

JORDAN

A DEATH KNELL FOR FREE EXPRESSION?

The New Amendments to the Press and Publications Law

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ABOUT THIS REPORT

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INTRODUCTION

Since Jordan signed a peace treaty with Israel in 1994, there has been growing tension between the Jordanian government and the independent press, particularly the kingdom's small-circulation weekly newspapers. Journalists and editors have been arrested, detained and prosecuted for violations of both the penal code and provisions of the press and publications law of 1993.¹ BY THE COUNT OF ONE JORDANIAN WEEKLY NEWSPAPER, SINCE THE LAW WENT INTO EFFECT SIXTY-TWO CASES HAVE BEEN BROUGHT AGAINST JOURNALISTS AND EDITORS, THE OVERWHELMING MAJORITY OF THEM WITH WEEKLY NEWSPAPERS.² The New York-based Committee to Protect Journalists (CPJ) documented the cases of five editors and publishers, and six journalists, who were arrested and detained between July 1996 and October 1996. One case involved Hilmi Asmar, editor-in-chief of the weekly *al-Sabeel*, who was arrested in September 1996 "because of an article in which he described the alleged torture of an Islamic activist by Jordanian security officials."³ In advance of King Hussein's visit to Washington in April 1997, CPJ charged that press freedom in Jordan had deteriorated further in 1997, citing additional cases of the prosecution and conviction of journalists earlier in the year, and called on the king to "cease immediately the arrest and criminal prosecution of journalists for the practice of their profession."⁴

Faced with public opposition to normalization of relations with Israel, frustration about the implementation of the Oslo Accords between Israel and the Palestinian Authority, and popular discontent with the state of the economy and high rates of unemployment and underemployment, Jordanian authorities have clearly signaled a growing discomfort with the exercise of freedom of expression by both individual critics and the press. In December 1995, Leith Shubeilat, a prominent independent Islamist, elected president of the Jordan Engineers Association and former member of parliament, was arrested. He was denied bail, and charged and tried in the state security court for "*lèse majesté*" (offending the dignity of the king), a criminal offense under article 195 of the penal code. The evidence presented against Shubeilat — a vocal critic of Jordan's peace treaty with Israel, and the government's economic policies — included copies and recordings of controversial speeches that he had made in various cities in 1995, as well as a copy of a speech written in 1994 but never delivered.⁵ In March 1996, the security court convicted Shubeilat and sentenced him to a three-year prison term; after being held behind bars for almost one year, he was released by order of the king on November 9, 1996.

¹The press law was approved by parliament in March 1993, ratified by King Hussein in April 1993, and went into effect in May 1993 as the Press and Publication Law No. 10 of 1993.

² RAED AL ABED, "JOURNALISTS UNITED IN THEIR REJECTION OF NEW PRESS LAW," *THE STAR*, MAY 22, 1997, AS DISTRIBUTED BY WORLD SOURCES ONLINE, INC. ACCORDING TO *THE STAR*, ONLY FOUR OF THE SIXTY-CASES INVOLVED DAILY NEWSPAPERS.

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³ Committee to Project Journalists, *Attacks on the Press in 1996* (New York, Committee to Protect Journalists: 1997), p. 296.

⁴ See Letter to King Hussein from the Committee to Protect Journalists, March 28, 1997.

⁵ Human Rights Watch protested Shubeilat's arrest and prosecution, the conditions of his detention, and threats by security forces to pressure defense witnesses not to appear in court. Our February 9, 1996, letter to then-Prime Minister Abdel Karim al-Kabariti went unanswered.

