leaning toward more—rather than less—formal regulations on the media. For instance, in January 2012 the Shoura Council, a formal advisory body, approved amendments to the media law that prohibits “insulting and defamatory articles about individuals and government officials.”\(^97\) The council gave formal approval the changes made earlier in a royal decree. It’s unclear how the 2003 media law’s prohibitions against defamation were not considered robust enough. Regardless, the vote sends a message that the government is interested in a press with more restrictions rather than fewer.

\(^95\) RWB, “Arab Spring and Repression Continue from Rabat to Manama.”
\(^96\) RWB, Three Online Television Journalists Freed, para. 1.
United Arab Emirates (UAE)

The United Arab Emirates ranks at 112th in the press freedom rankings from Reporters Without Borders. The country sits in Freedom House’s “not free” category due to its restrictive press laws, pervasive self-censorship and robust Internet blocking policy. The media landscape for the local press stands in stark contrast to the relative freedoms enjoyed by international news organizations lured to the UAE by media zones set up in both Dubai and Abu Dhabi. Outlets such as CNN, Reuters, the Wall Street Journal and Al Arabiya all operate regional hubs out of the United Arab Emirates.

The United Arab Emirates formed as Great Britain ended its more than 100-year-old maritime protection treaty with the Gulf “Trucial States,” sheikdoms on the eastern side of the Arabian Peninsula. Originally, Bahrain and Qatar planned to be part of the United Arab Emirates but they opted to form independent nations when agreements couldn’t be reached. The Emirates of Abu Dhabi, Dubai, Sharjah, Fujairah, Umm al-Quwain, and Ajman formed the original union in 1971 with Ras al Khaimah joining the following year. Since its founding, the federation has been led by the emir of Abu Dhabi. Each Emirate retains a certain amount of autonomy and adherence to federal laws varies from Emirate to Emirate.

Unlike Saudi Arabia’s Basic Law, the UAE Constitution does guarantee freedom of expression. Article 30 states that “Freedom of opinion and expressing it verbally, in writing or by other means of expression shall be guaranteed within the limits of law.” 98 Both the penal code and the media law provide numerous “limits of law” to restrict journalism and forms of speech. Also, the Constitution specifically guarantees “personal liberty” and “freedom” for various activities including religious worship, movement and “establishing associations.” 99 The UAE constitution differs notably from the Saudi “Basic Law” which addresses societal cohesion far more than individual freedoms.

98 UAE Constitution
99 Ibid.
Penal code

The UAE penal code provides strict provisions regarding defamation that have palpable effects on media freedom. Article 372 of Federal Law No. 3 of 1987 states that “Whoever attributes to another person by any means of publicity, an incident which makes him liable to punishment or contempt, shall be punished by detention for a period not exceeding two years or by a fine not exceeding twenty thousand Dirhams ($5400).” The law specifically warns against libeling a “public official or one who is in charge of a public service.” And Article 372 considers any libelous publication in a newspaper or other printed media an “aggravating circumstance.” The article makes no distinction about the truth of the “incident” that leads to an injured reputation, and legal observers have generally agreed that truth is not necessarily a defense against a libel claim in the UAE.100 In most countries with robust press protections, a public figure cannot win a libel defamation if the report can be proven true. Only erroneous information that damages reputations can lead to successful libel lawsuits against media outlets.101

Article 378 protects privacy by criminalizing any publication of “secrets of private of family life” even if such information is true. Violators face up to one year in prison and/or a 10,000 dirham ($2,700) fine. Many countries with strong protections for press freedom also enforce laws to protect against unwarranted invasion of privacy.102 However, these laws are always weighed against the public benefits of a robust press.

The defamation laws have been used against press outlets in the UAE. Citing defamation laws, the Abu Dhabi Federal Court of Appeal closed the Arabic-language daily newspaper Emarat Al-Youmin in 2009 for 20 days.103 The court

100 Brass, “Defamation Laws Keep the Aggrieved Quiet.”
101 Buckley et al., Broadcasting, Voice, and Accountability, 108.
102 Buckley et al., Broadcasting, Voice, and Accountability.
103 Rasheed, “Emarat Al Youm Suspended as of Today.”
also fined its editor 20,000 dirhams ($5,445) for a 2006 article that alleged a racehorse owned by a member of the royal family had been given steroids. In another case, the owner and editor of an online site, Hetta, were fined 20,000 dirhams ($5,445) after they published an article about the Abu Dhabi Media Company. It alleged the company featured “administrative corruption” and “embezzlement” and criticized the Abu Dhabi television station’s programming.  

Officially, the defamation charges stemmed from online comments made by anonymous readers on the website. In addition to the penal code, the court also referred to articles in the media law and a cybercrime law (discussed below). Observers noted that government-owned telecom companies blocked access to the website before the legal procedures were completed. The case appeared to “have been orchestrated with the aim of intimidating and silencing independent journalists.”

In another case, the criminal defamation laws were used against British journalist accused of posting defamatory information against his former employer, the Khaleej Times, a newspaper in Sharjah. The case went on for 22 months despite scant evidence linking him to the defamatory post on an Internet forum. The journalist was eventually exonerated, but he was forced to remain in the UAE for nearly two years without work until the case finally ended.

104 UAE: Media Sustainability Index.
105 In Support of Freedom of Expression ANHRI Calls the UAE Judiciary to a Different Legal Approach to Handle the Case of Chief Editor of “Hetta” E-magazine.
106 RWB, Authorities Bend Rules to Block Access to Online Magazine - Reporters Without Borders, para. 1.
107 MLDI, British Journalist Wins Two Year Criminal Libel Ordeal in Dubai.
The defamation laws have also effectively squelched reporting on issues surrounding unethical business practices in the UAE. Buyers unhappy with their property developers’ lack of progress reported being worried of criminal defamation charges if they voiced their concerns publicly or to the press. In one case, a lawyer faced criminal charges for making a statement about a developer at a public forum. The case ended in acquittal but the lawyer had to surrender his passport and wait a year for adjudication. Observers point to the absence of truth as a defense to criminal libel charges as having a sizable impact on both free expression and press freedom.\footnote{Brass, “Defamation Laws Keep the Aggrieved Quiet.”}

Articles 176 and 8 of the UAE penal code make it a crime to publicly insult the UAE’s rulers.\footnote{UAE: End “travesty of Justice” for Five Convicted over President Insults | Amnesty International.} The law was used in 2011 to prosecute several online activists during a period of upheaval across the region (see more details below.)

