

## **Freedom of Opinion and Expression in the Jordanian Legislation**

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### **Abstract**

The United Nations Charter reaffirms that freedom of opinion and expression is essential to global peace and security, a principle reflected in the Jordanian constitution. The Jordanian constitution also provides for the same rights. Nonetheless, the study provides recommendations to legislators for controlling laws to ensure public order, uphold moral standards, and protect the rights of others. Inconsistent legislation restricts freedoms and jeopardizes the entire purpose of human rights, particularly in key areas, namely the right to public assembly, the right to the media, and, most recently, the right to freedom of expression online. By way of conclusion, the study underscores the importance of the Jordanian Constitution of 1952, as it ensures optimal protection of the liberties of expression, which is still in use with its numerous amendments. The study highlights the lack of consistent legislative policy among lay legislators when it comes to laws concerning freedom of expression and opinion. A proposed solution is to implement a national legislation that coincides with and complements the Jordanian Constitution. Moreover, the proposed legislation must adhere to international laws ratified by Jordan. Such as the Covenant on Civil and Political Rights, which may require reconciliatory measures to align with its clauses.

**Keywords:** Freedom of Opinion and Expression, Jordanian Constitution, National Legislation, Legislative Constraints.

### **Introduction**

Political rights are exercised through the vital source of freedom of opinion and expression - an inherent individual right promoting active involvement in society. This civil, social, and cultural right is a fundamental declaration of one's thoughts on public matters. It also serves as a means of vocalizing opposition against a government's opinions and policies and as a direct expression in the

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formation of political parties. Throughout history, civilizations that have restricted freedom of opinion and expression have floundered, whereas those that have upheld this fundamental right have thrived (Stivers, 2019).

Regulation is necessary to avoid harm caused by unrestricted expression and opinion in society. It is therefore crucial to manage this freedom effectively to ensure that it does not impinge on others. The onus for regulation falls on lawmakers, be it through global covenants and standards governing human rights or domestic laws that mirror public sentiment, at either national or international level. Positive legislative developments supporting freedom of opinion and expression, including rights related to freedom of the press and public assembly, were witnessed in Jordan until approximately 2012. However, new legislation, particularly after the Arab Spring and the issuance of countermeasures for COVID-19, has increased restrictions on these freedoms. Several laws, such as those on preventing crimes and terrorism, and changes to the Press and Publications Law that allow for the imprisonment of journalists, were introduced, or modified for this purpose. The Electronic Crimes Law was also enacted, further affecting the ability to express opinions (Mohame, 2022).

### **Concept of Freedom of Opinion and Expression**

Incorporating two essential rights, the notion of freedom of opinion and expression is multi-faceted. One relates to the liberty of holding an opinion while the other emphasizes the ability to voice it. These rights are intertwined, with neither able to be exercised in isolation. The articulation of an opinion is a manifestation of its formation and embodies the essence of the concept (Isaac, 2021)

The mental process of freedom of opinion is based on an individual's free intellectual perceptions. This process allows people to draw conclusions and establish connections between events without any interference preventing them from forming their opinions freely. This freedom applies to every field and is absolute for each person. The government cannot control people's thoughts or compel them to abandon or adhere to a specific belief. However, there are certain requirements that the governing authority must provide to support this freedom. Around the world, governments have implemented measures to uphold individuals' freedom to develop their viewpoints without interference. One important measure involves disseminating ample details on matters about politics, economics, society, culture, and other topics. Simply put any efforts by political regimes to restrict access to information infringe upon the public's right to form their opinions unhindered. As a result, various legal safeguards exist to enable citizens to gain insight into how their government functions (Qubailat, 2023).

The ability to embrace new views and thoughts, free from any force or pressure, is the essence of this entitlement. Furthermore, it confers the power to articulate these notions through diverse channels. For its practice, two vital prerequisites must be present: firstly, no external impediment or limits should hinder the preferred conduct or undertaking, and secondly, no external intimidation should compel any levelheaded individual to counter them (Badr Al-Din, 1996).

### **Freedom of Opinion and Expression in the Jordanian Constitution**

Including articles 5 to 23, the Jordanian Constitution from 1952 delves into Jordanians' responsibilities and privileges within its second segment. Not only does this section feature conventional human freedoms, but also a novel collection of liberties. These liberties are fortified through various assurances and governmental regulations (Al-Tarawneh & Sukkar, 2019).