- pertains to the Jordanian armed forces or security services, unless such material has been cleared for publication by the appropriate authority or the government's official spokesman.
- disparages religions and creeds whose freedom is provided for in the constitution.
- harms national unity or incites criminal action or foments hatred, discord and disharmony among members of society.
- offends the dignity or personal freedoms of individuals or harms their reputation.
- involves derogatory, libelous, or abusive remarks about Arab, Islamic, or friendly heads of state, or sours the kingdom's relations with other nations.
- promotes perversion or leads to moral corruption.
- shakes confidence in the national currency.
- features false news or rumors detrimental to the public interest or state agencies or their personnel.¹¹

After the amendments became law, Prime Minister Abd al-Salam al-Majali noted in an interview that the aim of the government was to set forth “taboo” subjects and to punish violators.¹² The Jordan Press Association termed the content bans “ambiguous.” Indeed, the broadly formulated language of the content restrictions can be interpreted by authorities to rule out the publication of virtually any critical news, information and analysis related to the conduct of public affairs by King Hussein, government ministers and ministries, and the internal security forces. In addition, news and other information related to foreign affairs is also affected by the ban on “abusive remarks” about heads of state and material that “sours” Jordan’s bilateral relations. Similarly, news and commentary about religion, social relations and social affairs in Jordan could be sharply circumscribed by the broadly worded language which bans material deemed to be harmful to national unity, disparaging of religion, detrimental to the public interest, and promoting social “disharmony” or “perversion.” The vague language used in the content bans is open to arbitrary interpretation by authorities in order to impose substantial fines on journalists and editors under the law (see below).

¹¹ As of June 3, 1997, the Jordanian Embassy in Washington, D.C., said it was unable to provide Human Rights Watch with an official copy of the amendments in the original Arabic. The provisions of the law cited above were compiled from material published in *Al-Ra'i* (Amman), May 18, 1997, citing the text of the amended press law (as reported by BBC Monitoring Summary of World Broadcasts, BBC Monitoring Service: Middle East, May 23, 1997) and in *The Star* (Amman), May 22, 1997, also citing specific amendments.

¹² “We ... dealt with the taboos, which we believe the law is clear about, and we laid down the appropriate penalties against those who trespass on these taboos,” the prime minister said. *Al-Arab al-Yawn* (Amman), May 24, 1997, as reported by BBC Monitoring Summary of World Broadcasts, BBC Monitoring Service: Middle East, May 27, 1997.

The chilling effect of the content bans is obvious. As one Jordanian human rights activist told Human Rights Watch: "Any journalist who wants to write now will be afraid of writing."¹³ Former Minister of Information Mahmoud al-Sharif concurred: "This will serve as a permanent threat to journalists in carrying out their duties. They are now terrorized by this new law."¹⁴ The English-language daily *Jordan Times* said that the amendments "make a mockery of the concept of free expression," and registered its opposition in an editorial:

Amending the law, especially in the way it was done, has been tantamount to blaming the press for problems that our economy faces, for divisions in the Arab world and here at home, and for the faltering Arab-Israeli peace process. Some, maybe even most tabloids, may have violated "ethical standards," insulted public figures, or simply broke the law. But does that mean that all newspapers, journalists, and freedoms have to be punished and curtailed, through the force of a Draconian law?...Freedom of expression, the government must realize, is not only a coordinate of democracy. It is a prerequisite for it. In the absence of a free press nobody will believe that there are going to be free elections, clean water, and true accountability by the government.¹⁵

Last, in a particularly disturbing development, the amended law imposes prior censorship on news and other information related to Jordanian security or military forces, stating that publication of such material is banned unless it has been vetted and approved "by the appropriate authority or the government's official spokesman."

Penalties for Violations: Fines, Suspension and Closure

The government emphasized that the amendments abolished provisions of the press law that permitted journalists to be imprisoned. "An imprisonment penalty no longer exists for journalists. Penalties are restricted to fines," Minister of State for Information Affairs Dr. Samir Mutawi said in an interview. "This was always a point raised by some human rights institutions. So we completely canceled the imprisonment penalty. Therefore, a journalist who violates the Press and Publications Law will only be fined."¹⁶ In fact, the only provision of the 1993 press law that provided for the imprisonment of journalists was article 44, which prohibited owners, editors and journalists "from receiving any financial aid or gift from any local or foreign party without the [information] minister's approval." Article 49 of the law provided for fines as well as four to six months imprisonment for such an offense. It is the amendment of article 49 that the minister cited.