Like the other GCC countries, the UAE has blasphemy laws that protect Islam and other religions from defamation. Article 312 of Federal Law No. 3 of the 1987 Penal Code stipulates jail and a fine for anyone found to abuse “any sacred or holy Islamic rites” or “blaspheming any of the divine recognized religions.”\footnote{Ibid.} The UAE cybercrime law, passed in 2009, also contains penalties for blaspheming while using an electronic device. Article 15 of the law prohibits “insulting any recognized religion.”\footnote{“UAE Cyber Crimes Law.”} The blasphemy laws aren’t enforced often but some have complained that they may be abused to settle personal disagreements rather than protect religions from blasphemy.\footnote{“Blasphemy: Three Filipinos in Jail in Sharjah, and One Turk Faces Death in Gedda.”}
Media Law

News outlets in the United Arab Emirates operate under the 1980 Press and Publications Act, a law deemed by some observers as one of the “most restrictive press laws in the Arab world.”¹¹³ The result is a press that regularly self-censors and operates within established safe boundaries. News outlets do offer some critical reporting of government agencies and other issues but steer away from criticism of the rulers and issues involving security.¹¹⁴

Some of the laws are overly broad and could easily lead to a violation for even the most innocuous reporting. For instance, Article 81 prohibits publication of news that “causes damage to the national economy.” Given this ambiguous mandate, reporting on negative business news could potentially lead to criminal charges. Article 84 offers perhaps the broadest declaration. The article prohibits reporters from “maligning a public official” or anyone “assigned to perform a public job.” A journalist exposing corruption in a government agency could easily violate the letter of this law—even if the report is accurate. Article 70 enforces a lese-majeste law: “No criticism shall be made against the Head of State or Rulers of the Emirates.” Such a broad restriction against criticism of the leader of the country can have far-reaching effects on reporting.

The penalties for violations of the 1980 Press and Publications Act are quite punitive. For the aforementioned and other offenses, articles 86 through 94 mandates: fines of up to 20,000 dirhams ($5,445), imprisonment for up to two years, and the publication’s closure for up to two months.

Some parts of the law are clearly no longer enforced. For instance, Article 76 prohibits “blemishing the president of an Arab, Islamic or any other friendly state.” Article 77 bans the defamation of “Arabs and their civilization.” Given these broad declarations, recent reporting on abuses in Syria, Libya and Egypt appear to be at odds with the media law. Local media diligently covered these events.

¹¹³ MLDI, British Journalist Wins Two Year Criminal Libel Ordeal in Dubai.
¹¹⁴ Rugh, Arab Mass Media.
Although officially still part of the media law, the jailing of journalists has been officially outlawed by an edict from Sheikh Maktoum bin Rashid, the ruler of Dubai, in 2007. The case involved two journalists charged with libel after naming a woman in a court case. Sheikh Maktoum issued instructions “that journalists in the country will not be jailed for doing their work.” No journalists have been imprisoned since then, although the law has never officially been updated. Sheikh Maktoum also issued instructions for the country’s media regulatory body, the National Media Council, to draft a new media law.

In 2009, the draft media law was released to cautious optimism. At first glance, the draft press law did look like a step in the right direction. The new media law would officially ban the jailing of journalists. However, critics soon noted that the law included some huge fines for violations. For instance, Article 32 of the draft press law could fine a journalist up to 5 million dirhams ($1.36 million) for ‘disparaging’ government officials, members of the royal family or Islam. Article 33 would fine journalists up to 500,000 dirhams ($136,000) for “harming the nation’s image and reporting ‘misleading’ information on the economy.” Critics noted that failure to pay debts—such as a 500,000 dirham fine—is a criminal offense in the UAE and often results in jail time. Therefore, the removal of jail for journalists appeared to be only a cosmetic change. Furthermore, critics complained about the overly broad restrictions on such as “disparaging” officials. A journalist reporting on malfeasance in a government agency could easily be accused of disparagement of its top official and face a sizable fine. Such a looming restriction could encourage self-censorship.

115 Samir, “UAE Upholds Press Freedom.”
116 El-Baltaji, “Arab Media & Society.”
The Federal National Council, a deliberative body of elected and appointed representatives, debated the draft press law in 2010. The editor of a local newspaper implored that the FNC stand up for the rights of journalists, stating plainly that the UAE suffered from a timid press. The Abu Dhabi editor of Gulf News wrote: “There isn’t enough protection provided to journalists and self-censorship is practiced by our newspapers to avoid angering official bodies and to please the government.” After much debate and criticism, the draft press law was never officially approved and is considered effectively dead.

In 2010, the National Media Council, the regulatory body that oversees media in the UAE, issued a “decision” that clarified some of the media regulation in the United Arab Emirates. The document was apparently given to the media outlets in the UAE but never publicized widely—it cannot be found on the government news agency website. The “decision” from the MNC chair reaffirmed the primacy of the 1980 press law including all the media outlets in the free zone areas. Article Two of the document reaffirmed several specific prohibitions including the warning to not hurt the nation’s economy with “misleading or tendentious rumors and news.” Article Two also directs media outlets to avoid instigating division and hatred as well as respecting the country’s political system. Article Three directs each media outlet to keep three months of records regarding publications and broadcasts ready for inspection from the National Media Council. Article four of the statement outlines the various punishments the NMC may mete upon violations of the statement—but is careful to point out that the penalties do not supersede other legal proscriptions such as the media law or penal code. Penalties include a warning, a written apology, a suspension of publication license or the complete cancellation of the license.

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118 Resolution of the Chairman Regarding the Media Content Criterion.
119 Ibid., para. 14.
120 In an email exchange with the author, an official with the National Media Council indicated that no further “decisions” had been issued since 2010.
In countries with developing press freedoms, efforts to ensure that news outlets only report the “truth” or avoid misleading reporting have largely been abandoned because of the difficulty in making such determinations. Journalists in such environments tend to self-censor out of fear that their report may—in hindsight—be judged to be misleading or untruthful. In many countries, the government typically allows for the collection of damages from journalists who publish false material that causes defamation. And even in these situations, journalists are given wide latitude to make mistakes when covering public figures. Such an approach allows journalists the freedom to do their duty to report the news objectively, and with such freedom, most reporters practice responsible journalism. As mentioned earlier, other prohibitions against damaging the economy or a nation’s image also tend to result in self-censorship.

**Current media landscape**

The United Arab Emirates features about a dozen newspapers printed in both Arabic and English. Most media outlets are government owned or have strong government ties. Almost all Arabic-language broadcast media targeting a local audience are state-owned and “provide only the official view on local issues.”