Every Jordanian citizen possessing the qualities of citizenship is guaranteed freedom of opinion by the state. The responsibility of ensuring this freedom is laid upon the state in Article 15 of the Jordanian Constitution. This legal text states that every Jordanian is free to express their opinions - orally, in writing, or through imagery - if they do not exceed the boundaries defined by law. In upholding this article, the Jordanian Constitution acknowledges the equal rights and duties of all Jordanians. Constituting the freedom of thought and expression, the constitution emphasizes the importance of personal opinions, if it does not exceed the limits of the law (Al-Madi, 2012).

To express their opinions freely without facing any consequences, individuals are granted freedom of expression according to the 1952 Constitution. A public authority cannot interfere with this freedom, and one can speak their mind without fear of persecution. Additionally, this liberty encompasses the use of outlets like religious practices, education, media, press, and learning. This freedom is closely linked to other intellectual freedoms, as stated in Article 15 in its remaining paragraphs (Al-Jannab, 2017):

Press and printing are free within the limits of the law.

Newspapers cannot be obstructed, or their privileges canceled except according to the law.

In cases of customary or emergency judgments, the law may impose limited control on newspapers, publications, writings, and radio regarding matters related to public safety and national defense.

The law regulates the control of newspaper resources.

The practice of freedom of expression cannot be restricted without reason, according to the Constitution. It specifically states that each Jordanian has the right to voice their opinion, emphasizing their individuality. The Constitution also

recognizes the importance of regulation in the expression of freedom, aiming to safeguard it from being drained of meaning or taken away. Not infringing on the rights and freedoms of others is a focal point of the constitution, stressing the importance of freedom being limited. However, it bears mentioning that the constitutional text in Jordan didn't account for the right to access, receive, search, and distribute information as a complement to freedom of expression, adhering to global norms for this aspect (Qubailat, 2023).

Regulated by law according to the constitution, freedom of expression is classified as one of the public freedoms falling under the discretion of the legislator. It is of utmost importance that the legislator sticks to the constitutional purpose which is the preservation of these rights and freedoms without diminishing or violating them. Al-Sanhouri describes encroachment on freedom as the time when there is objective evidence indicating that the regulated public rights have been reduced, failing the constitutional objective. This encroachment happens when the law focuses on the right itself rather than its execution (Sorour, 1999).

One should take note of the last statement in the opening paragraph of Article 15, which suggests that people may voice their opinions if they abide by the law. This should not be used as a justification for authorities to strip away or restrict that right. Rather, it suggests that laws must regulate the practice of this right without infringing upon it. Should any laws contradict this principle, they would go against the Constitution, which always takes precedence. The Jordanian Jordanians are permitted to speak their minds freely thanks to their Constitution's adherence to global norms. Of particular interest is the fact that Article 15/1 of the Jordanian Constitution has persisted in its composition, unmodified, since 1952.

### **Jordanian Legislation Regulating Freedom of Opinion and Expression**

#### **1. Jordanian Press and Publication Law No. 32 of 2012:**

The notion of freedom of the press encompasses an individual's power to broadcast their viewpoints through a range of media outlets – both written and spoken. It also involves the liberty to establish newspapers, prints, and various mediums to serve the public interest, without governmental interference, so long as they avoid any misappropriation of this privilege (Hlalat, 2019). Through the amendment of Jordan's Press and Publications Law No. 32 in 2012, the government solidified its commitment to upholding constitutional freedoms. Jordanians now have the right to express themselves freely through a variety of mediums, including speech, writing, imagery, drawing, and other forms of media. This includes access to information from both public institutions and official entities, ensuring that journalists are unrestricted in their reporting. As a result, there are now strict restrictions in place that prevent any attempts to curtail freedom of the press. Within the bounds of their

work, journalists are protected by law from any hindrances, manipulation, or pressure to reveal their sources of information, as well as from being unjustly fired or censored. The guiding principles of this law recognize the ultimate say of the chief editor in publishing decisions (Qubailat, 2023).