The new amendments specify exorbitant monetary fines for violations, as well as suspension of newspapers and other publications and, for repeated offenses, closure. Fines can be levied against a chief editor or "the author or compiler of the offending material."¹⁷ Violations of the content bans carry fines ranging from a minimum of JD15,000 (\$21,135) to a maximum of JD25,000 (\$35,225). Such hefty financial penalties clearly will have the intended deterrent effect, and force many journalists and editors to engage in self-censorship.

In cases of violations of content bans, courts of law may also suspend a publication. "The minister [of information] may allow the lifting of the suspension once the fine fixed by the court has been paid and in accordance with a set of assurances and conditions to be decided by him," the law now states. If there is a repeat of the violation of certain provisions of the law within a five-year period, publications not only face fines but also can be ordered by the

¹³ Human Rights Watch telephone interview, Amman, May 26, 1997. Name withheld by Human Rights Watch.

¹⁴ Raed al-Abed, "Journalists United in Their Rejection of New Press Law," *The Star*, May 22, 1997.

¹⁵ *Jordan Times* (Amman), May 21, 1997, as reported in FBIS-NES-97-141, May 21, 1997.

¹⁶ Jordan Television Network (Amman), May 18, 1997, as reported by FBIS-NES-97-138, May 18, 1997.

¹⁷ Article 44(b).

courts to suspend publication for periods ranging from three to six months. For an additional repeat offense within the same five-year period, the courts are empowered to revoke the license of a publication.¹⁸

Sharply Increased Capital Requirements for Weekly Publications

The amendments also impose prohibitive new capital requirements on weekly newspapers, increased twenty-fold from the requirements set forth in the 1993 press law. Weeklies now must have minimum registered capital of JD300,000 (\$422,700) in order to be licensed, compared to JD15,000 (\$21,135) previously.¹⁹ The weeklies have three months to comply with the new financing requirements, which are expected to put many of these low-budget publications out of business.

According to international news agencies, there are about twenty weekly newspapers in Jordan. Although their circulation is small, these publications “are often boisterous opposition papers, splashing their front pages with stories of political corruption and popular discontent at Jordan’s peace treaty with Israel.”²⁰ The daily *Jordan Times* wrote that the tabloids “in spite of their crude tendencies...have provided an alternative to the mainstream press which so far has not assumed its role as watchdog on behalf of the people over official business.”²¹ The publisher of *The Star*, an English-language weekly, said that his newspaper would be threatened by the new capital requirement:

This paper is among Jordan’s oldest weeklies. Being a weekly newspaper it now finds itself threatened by the new law, which requires us to register [it] as JD300,000 establishment. We were never considered, nor do we consider ourselves, as a sensational and irresponsible newspaper that has abused its freedom. And yet the new law has passed a heavy sentence on us. There is much more at stake here than closing down a few rogue weeklies. Silencing the weeklies, *The Star* included, will not serve democracy, nor will it advance and protect freedom of the press in Jordan.²²

OTHER RESTRICTIONS ON THE OPERATION OF PRIVATELY OWNED PUBLICATIONS

THE AMENDMENTS REGULATE THE MEDIA IN OTHER WAYS AS WELL. ONE PROVISION LIMITS WHO MAY SERVE AS CHIEF EDITORS OF PUBLICATIONS. THESE POSITIONS ARE NOW RESTRICTED TO JORDANIAN CITIZENS WHO LIVE IN THE COUNTRY AND HAVE A MINIMUM OF TEN YEARS OF EXPERIENCE AS FULL-TIME JOURNALISTS, WHICH IMPOSES A PARTICULAR BURDEN ON LOW-BUDGET WEEKLIES.²³ THE AMENDMENTS ALSO LIMIT THE CONTENT OF WHAT SPECIALIZED PUBLICATIONS MAY PUBLISH, BANNING THEM FROM “PRINTING MATERIAL OTHER THAN THAT FOR WHICH [THEY WERE] LICENSED.”

Government Officials Justify the Measures

Jordanian government officials vigorously defended the press law amendments. Dr. Samir Mutawi, minister of state for information affairs and official spokesman, charged that some newspapers had caused “severe damage to the homeland.” He elaborated:

¹⁹ For daily publications, the minimum capital requirement was raised to JD600,000.