Local media outlets rely heavily on the government news agency, WAM, for guidance in covering sensitive topics. International news is widely available through uncensored satellite TV and the Internet.

The restrictions on media have driven more Emiratis to use the Internet and social media to disseminate information. The response from the government has been highly restrictive. In April 2011, the government arrested five activists who were among the 130 people who signed a petition calling for reforms in the country. All five had posted comments on an online discussion board, Al Hewer (“the dialogue”), that had been blocked by authorities earlier in the year. The government-owned telecom firms blocked access to the site by citing the government’s online “prohibited content guidelines”; however, the site’s content doesn’t seem to fit into any of the categories. The five

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123 “Prohibited Content Categories.”
were officially charged with “insulting the UAE’s top leadership, endangering national security and inciting people to protest.”\textsuperscript{124} After spending seven months in jail, the men were all convicted and received prison sentences of two to three years. The next day, the president of the country pardoned them as part of the country’s 40th anniversary celebrations.\textsuperscript{125} The local press offered muted coverage of the arrest and trial, although the English press tended to be far more engaged that its Arabic counterpart.\textsuperscript{126}

In 2012, authorities continued to make arrests over online and social media speech. Several activists have been arrested over their tweets on Twitter. The charge against one Emirati was using the social media platform to “incite sedition” and “abuse religion.”\textsuperscript{127} Another activist was arrested and accused of insulting the ruler of the emirate of Sharjah after he discussed the mistreatment of expatriate laborers on Twitter.\textsuperscript{128} And another person who complained about his experience with Dubai police was arrested for defamation of the police chief.\textsuperscript{129} After spending two months in jail, the chief dropped the charges. The state news agency publicized most of these cases, signaling a government’s desire to alert residents to the lines being drawn regarding speech on social media platforms.

Over the summer, the government arrested more Emiratis, mostly related to their speech on Twitter, accusing them obliquely of being Islamists bent on overthrowing the government. The number of arrests rose to 64 by the fall, prompting the European Parliament to issue a resolution condemning the arrests and the restrictions on freedom of expression in the UAE.\textsuperscript{130} The

\textsuperscript{124} Surk, “5 UAE Convicted Reform Activists Freed from Jail,” para. 2.
\textsuperscript{125} Surk, “5 UAE Convicted Reform Activists Freed from Jail.”
\textsuperscript{126} Duffy, “Newspapers Inconsistent over Activist Arrests.”
\textsuperscript{127} RWB, Authorities Crack down on Social Networks and Activist Bloggers, para. 3.
\textsuperscript{128} RWB, Authorities Crack down on Social Networks and Activist Bloggers.
\textsuperscript{129} Al Amir, “Dubai Police Chief Defamed on Twitter, Court Hears.”
\textsuperscript{130} Baltaji, “U.A.E. ‘Shocked’ at EU Parliament Resolution on Human Rights.”
government also took action against the author of this report, a professor at a UAE university who had spoken publicly about the need to update the country’s media laws. The government terminated the contracts of the author and his wife without explanation over the summer of 2012.\textsuperscript{131}

In 2012, the UAE has seen a few faint calls to try again at revising the media laws to address protections for journalists. An Emirati political science professor and the author of this report have written recent columns in Dubai’s Gulf News calling for less censorship of media.\textsuperscript{132} The state news agency reported on a Federal National Council panel that is writing a report discussing changes to the media law. The brief description of the report doesn’t mention issues surrounding protecting journalists but mostly focuses on issues of preserving national identity in a global media environment.\textsuperscript{133} No firm action has been taken and the National Media Council, the body that produced the last revision of the media law, has been notably silent on the issue.

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\textsuperscript{131} Martin, “How Secure Are U.S. Professors Abroad?”.
\textsuperscript{132} Abdulkhaleq, “Ups and Downs of UAE Rankings”; Duffy, “Challenges Facing Press Freedom.”
\textsuperscript{133} WAM, “FNC Panel Discusses Media Laws.”
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Qatar

Despite providing the headquarters for international journalism powerhouse Al Jazeera, Qatar’s domestic press environment remains notably restricted. Reporters Without Borders ranks Qatar at 104 out of 179 countries in press freedom and sits firmly in the “Not Free” category according to Freedom House’s index. The media professionals in Qatar, much like in the UAE, practice self-censorship and avoid crossing “red lines” in coverage at home. Qatar also hosts the Doha Centre for Media Freedom, the publisher of this report, which strongly advocates for press protection in the region and globally. A country hosting this center and Al Jazeera while simultaneously keeping its local media restricted makes for an interesting dichotomy.

For most of the 20th-century, Qatar existed under the protection of the British Empire. The country briefly joined the ‘Trucial States’ treaty in the late 1960s along with Bahrain and the Emirates that would form the UAE. In 1971, as Great Britain ended its formal treaties with all Gulf sheikdoms, Qatar declared its formal independence after considering joining the UAE federation. Members of the Al Thani family have ruled the peninsula since the mid-19th century.

The country operated without a permanent Constitution until 2003 when the entire population (above 18) voted on a referendum for a permanent governing document. Qatar’s Emir Sheikh Hamad bin Khalifa Al Thani took power in 1995 and insisted on drafting the new Constitution in 1999. He stressed “the importance of expanding the base of public participation in governance through the establishment of an elected Advisory Council.” The new Constitution was approved by 96 percent of

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134 Background Note: Qatar.
135 “The Drafting Committee of the Permanent Constitution,” para. 2.
the population. Qatar is the only GCC country with a Constitution approved by its citizens through a referendum. The Constitution sets up an Advisory Council, two-thirds of whom are directly elected, that makes laws, endorses public budgets and hold ministers accountable. Final legislative authority resides solely with the Emir. The Constitution hasn’t gone into full effect yet because the elections mandated in the charter have yet to take place.

According to the Qatar News Agency, the “Constitution creates a free atmosphere whereby all types of expression are allowed and enhances the freedom of press and publication.” Article 47 guarantees “freedom of opinion” and Article 48 states that “freedom of press, printing and publication shall be guaranteed in accordance with law.” But, other parts of the Constitution make other promises that can often conflict with free expression. For instance, Article 19 states that the government will ensure “security” and “stability.” And Article 20 declares that the “State shall strive to strengthen the spirit of national unity, cooperation, and fraternity among all citizens.” Articles 19 and 20 could effectively permit the government to act against the free expression of individuals as a method to ensure stability and harmony. Officials, for instance, could argue that a criticism of the government is promoting discord, and therefore cannot be allowed. The balance between creating a harmonious society and allowing for free an open expression permeates all debates on press freedom in the GCC. Other nations on the Arabian Peninsula feature Constitutions that also guarantee freedom of expression (e.g., Kuwait, Bahrain and the UAE), but the real test for free expression comes from laws and their enforcement.