Jordanian legislative changes have outlined that journalists and citizens alike cannot be apprehended for crimes related to specific offenses. The amendments exemplify Jordan's commitment to preserving a high standard of liberties like free speech. Ambiguous terminology in the Press and Publication Law continues to be an issue, as it defines offenses using unclear language. This contributes to the imposition of steep penalties, which can reach a shocking twenty thousand Jordanian dinars. To uphold the freedom of opinion and expression and meet international human rights expectations, some of the laws governing media work must undergo revisions. A prime example is the Penal Code, which contains clauses that limit freedom of the press and publishing by imposing incarceration penalties in some situations. Introducing two amendments to the Penal Code in 2010 caused modifications in Article 191, bringing about amplified fines for defamation of public officials while keeping imprisonment penalties intact. However, the imprisonment penalties were removed for contempt against individuals as per Article 359. The global inclination is to do away with imprisonment penalties for defamation of public officials, as it is perceived as unfit to impose legal constraints restraining criticism or implementing extreme criminal penalties. These measures go against international norms, rendering criminal defamation laws unacceptable as restrictions on freedom of speech. The National Center for Human Rights points out that certain defamation cases are now being fined at a higher rate, with the collected funds going towards the state treasury instead of the offended party. Additionally, laws that mandate journalists to cover full civil compensation for the plaintiff upfront and in one lump sum without installment have also been called into question. Failure to pay could result in imprisonment for the debtor (Jordanian Transparency Center, 2023).

The Media Commission, as the executive authority, is now endowed with various powers through recent modifications of the law. International human rights standards and the Jordanian Constitution did not tackle the registration and licensing procedures, focusing instead on regulating but not constraining the right to access information. The government is compelled to endorse such operations, but not all online platforms can be prohibited under the law's strict regulations. The interpretation and implementation of the rules lie within the judiciary's jurisdiction (Qubailat, 2023).

The Press and Publications Law in Jordan grants the executive branch the ability to obstruct media outlets, which questions the constitutionality of the law.

Article 15/4 of the Jordanian Constitution explicitly states that only the judicial branch can obstruct newspapers and media outlets, leading to potential issues with the separation of powers. Despite these concerns, no legal action has been pursued on this matter. The process of turning to the Constitutional Court is far from straightforward. To kickstart the procedure, the electronic publication proprietor must first contest the blockage decision in front of Jordan's Supreme Court, the only administrative court in the country. Post that, a constitutional challenge is submitted to the court. The challenge should contain sufficient details, like the name and law number, and provide a precise argument on how it goes against the Constitution. Based on the strength of the argument, the court will decide whether to advance the case to the Constitutional Court, with the option of declining to do so.

## **2. Jordanian Access to Information Law No. 47 of 2007**

The right to access information is essential for individuals and has been acknowledged by worldwide standards that protect freedom of speech and expression. Termed variously as access to information, right to information, or freedom of information, this right plays a pivotal role in promoting transparency and combating corruption. Concealing information, on the other hand, can lead to a society that is more vulnerable to corruption. The Jordanian lawmakers did not explicitly outline the meaning of the right to information in their legislation, entrusting this task to legal experts (Al-Shafie, 2007).

A correct opinion and its accurate expression rely heavily on the fundamental pillar of obtaining truthful information, which both definitions agree is a right granted to individuals for accessing public authorities. The definition of information was included in the Jordanian law, despite the right to access it being undefined by the legislator (Abdel Qader, 2015). The Jordanian lawmakers define it as any information that can be any form of written or oral records, statistics, visuals, or electronically stored data under the control of the authority in charge. According to the law, we need to ask ourselves if citizens or residents on Jordanian territory can gather enough information from public authorities to paint a clear picture of any given issue. People must have the right to access accurate information to promote democracy, transparency, and clarity. Defining what information is accessible is also a priority.

In Jordan, Article 7 serves as the foundation for a certain law. It declares that every Jordanian possesses the right to gain access to information if they have a legitimate interest or a reasonable cause if it doesn't break any current legislation. However, it grants priority to other laws during times of legislative conflict, resulting in a reduced version of the law that goes against the ideals expressed in the United Nations General Assembly's Model Laws on Access to Information

(Transparency International, 2020). This law also requires requesters to be Jordanian citizens and have a genuine interest, further diluting its purpose and message.

The authority has been granted absolute discretion to determine legitimacy when considering a request for information by the stipulations in Article 7 of the law. However, there are no guidelines or boundaries around what exactly constitutes a legitimate interest. Consequently, this provision curtails the freedom to access information as it can be applied broadly to refuse information requests. (Al-Marshadi, 2023).