²⁰ Dominic Evans, “Jordan Unveils Tough New Press Law,” *Reuter*, May 18, 1997.

²¹ *Jordan Times* (Amman), May 18, 1997, FBIS-NES-97-138, May 18, 1997.

²² “A Letter from the Publisher,” *The Star* (Amman), May 22, 1997, as distributed by WorldSources Online, Inc.

²³ These requirements are in addition to those already posed by the 1993 press law, which require that the chief editors of press publications be journalists and not serve as chief editors of any other publication.

Violations by the press have damaged our relations with some Arab states and created a dark cloud. We were constantly receiving complaints from these states and we were also receiving complaints from Jordanian expatriates. Some of these papers have invaded the private lives of citizens and damaged their reputation and honour. Some papers also tried to incite sedition and fragment the homeland's social fabric....Recently, matters have got out of hand and so we had to reconsider this law to protect the unity of the homeland and this is what we have done.²⁴

Prime Minister Abd al-Salam al-Majali justified the amendments by questioning the right of newspaper owners to free expression within the pages of their publications:

[M]any people complain about the press, especially the weeklies....They all complain that the press is harming both the government and individuals, government officials and ordinary people alike. Making fun of a personality [who] works in the government and publishing scandalous pictures and so forth is bound to cause harm....[N]o individual can decide how the newspaper works and what it should publish. There must be an establishment to avoid irresponsible behaviour. The press is an authority, more so than the government. Have you ever heard the government levelling abuse in the press against anyone? The government does not do this, but when an individual owns a newspaper, he can do it.²⁵

For his part, King Hussein expressed clear annoyance that the leaders of Jordan's independent, nongovernmental professional associations had joined in the criticism of the amendments (see below), implying that such groups have no role to play in defending freedom of expression. "Let us hope that the time will come when everybody will confine their activities to their work," he said in a speech on May 27, "so that the person who is responsible for the union of veterinarians [one of the professional associations in Jordan] will not threaten or announce resignation in protest against the press law amendment." The king added: "I do not understand the connection between veterinary work and the press. What is the link between them? Why don't he and his colleagues work in their profession?"²⁶

THE REACTION IN JORDAN

The passage of the press law amendments took the country by surprise, and generated vigorous protest from opposition political parties and parliamentary deputies, journalists, and professional associations. Jordanians, including professional journalists, have conceded that some tabloid weeklies practice shoddy or sensationalistic journalism. But critics of the amendments share the view that broad and harsh restriction of freedom of expression — without prior public debate and a transparent legislative process — is a disproportionate and wholly unreasonable response by the state. The publisher of the English-language *Star* had this reaction:

The press has come under fire in recent weeks for its treatment of many issues; from national unity to peace with Israel, and from the economic woes of the country to official corruption. In addition to this, some newspapers, especially among the Arabic weeklies, have been accused, justly on many occasions, for their irresponsible, sensational and noncredible coverage of public issues. It is no secret that the main casualty of the new law will be the weekly press. Most may have their licenses revoked.

²⁴ Jordanian TV (Amman), May 18, 1997, as reported by BBC Monitoring Summary of World Broadcasts, BBC Monitoring Service: Middle East, May 20, 1997.

²⁵ *Al-Arab al-Yawm* (Amman), May 24, 1997, as reported by BBC Monitoring Summary of World Broadcasts, BBC Monitoring Service: Middle East, May 27, 1997.

²⁶ Hashemite Kingdom of Jordan Radio (Amman), May 27, 1997, as reported by BBC Monitoring Summary of World Broadcasts, BBC Monitoring Service: Middle East, May 29, 1997.