136 “The Drafting Committee of the Permanent Constitution.”
137 Ibid.
138 “The Constitution.”
Penal Code

Like other GCC countries, Qatar’s penal code contains language that can affect journalists but it doesn’t address the profession directly. Chapter Four of the penal code addresses “calumny (slander), defamation and secret disclosure.” These crimes are all punishable by imprisonment and fines.

Defamation is a criminal offense as in other GCC countries. For instance, Article 326 promises up to two years imprisonment or 20,000 Riyals ($5,400) for “defaming someone in public through accusing them of doing a mishap necessitating a legal punishment or inflicting their dignity or honor or exposing them to people’s disdain and malice.” Article 327 raises the penalty to three years in prison for defaming a “public employee due to the job or the occupation, or if the calumny inflicts the family’s reputation.”

However, unlike defamation laws in some other GCC countries such as Saudi Arabia and the United Arab Emirates, Qatar’s penal code makes clear that truth is a defense for libel—at least in the case of a public official. Article 328 states that there is no crime if the “culprit proves the occurrence of the incidence and reclines it against the public employee and the incidence is related to the job or the public service.” Many nations without robust press freedoms make a distinction between libeling public and private figures; however, in most countries the truth of the report serves as an ultimate defense against a defamation charge. In 2008, a Jordanian reporter with the Arabic daily Al-Sharq was sentenced in absentia to a three-year jail term in a defamation case. The journalist reported that a local hospital made a mistake when it sent a person to the morgue who later woke up. It’s unclear whether the newspaper was allowed to present evidence regarding the truth of the report during the trial. Truth as a defense for libel is a hallmark of countries with strong protections for press freedom.

139 Qatar Penal Code.
140 RWB, Journalist Sentenced to Three Years in Prison in Absentia.
Invasion of privacy is also a criminal offense. Article 331 of the penal code directs up to a one-year prison sentence and fine of 5,000 riyals ($1,350) for “spreading news, photos or comments related to secrets of private life, or families, or individuals even if they were true.” Many nations with developed press freedoms feature legislation or legal precedents that protects residents from unwarranted media coverage.\textsuperscript{141}

As with most Islamic nations, Article 256 of the penal code criminalizes blasphemy. The law provides up to seven years in prison for “insulting the Supreme Being in letter and spirit, in writing, drawing, gesturing or in any other way.” The article also criminalizes “offending, misinterpreting or violating the Holy Koran” and bans “cursing any of the divine religions.” While laws against blasphemy are common in many countries, they have been abused in some countries to settle personal disagreements.\textsuperscript{142} A Qatari man was sentenced to five years in prison for blasphemy in 2012, although details about the case are unclear.\textsuperscript{143}

**Media Law**

Qatar’s media law was enacted in 1979 and hasn’t been formally updated since. However, the current Emir of Qatar made several decrees in the mid-1990s (such as abolishing the Ministry of Information) that loosened the media environment. The standing law contains a myriad of prohibitions for the press including bans on harming the nation’s economy, criticizing the emir, and defaming people or businesses. The law also allows for prior restraint—authorizing a government official the power to stop a news outlet from publishing a specific news item.

\textsuperscript{141} Buckley et al., Broadcasting, Voice, and Accountability.
\textsuperscript{142} “Blasphemy: Three Filipinos in Jail in Sharjah, and One Turk Faces Death in Gedda.”
\textsuperscript{143} Qatar: Annual Report 2012.
Articles 24 and 25 give authority to the government’s Cabinet and Minister of Information to shut down a newspaper or cancel its license. Such a move may be taken if the paper is proved to have contradicted the national interest or serving the interests of a foreign country. Such a decision may be appealed only to the government cabinet, leaving no room for judicial review of decisions.

Article 46 of the media law makes it a crime to criticize the Emir of Qatar or to attribute any statement to him without the express permission of his office. Violators face up to six months in prison or a fine of 3,000 Riyals ($800). Such lese-majesty laws are generally seen as hindering freedom of the press and expression.

Article 47 includes a list of generally accepted prohibitions such as advocating violence or the overthrow of the government, but it includes several unreasonably broad restrictions. For instance, journalists may not publish material that causes “any damage to the supreme interests of the country.” The article also makes any statement that may cause “confusion with the economic situation in the country.” Given these instructions, a business journalist reporting on disappointing economic numbers could potentially break the law. Countries with strong protections for press freedom avoid broad prohibitions on editorial content. Article 47 bans anything that would imply “offense to the public morals.” Again, this expansive edict could easily make innocuous reporting illegal. For instance, a journalist covering the problem of sex trafficking could potentially upset public morality.

Although the penal code addresses defamation, Article 47 also covers the issue of libel as it relates to the news media. The law prohibits undermining “the reputation of a person” or his “commercial name.” It also bans defamation for government officials but makes an exception to allow for journalistic error. The law isn’t broken if “the writer had good faith and that
he had really believed in the validity of the facts that he related to the civil servant.” The law notably doesn’t make an exception for all public figures, such as members of the ruling family or ministers in government. However, allowing journalists the freedom to print incorrect information—as long as such a mistake happened after due diligence—shows a surprising amount of latitude given the rest of the media law’s restrictions. In nations with strong press freedoms, truth is almost always a defense against libel. When information is wrong in a libel case, the courts will often be more lenient with journalist covering a public figure rather than a private one.\textsuperscript{144}

In the most restrictive portion of the media law, the final section of Article 47 allows for prior restraint. It reads that a news outlet is prohibited from publishing “any news or article or document that the Minister of Information may have notified the editor or the proprietor of the press publication not to be published.” The ability to restrain speech before it has been uttered is recognized as the strongest tool a government can weld to restrict freedom of expression. In countries with robust press freedoms, prior restraint is allowed only in extreme circumstances such as protecting national security from a specific, imminent threat. Even in these cases, a government agency attempting to exercise prior restraint must secure approval from an independent judiciary. Prior restraint laws are generally viewed with a great deal of suspicion because of their ability to be abused and their extreme effect on creating a free and open communication environment. Qatar’s media law allows for prior restraint in a troublingly matter of fact manner. The law grants the ability to censor prior to publication to one person in the government and offers no recourse for appeal. The Emir officially outlawed prior restraint in a 1995 decree; however, the official media law has never been updated—a disparity that could lead to confusion. Also, the self-censorship widely practiced by Qatari news editors largely creates a system of de facto prior restraint.