The law surrounding information requests is quite detailed, requiring requesters to follow specific procedures to successfully submit and process requests. Interestingly, the law also requires that non-request-related information be provided, such as the requesters' workplaces and addresses. A "legitimate interest" must also be given for the request, although this is not something international standards address. It is worth noting that government authorities are not required to assist in any way, nor are they obligated to provide a receipt confirming the request's receipt or the transfer of it to another authority if the information isn't available. The existence of the law went largely unnoticed by government institutions for nearly a decade after it was enacted. It was not until 2016 that most of these institutions even became aware of it. To make matters worse, very few took any action to enforce the law (Transparency International, 2020).

Effective legislation in Jordan has been implemented to prevent the disclosure of information and provide access through the Access to Information Law. Article 13/A stipulates that official mention of secrets and documents protected by any other legislation is prohibited. The international standards advise against creating legislative barriers to hinder the law, especially considering the lengthy and complex procedures. Despite this, it is worth noting that the law itself is not explicitly protected. The Law on the Protection of Documents and State Secrets No. 50 of 1971 is a temporary legislation that has not been presented to parliament. Nonetheless, Article 14 of the law emphasizes the significance of complying with existing regulations by obliging all departments to classify their information and documents while organizing them. The classification must consider what is confidential based on the legislation in force. The Right to Access Information Law, as established by the United Nations, demands consistency amongst all information-related laws in the state. (Al-Rai, 2012).

The 'highly confidential' classification is explicitly assigned to highly important political documents relevant to international relations or treaties, as specified by the State Secrets and Documents Protection Law, implying that such information cannot be released. Additionally, vague declarations are made in the

same legislation. To ensure the preservation of democratic and human societies, it is essential to have a law that ensures the right to access information, on par with the right to express and share opinions. (Safouri & Talfah, 2013).

### **3. Law on Cybercrimes No. 17 of 2023**

The Cybercrime Law, consisting of 18 articles, was implemented as Law No. 27 in response to the information age and the necessary legal standards. Its publishing in the official gazette occurred on page 5631 of issue No. 5343 on 1/6/2015. As a result, the Cybercrime Combat Unit was created by the Public Security Directorate in 2015 to tackle all cybercrimes. Law No. 27 of 2017 subsequently increased certain penalties specified in the previous legislation. On 2023's 12/8, Law No. 17 of 2023 was authorized following the government's proposition for an amendment to the law. Royal consent was subsequently provided for the Cybercrime Law of that year. Between legal experts, activists, and journalists, this law has elicited varied viewpoints. Our objective is to scrutinize the written regulations and assess their alignment with global principles governing freedom of speech and thought, as well as the Constitution (Issa, & Alkhseilat, 2022).

To deal with current legal deficiencies, the National Center for Human Rights has deemed it essential to have welcome advancements. Specifically, the protection of personal privacy on the internet is preserved by having a clause related to sharing digital images, recordings, or videos that one desires to keep confidential. Furthermore, a positive stride was taken by including a provision that tackles electronic blackmail and intimidation (National Center for Human Rights, 2023). For vulnerable groups, positive legislative amendments have recently been made. These amendments aim to strengthen penalties for pornography relating to women, children, and people with disabilities. Under international standards for human rights, these amendments offer increased protection.

But was the recently enacted legislation able to find a harmonious medium between allowing individuals to exercise their online freedom of speech while simultaneously preserving privacy rights and upholding national security, public order, and public morals - all in compliance with global norms? A thorough analysis of three certain articles contained within the law - Articles 15, 16, and 17 - is essential to respond to this inquiry.

**Article 15:** Publishing false information on the internet, social media, or any information system that targets national security or defames someone will result in imprisonment of at least three months or a fine ranging from five to twenty thousand Jordanian Dinars. The pre-trial detention of the accused is a major concern in Jordan's Cybercrime Law, which is often requested by complainants. Without the need for a formal complaint or personal claim, the prosecution tackles



crimes against authorities, official bodies, or public administrations, as mentioned in paragraph 1. Consequently, public action can be initiated by the Public Prosecution without the requirement of any complaints from state or public government bodies, which goes against conventional criminal law. The established constitutional norms and separation of powers contradict the general penal code's requirement of a personal claim to trigger public action. This situation conflicts with international human rights standards.

**Article 16:** The punishment for intentionally spreading fake allegations or falsely attributing statements to someone through social media, websites, or information systems, to defame them, is either a minimum of three months in prison or a fine of five to twenty thousand Jordanian Dinars, or both. We believe the term "character assassination" lacks a clear definition, making the penalties seem overly harsh. During Parliament discussions, it was agreed that the terminology "character assassination" was too broad when studying the associated fines and imprisonment penalties. With freedom of expression, the current provisions prompt unease and uncertainty. There are valid concerns regarding the ambiguous language, specifically the phrases "character assassination" and "false information," which could be open to misinterpretation. This, in turn, emphasizes the necessity for crystal-clear boundaries and definitions within the law. Additionally, it is reasonable to question the risk of the possible exploitation of these measures to stifle dissent and criticism. Preserving legal and technical terms is a key objective of this translation, with the aim being to accurately convey the text's intended meaning.

**Article 17** The Cybercrime Law is strict on punishing individuals who purposefully disseminate content that promotes violence, incites sedition, undermines national unity, ridicules religions, or spews hatred through social media platforms, websites, or information networks. Those found guilty of such a crime can face a fine between 5,000 to 20,000 Jordanian Dinars, imprisonment from one to three years, or a combination of both penalties. In the realm of law, one key concern is the allowance for pre-trial detention. Interestingly, this feature is not included in the Press and Publication Law nor the Audiovisual and Electronic Media Law. Without pre-trial detention specified in these laws, there is a worry that the Cybercrime Law may be exploited to detain individuals before a legal decision. Interestingly, some individuals filing complaints prefer this detention, even if the ultimate verdict declares them innocent or not liable, as fines paid go to the state treasury instead of the victim. The Cybercrime Law carries severe consequences for those who publish material that has not received clearance. This includes steep fines, which are increased when the publication occurs on social media. The punishment is intended

to not only punish violators but also to deter others from breaking the law. The over-the-top nature of the penalties can cause unease, even for those who are normally compliant with the law. The system seems less about punishment for misdeeds and more about instilling fear.

## **Results**

1. Among the constitutions that uphold free speech and opinion, the Jordanian Constitution of 1952 stands out. It conforms to global human rights norms by affirming that local laws must govern expression without inhibiting its core.
2. Bills concerning the liberty of opinion and expression in Jordan lack a coalesced legislative base. While some have been ratified during distinct moments, backing certain forms of journalistic exertions, and bolstering free expression, other lawmakers have composed variegated provisions in varying codes, consequently reducing the range of the right to express oneself, and occasionally traversing constitutional standards regarding both substance and protocol.
3. Support for journalistic work in all its forms is highlighted in the Jordanian Constitution which places a strong emphasis on freedom of the press and media. Exceptions to this include instances of emergencies or the imposition of martial law.
4. Since 1989, Jordan has experienced both stability and tension in its political and economic landscapes after the lifting of martial law, greatly affecting freedom of opinion and expression. The government has shown legislative backing in times of stability, but constraints have intensified during difficult periods.
5. Due to exhausting processes and delays, Jordanian Access to Information Law No. 47 of 2007 offers restrictive clauses that hinder citizens, journalists, and anyone concerned from acquiring precise data from the government.
6. In Jordan, laws concerning freedom of speech give the government substantial control, causing them to restrict individual liberties, especially when it comes to expression and opinion.
7. The Electronic Crimes Law No. 17 of 2023, which is meant to safeguard private information and prevent extortion, is under fire for its violation of citizens' rights to freedom of expression. Although the law carries harsh repercussions such as fines and jail time, it has been branded unconstitutional.

## Recommendations

Jordan's need for a universal legislative review of regulations governing freedom of opinion and expression is crucial. These legislations must be in sync with the human rights obligations set by the country on an international level.

Neutral regulatory bodies, authorized to oversee all matters related to publications, visual and auditory media, and websites, are necessary under freedom of opinion and expression laws. These independent national entities support journalistic and media freedoms and reinforce the separation of powers. By prioritizing both national security and the preservation of public freedoms, they provide a valuable service.

Jordan's freedom of expression is being hindered by the Electronic Crimes Law No. 17 of 2023, calling for immediate amendment as it impacts every sector. The law's penalties are out of sync with the country's human rights and economic conditions.

Across all avenues, implement legal awareness drives nationwide to educate about the exercise of freedom of opinion and expression, with a special focus on visual and auditory media along with social media platforms. Many citizens and journalists might unknowingly engage in electronic crimes, being unaware that such actions are criminalized by law. This preventive policy aims to change the status quo.

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