\textsuperscript{144} Buckley et al., Broadcasting, Voice, and Accountability.
Current media landscape

Qatar features seven main newspapers, four Arabic papers and three sister papers in English. All are privately owned but strongly aligned with the government. The government owns one local television station with several channels, Qatar TV. The country is also served by several Al Jazeera channels as well as a new private television station, Al Rayyan, launched in 2012. Several local radio stations broadcast in Qatar including Qatar Broadcasting Service, a government-owned channel that broadcasts in English, French, Arabic and Urdu.

The presence of the Al Jazeera news network contrasts sharply with the local media’s restrictions. Emir Sheikh Hamad bin Khalifa al-Thani launched the network shortly after he came to power in 1995. He also declared an end to media censorship and closed the Ministry of Information. The satellite channel became quite popular in the Arab world as the only station that would broach sensitive topics. The channel has angered Arab governments who occasionally withdraw ambassadors or shut down bureaus in reaction to its critical reporting. The Emir has consistently refused to censor coverage. But, the government’s commitment to a free press has yet to lead to a change in the media law to empower journalism at home.

Indeed, the current media law—along with other factors—has helped create a “national press in the strong grip of self-censorship.” In addition to the law, the large expatriate workforce at the nation’s news outlets leaves journalists wary of overstepping a “red line” and being forced out of the country. Any coverage of financial issues risks damaging the image of Qatar, which is actively seeking foreign investment. Critics have also noted that the journalists in Qatar lack a strong ethical code and professional training.

145 “Qatar Profile: Media.”
146 Baux, Al Rayyan TV Launches in the Heart of Doha.
147 Chatriwala and Khatri, New DCMF Director Vows to Take Measured Approach.
All publications are subject to licensing, another practice avoided in most countries with developed media freedoms. Observers have noted that licenses for newspapers are difficult to obtain.\textsuperscript{149} The result is media outlets owned either by members of the ruling family or ties to them. Such ownership rarely encourages critical domestic coverage.

The state-owned Qatar Radio and Television Corporation and customs officers are authorized to censor both international and domestic media (publications and broadcast) “for religious, political, and sexual content prior to distribution.”\textsuperscript{150} Radio and television stations are not independent from the government.\textsuperscript{151}

The government-sponsored Doha Centre for Media Freedom has been the center of a debate over freedom of expression in Qatar as well. As part of the World Press Freedom Day celebrations in Doha on May 2009, the DCMF invited the editor from the Danish newspaper Jyllands-Posten, who published cartoons of the Prophet Mohammad.\textsuperscript{152} The move generated condemnation in Qatar and led the original director, Robert Ménard, and several staff members to quit in protest the next month.\textsuperscript{153} After remaining dormant for nearly two years, the organization named a new director and continued operations. The director, Jan Keulen, said the government promised the center “full freedom and support” but that he would be taking a more measured approach than his predecessor.\textsuperscript{154}

\begin{thebibliography}{99}
\bibitem{149} Qatar: Media Sustainability Index 2009.
\bibitem{150} Ibid., para. 2.
\bibitem{151} Qatar: Media Sustainability Index 2009.
\bibitem{152} Ibid.
\bibitem{153} Ibid.
\bibitem{154} Chatriwala and Khatri, New DCMF Director Vows to Take Measured Approach.
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In the aftermath of the anger over the guest invited to Doha, the country’s Advisory Council (a legislative body with members appointed by the emir) passed a new media law creating stiff fines and a one-year jail term for journalists who slander the ruler, religion or the Qatari Constitution. The emir, who retains the final authority to enact new legislation, never approved the new media law.\footnote{155 Qatar: Media Sustainability Index 2009.}

In March 2011 during the upheaval of the Arab Spring, Qatar authorities apprehended a blogger. According to Amnesty International\footnote{156 Qatar: Annual Report 2012.}, the authorities held Sultan al-Khalafi for about a month before releasing him without charge. Qatar-based Al Jazeera did cover the arrest along with other international media outlets.\footnote{157 “Amnesty: Qatari Blogger Detained.”} Arresting journalists and bloggers for their speech puts a damper on freedom of expression.

In June 2012, the government released a new version of the draft media law covering print, broadcast and electronic media. The 1979 act only covered newspapers, although the issue is moot since radio and television stations are government owned. Some observers felt that the process of drafting the new version left out important stakeholders such as local media outlets and other experts.

Unfortunately, the new law contains a raft of prohibitions that will still leave the media outlets restricted. The new law allows defamation to remain a criminal offense, although a court must now issue approval before a police officer may arrest a journalist. While imprisonment has been removed as a penalty for journalists, fines have been raised to exorbitant amounts. The penalty for not paying a debt in Qatar is jail, so the prospect of prison would still loom for a practicing journalist.
Also, the draft law forbids journalists from reporting critically on “friendly nations.” Such a ban is troublesome in its broadness as journalists could never be sure which nations fit into this category. Another provision prohibits criticism of the “royal family,” a broad description that could include thousands of relatives of the king. While preserving decorum for the king of the country is understandable, such a broad prohibition could force journalists to unreasonable self-censorship. An aide to the Emir clarified that only immediate family members of the Emir and Heir Apparent were to be considered part of the prohibition.158 In countries with strong protections for media freedom, no public figure receives special protection from criticism.

The draft media law also decrees that journalists may not damage “higher interests” of the country.159 Such a provision is unreasonably broad and may lead to self-censorship. In countries with strong press freedoms, no type of reporting is legislatively decreed as off-limits.160

Government officials promise the new press law will be enacted soon, but it is still pending final approval.161 Journalists and other critics hope the overly broad prohibitions will be removed before its final approval.162

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158 “Amnesty: Qatari Blogger Detained.”
159 “Separate Legal Authority for Media Sought.”
160 Buckley et al., Broadcasting, Voice, and Accountability.
161 Hawkes, “New Media Law for Qatar After Ramadan.”
162 “Separate Legal Authority for Media Sought.”
Oman

The Sultanate of Oman ranks near the bottom of press freedom rankings due to its restrictive media environment. Reporters Without Borders places the country at 117 out 179 countries and Freedom House places its media landscape squarely in the “Not Free” category.\(^{163}\) Journalists regularly practice self-censorship for fear that critical reports may lead to trouble with authorities. Recent moves in the wake of the Arab Spring show the government appears ready to embrace greater censorship.

While trading civilizations have waxed and waned in Oman since pre-Islamic history, the Sultanate of Oman officially formed in the mid-1600s when it pushed out Portuguese traders. A longtime ally of Great Britain, Oman entered into a formal treaty with the UK in 1908. In 1951, a treaty of “friendship, commerce and navigation” recognized the Sultanate of Oman as a fully independent state. With the help of British “advisors,” Sultan Qaboos bin Sa’id assumed power in 1970 in a bloodless coup directed against his father.\(^{164}\) The new Sultan would eliminate much of the harsh policies of repression his father enacted and he pushed the country toward modernization. Qaboos worked to establish health care and education facilities, develop natural resources and build a modern infrastructure. The sultan has led the country for 42 years and is the longest-serving ruler in the GCC and the Arab world.\(^{165}\)

\(^{163}\) FH, Oman | Freedom House; Reporters Without Borders, “Syria, Bahrain and Yemen Get Worst Ever Rankings.”
\(^{164}\) Background Note: Oman.
\(^{165}\) Ibid.,para. 13.
Until 1996, Oman operated without a written constitution. That year the Sultan issued a royal decree creating the “Basic Statute of the State,” equivalent to a formal Constitution. Known as the “White Book,” the decree set up a framework for the system of government and vowed in its preamble “to guarantee the freedom, dignity and rights of the individual.” More specifically, Article 29 states: “Freedom of opinion and expression, whether spoken, written or in other forms, is guaranteed within the limits of the Law.” And Article 31 declares that “freedom of the press, printing and publication is guaranteed in accordance with the conditions and circumstances defined by the Law.” However, the same article provides limits against publishing material that “leads to public discord, violates the security of the State or abuses a person’s dignity and his rights.” The broadness of these limits—enshrined in the Constitution—allow the government to severely restrict the press.

**Penal code**

Oman’s penal code, passed in 1974 as Royal Decree 7/74, contains several provisions that can limit freedom of the press and expression. The law bans reporting that could hurt the economy, defamation of a public figure and insulting or criticizing the sultan.

Article 135 bans the dissemination of information with a “view to cause the devaluation of the national currency or to shake the trust in the state’s financial status.” Violators face up to three years in prison and to a 500-riyal ($1,300) fine. The article takes aim only at “fake facts or untrue allegations.” Attempts in other countries to mandate truth in news reports has rarely been successful and most avoid these types of nebulous prohibitions.

166 Oman: Basic Law.
167 Omani Penal Code.
Article 173 concerns defamation of a public figure, banning “publicly or by publication, and by speech or gestures” anything that affronts a public official performing his duty. Violators may be sentenced to up to six months in prison. The article does provide for truth as a defense for libel. The article reads: “If the affront invokes a fact calling for the official’s punishment or tarnishing his reputation, the suspect shall be declared innocent if the fact is related to the official’s function and proves to be true.” Truth as a defense against a defamation charge is a hallmark of countries with strong press protections. Some nations go even further to ensure their journalists aren’t encumbered in reporting on public officials as opposed to private figures. In the United States, for instance, public officials generally can’t be libeled unless the journalists shows “reckless disregard for the truth.”

There are no provisions in the Oman law for defamation of a private figure.

Article 126 also prohibits libeling the “Sultan’s rights or authority” either publicly or by publication. The provision also prohibits any criticism of the Sultan. Violators face up to three years in prison and a fine of up to 500 riyals ($1,300). In nations with strong press freedoms, journalists are not banned from criticizing any public figure.

Like the other GCC countries, Oman carries a blasphemy law as part of its penal code. Amended Royal Decree 72/2001 states that any provocation of religious strife is considered a criminal offence. The article prohibits people from promoting or inciting “religious or sectarian conflicts or theorems of hatred or strife among the populations.” Violators face up to 10 years in prison. Article 209 prohibits affronting religious faiths with “a view to contempt them.”

There have been no recent reports of enforcement of these laws in Oman, perhaps a sign of the country’s generally tolerant religious atmosphere.

168 Buckley et al., Broadcasting, Voice, and Accountability, 114.
169 Muntarbhorn, Study on the Prohibition of Incitement to National, Racial or Religious Hatred: Lessons from the Asia Pacific Region, 19.
Media laws

Journalists in Oman operate under the auspices of the 1984 Press and Publications Law. The law features a myriad of restrictions on reporting including defamation, privacy and damage to national interests.

Article 25 of the law prohibits the defamation of the Sultan or members of the royal family. The provision also bans any offense against the ruling system or anything to “cause harm to the public order.” Journalists may also not promote “any matters in contrary with the principles of the true Islamic religion.” Broad directives such as avoiding harm to “public order” are troublesome to apply and tend to cause journalists to self-censor lest they violate the letter of the law.

Article 27 also contains language that may cause journalists to censor themselves. The law prohibits the publications of any information that could prejudice the national currency or “the economic situation of the country.” The broad wording could potentially make reporting on poor economic news illegal. Nations with developed press freedoms avoid making broad pronouncements about the type of news they cannot publish.

In yet another broad prohibition, Article 28 prohibits publishing “any item that could prejudice the behaviors and general ethics and divine religions.” The wording of this law goes far beyond typical blasphemy (e.g., don’t insult religions) into a nebulous area regarding prejudicing behaviors. A journalist working under such a law may avoid certain important topics—such as the abuse of women in sex trafficking operations—for fear of violating Article 28.

171 Ibid.
172 Buckley et al., Broadcasting, Voice, and Accountability.
Article 30 prohibits invasion of privacy, prohibiting journalists from publishing “news, photos or comments related to the private or familial life confidences.” In many countries with developed press freedoms, laws or court precedents set limits for journalists regarding invasion of privacy. In these cases, the benefit to the public interest is weighed against the potential harm to personal privacy. Public figures tend to receive less protection than private figures. The European Court of Human Rights recently sided with journalists in a case involving the arrest of a sports star on drug charges. He had filed an invasion of privacy claim to have the reports stopped.\(^\text{173}\)

Articles 60 through 64 specify the requirements to obtain a license to practice journalism in Oman. The requirements involve age, education, reputation, and experience. Journalists working for foreign news services must also receive a license. In countries with robust media freedoms, journalists aren’t required to procure a license in order to practice their profession.\(^\text{174}\) Such an approach protects journalists from retaliation from the government officials they may upset with their coverage.

The Telecommunications Act of 2002 adds many restrictions to online news sites, including one rather broad entry. Article 61 mandates up to one year in prison and a fine of up to 1,000 Riyals ($2600) for “any person who sends, by means of telecommunications system, a message that violates public order or public morals.” The wording gives authorities wide latitude in deciding who has upset “public order” or has offended “public morals.” The second half of the act takes aim at false information and offense, prohibiting sending anything that “is not true and he is aware of, or it aims to disturb others.”


\(^{174}\) Buckley et al., Broadcasting, Voice, and Accountability.
Most countries with robust freedom of expression avoid mandating truthfulness of information—except in cases involving libel—given the trouble in trying to determine “truth.” Also, while protecting people from being disturbed may be a noble goal, deciding exactly what constitutes that communication could prove difficult. For instance, someone may be “disturbed” about hearing about public corruption or about a traffic accident. Given these examples, Article 61 appears to be too broad to provide any useful guidance regarding boundaries of acceptable speech.

Observers saw the passage of the Telecom Act as a way to reign in personal blogs and online news sites. Many Omani had begun turning to those sites because of the heavy self-censorship in the other media outlets.

**Current media landscape**

The government owns two major daily newspapers as well as four radio stations and two television stations. As of 2011, eight privately run newspapers are in operation. The private newspapers sustain themselves on advertising and no longer accept state subsidies. The one local satellite network steers away from politically controversial content, but Omanis have “relatively unobstructed access to foreign broadcasts via satellite subscriptions.”

Given the restrictions in the penal code, press law, and telecom act, both journalists and bloggers find their speech severely restricted. One Omani communication professional explained that journalists in Oman are also “restricted by many unwritten rules and instructions.” He said that editors tend to avoid publishing any investigative news, leading to clashes with reporters. Journalists engage in self-censorship, withhold information, and live in constant fear that a mistake will lead to a charge of criminal libel. In addition, some “reporters have been jailed in the past for coverage of colleagues’ arrests.”

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175 Ibid., para. 3.
176 Ibid.
Some newspapers do air limited critical coverage of certain issues. However, much goes unreported. Journalists blame the situation on a lack of guidance on exactly where the lines are drawn. One reporter said that “there are no clear or specific rules that protect or encourage freedom of expression or open access to information.”

The sole government-owned Internet Service Provider, Omantel, allows the government to easily block local sites. The government used the Telecom Law to target the owner of a popular web forum in 2009 after an anonymous post alluded to corruption in Omantel and for publishing a cabinet directive that aimed to end live radio call-in shows.

In the wake of the Arab spring, the government has made several moves to limit freedom of the press and expression. The government arrested two journalists in May 2012 of the Muscat Daily newspaper Al Zaman. The reporter, Yousef Al-Haj, had written an article detailing corruption in the Justice Ministry. He and his editors were charged with insulting the justice minister and his under-secretary, trying to create divisions within Omani society, and working as a journalist without a permit. They lost the case and its appeal and were sentenced to five months in jail. The Minister of Information banned al-Haj from writing articles, a power granted by the press law. The newspaper was also shut down for one month. Observers said the government was sending a warning to journalists to not be too critical in their coverage.

Sultan Qaboos Bin Saeed also issued a royal decree in 2011 that tightened the country’s press law. The decree changed the wording of Article 26 of the press and publications act to prohibit “anything that may prejudice the safety of the state.” The ban applies to all media including visual, audio, print and the Internet. One observer was stunned at the revision’s breadth,

177 Oman Media Sustainability Index, 163.
178 FH, Oman | Freedom House.
179 RWB, Five-month Jail Terms for Two Journalists Confirmed on Appeal.
180 Omani Newspaper Under Threat of Being Shut Down.
181 Omani Newspaper Under Threat of Being Shut Down.
noting that the law creates “a broad crime whose very definition is subject to the opinion of someone in the Government.”

In addition to these moves against journalists, the government has increasingly been at odds with speech on social media. Public prosecution officials have warned activists in the country to not use social media sites such as Twitter to spread “libels and rumors” that prejudice national security. The government warned that negative statements were spreading discontent and that instigators had already been arrested. In a statement, the prosecutors warned of “the importance of following the legal methods and means for the expression of opinion in line with the legal concept for the freedom of expression.” At least 10 people including a blogger and several writers were arrested over the previous two weeks. The public statement from authorities appears to be designed to stifle complaints about the government in the social media. In countries with strong protections for freedom of expression, speech that addresses grievances to the government receives special protection. Also, prosecuting “rumors” can prove difficult because truth can be subjective. Many societies allow for a robust marketplace of ideas where many statements can be heard, regardless of their veracity. Civil libel cases are common, but in many nations they can only be won if the statement that injured a reputation and was untrue. And in cases against public figures, some countries such as the United States, even allow erroneous information to go unpunished as long as the journalists didn’t act with “reckless disregard of the truth.”

The recent arrests of journalists, closure of a newspaper, tightening of the media law, and social media arrests point to an environment heading toward more censorship, not less. Much like Saudi Arabia, Oman doesn’t appear to be using the Arab Spring as an opportunity to loosen its restrictions on freedom of expression.

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182 “Just in Time’ Change in Oman’s Publication Law? Another Botched Job.”
183 Sambridge, “Oman Issues Warning over Social Media ‘rumors’.”
Conclusion and recommendations

The result of this review finds that all of the GCC countries share several traits regarding their approach to regulating journalists and communication. This approach can be attributed to the unique cultural aspects of Gulf society but should not be linked to the common religion, Islam. Many countries with Muslim populations allow for freedom of expression and the press while retaining their Islamic identity. For instance, the African nation of Mali (with its 90 percent Islamic population) touts a “free” ranking from Freedom House and sits above the United States on the Reporters Without Borders index. Islam and freedom of the press are not mutually exclusive. Indeed, a better explanation for the Gulf countries approach to censorship may have more to do with their long-time reliance on Great Britain for advice. The United Kingdom often took a restrictive view of freedom of the press in its colonial affairs.¹⁸⁴

All of the GCC countries except Saudi Arabia guarantee freedom of expression in some way. However, they all contain a similar clause: “…within the limits of the law.” While at first glance this wording seems quite restrictive, the approach is no different than countries with established press freedoms. In all nations, laws and court rulings have created legitimate limits on the power of the press. In the United States, for instance, the Constitution declares that “Congress shall make no law abridging freedom of speech or of the press.” Despite this absolutism, court rulings have actually demarcated that certain boundaries—such as libel awards for parties injured because of untrue statements—are not an undue infringement of the press. The GCC Constitutions that allow for “limits of the law” simply acknowledge that some restrictions must exist. But, laws must be carefully crafted to ensure that valid boundaries do not go too far and emasculate the press. The current laws limiting the press in the GCC are far too restrictive to allow journalists to conduct their work in a beneficial manner.

One trait shared by every country in this analysis is the legal approach toward defamation charges—criminal rather than civil. All GCC countries treat libel and slander as a criminal offense, meaning an accusation can lead to an arrest. Only the UAE has outlawed the practice of sentencing journalists to jail time for offenses, but accusations are still considered criminal. In nations with developed press freedoms, libel accusations—particularly against public figures—are generally treated as civil offenses. Plaintiffs in a defamation case can win a financial award but can’t be sent to jail. This system works well because civil cases can end in huge financial awards for the plaintiff, creating the proper financial incentive for news outlets to make sure their journalists conduct their work with caution. However, in these countries the act of registering a defamation complaint doesn’t trigger a visit from a police officer, just a notice to come to court. The civil defamation approach creates a far less restrictive environment for journalists by removing the worry of a trip to jail from their daily routine.

Another important facet of defamation law is to ensure that truth is a defense for libel. In the legislation of some GCC countries, all that’s needed to win a defamation case is show that the journalist injured someone’s reputation. Under this system, a journalists who exposes the corrupt actions of a public official could conceivably go to jail for simply pointing this out. To ensure the most robust journalism possible, civil courts should handle defamation laws and truth should be an absolute defense. But privacy laws should continue to protect private figures from having information about them exposed to the public, even if true. One should note that defamation laws are often part of the penal code, not the media laws. To create a more robust press environment, any media law revision should also include a revision to or specifically supersede the penal code.

Another feature shared by every GCC country is the licensing of journalists. At first glance, licensing journalists (requiring approval from the government before they can work) may seem like a good idea. After all, the government licenses beauticians, doctors and plumbers to ensure the public are safe and well-served by these professions. But, journalism is a special case because covering the government that provides the licenses is part of the
Government ministers with the ability to grant and revoke licenses may exercise undue influence on the journalists who are striving to maintain independence. Countries with strong protections for press freedom simply don’t license journalists. In many countries, professional organizations have evolved that stress the importance of strong ethical values such as truth-telling, accuracy, and fairness.\textsuperscript{185} The groups effectively provide guidance regarding proper behavior that governments seek through licensing.

Licensing media outlets is another common characteristic among GCC countries. The same arguments objecting to the licensing of journalists can be made regarding the licensing of media outlets. Government officials with the power to shut down a news outlet by revoking a license can exercise undue influence on journalists. Newspapers and Internet news outlets tend to be unlicensed in the countries with strong press protections. (Local governments may require the same business license as required for any other business, but nothing more.) Radio and television outlets do receive licenses in most nations because of the scarcity of the public airwave spectrums. However, most governments take pains to make the business of renewing or reviewing licenses of radio and television “content neutral.” Publicly owned television news channels in many nations are set up so that leaders cannot interfere in their editorial decisions.

All GCC countries also carry a long list of prohibitions in their media laws. Telling journalists that they can’t write stories that may “damage the economy” or “upset the public order” can lead to an inordinate amount of self-censorship for any practicing journalist hoping to avoid trouble. In countries with strong press freedoms, journalists are permitted to cover

\textsuperscript{185} Examples include: The Society of Professional Journalists in the United States, the Confederation of ASEAN journalists in Asia, and the International Federation of Journalists, a global organization based in Europe.
any subject without restrictions. The rare limits that are enforced usually
deal with imminent threats to national security, invasion of privacy, or cases
involving defamation. Any revision to media laws must simply eliminate all
the overly broad language that may cause journalists to limit their reporting
for the public interest. Language banning reporting that could upset “public
order” could be removed in favor of far more specific wording such as
“inciting imminent lawless action.”

All the media laws of the GCC countries also contain lese-majeste laws
that prohibit criticism of the country’s rulers. While demanding respect
for leaders is understandable, prohibiting criticism of rulers represents too
wide a prohibition for journalists.

Too many issues of public concern may be linked directly to decisions made
by a nation’s rulers. To dictate that criticisms can’t be made against rulers
could easily lead journalists to avoid covering sensitive topics. Given the
Arabic cultural importance placed on respect, laws that prohibit “insults”
against rulers could be justifiable as long as they’re not abused and used to
suppress legitimate criticism. Of course, simply removing provisions related
to insults would eliminate any chance of their abuse.

The media laws of Bahrain, Kuwait, Saudi Arabia, and Oman all contain
clauses that in some way mandate journalists ensure their reports are “true.”
While requiring truth in journalism is a noble goal, countries with strong
media freedoms avoid legislating truth in reporting. Truth as a mandate is
compromised by the journalistic technique of attribution. Good journalists
attribute facts to sources, but mandating “truth” forces journalists to vouch
for the veracity of every one of their sources. In practice, the requirement
for journalists to always report “the truth” is simply outside the realm of
possibility. Government prosecutions over false reports tend to have simply
one effect—self-censorship.

Judicial review is also an important concept missing from many GCC
countries, although Kuwait’s media law notably includes it. In countries
with developed press freedoms, government agencies are generally
prohibited from arbitrarily censoring or restraining media outlets. The
agencies must provide the reason for such a move and defend the action
before an independent judge. Such requirements prevent government authorities from simply trying to stifle critical or embarrassing coverage of the government. Of course, the success of such a system depends on the independence of the judiciary—a generally rare entity in the Gulf.

Finally, all the GCC laws avoid any spirit of the societal value of journalism. A clear statement included in the media laws could help rectify this imbalance. Such a statement has already been written in the Gulf. The Abu Dhabi Media Zone recently issued content guidelines for its free zone in the United Arab Emirates that has attracted notable foreign news outlets. These content guidelines take account of the unique cultural setting in the region. They promise to balance “freedom of expression with a duty to take account of the social and cultural expectations of society.” The guidelines note that religion, the ruling families, and privacy should all receive utmost respect from journalists.

But, the guidelines also make clear that editorial justifications should allow the media to disseminate news even if it “has the potential to cause harm.” These editorial justifications, according to the MZA code, include “the exposure of crime, corruption, antisocial behavior, injustice or serious impropriety, protecting public health or safety, exposing lies, hypocrisy or materially misleading claims made by individuals or organizations, disclosing incompetence, and negligence or dereliction of duty that affects the public.” This list is quite helpful—rather than telling journalists what they can’t do, these guidelines provide a blueprint for what they should be doing. This guideline clearly states the societal benefits of good journalism.

A journalist working in a country with this statement embedded in its media law would feel empowered to practice good journalism. If police, prosecutors or an offended party took issue with a news report, a judge would have to weigh the journalism against the stated legal protections regarding public exposure. Such strong protections are missing from today’s GCC media laws.

186 MZA Content Code, 14.
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