While the government may have a case against the way some tabloids have abused their freedom under the 1993 law, the government's choice of remedy is unjustified and will do more harm than good to press freedom and to the image of Jordan as a beacon of democracy in this region.²⁷

Although government officials tried to portray the revisions of the press law as a response to perceived excesses of the tabloid weeklies, critics in Jordan saw other motives, noting in particular the longstanding pattern of harassment and prosecution of journalists because of politically sensitive subjects that they covered. One human rights activist, who conceded that some of the weekly newspapers had "published bad things for society," put it this way: "The government [is] pretend[ing] to correct this situation [of unethical journalism], but this is a very big lie. The government for the last three years took journalists to court for political articles. The government ... wants to punish opposition weeklies."²⁸ Another human rights activist charged that the revised press law "ushers in an anti-democratic process," and was designed to protect the "government's unpopular policies" in terms of the peace process with Israel and to suppress growing dissatisfaction over the dismal performance of the economy.²⁹

On May 19, 1997, the heads of Jordan's thirteen professional associations issued a joint statement condemning the amendments as a "violation of the constitution, a bypassing of parliament, and an attack on freedom of opinion, thought and expression."³⁰ The head of the doctors' association, Basim Dajani, said on May 22: "We feel this law was issued hurriedly, without consultation with us or parliament or with any of the concerned people. We are cornered, unable to express our opinion."³¹

Critics were furious that the sweeping amendments were passed without consultation with journalists or parliament, and without public debate. Although parliament was not in session, which enabled the amendments to be promulgated by the council of ministers, the constitution specifies that such lawmaking should take place only in matters of urgency and only if the laws are in conformity with the constitution. "There really is no urgent reason. This kind of law can wait for six months," said a human rights activist.³²

²⁷ "A Letter from the Publisher," *The Star*, May 22, 1997.

²⁸ Human Rights Watch telephone interview, Amman, May 26, 1997. Name withheld by Human Rights Watch.

²⁹ Human Rights Watch telephone interview, Amman, May 26, 1997. Name withheld by Human Rights Watch.

³⁰ "Jordanian Union Chiefs May Quit Over New Press Law," *Reuter*, Amman, May 19, 1997.

³¹ *Reuter*, Amman, May 22, 1997.

³² Human Rights Watch telephone interview, Amman, May 26, 1997. Name withheld by Human Rights Watch.

Given the sweeping and controversial nature of the revisions of the press law — which affect not only daily and weekly newspapers but all licensed publications in Jordan — critics have pointed out that King Hussein has the power, if he wished to exercise it, to summon parliament to sit in extraordinary session to deliberate the amendments.³³ But Minister of State for Information Affairs Dr. Samir Mutawi told reporters on May 20 that “there is no intention whatsoever and under any circumstances to go back on anything enshrined in this law. You must be well aware that the law was issued by royal decree.”³⁴ Twenty opposition parliamentary deputies signed a petition on May 21, addressed to Sa’d Hayil al-Surur, the speaker of the house of representatives, calling for a special session of parliament to debate the press law amendments.³⁵ If the deputies gather forty-one signatures, they can request that the king convene a special session of parliament for discussion of specific matters.³⁶

Setting the Stage for the November 1997 Parliamentary Elections

Opponents of the press law amendments not only view the new provisions as violations of the right to free expression guaranteed in the constitution, but also as a deliberate move by the government to silence the opposition press in advance of the parliamentary elections scheduled for November 1997.³⁷ Interior Minister Nadhir Rashid pledged in May 1997 that the upcoming elections will be “free and fair. This is everybody’s right. We will not interfere on anyone’s behalf and at someone else’s expense, because we believe that both supporters and oppositionists are part of the regime, and no one is outside it. We will use this approach, regardless of the results. Let the results be decided by the ballot boxes, regardless of any views and political hues.”³⁸

But the interior minister did not explain how free and fair elections can take place when the government has imposed harsh restrictions on the flow of information in newspapers and other publications about issues of broad concern to voters, such as domestic and foreign affairs, and the performance of government officials and ministries. Human Rights Watch believes that press freedom is an essential condition for free and fair elections, and that censorship of the press — particularly in areas related to government conduct of domestic and foreign affairs — deprives voters of information that is needed to cast ballots as informed citizens.³⁹

Canceling the Reduction of State Ownership in Daily Newspapers

³³ Article 82(1) of the constitution states: “The King may whenever necessary summon the National Assembly to meet in an extraordinary session for an unspecified period for the purpose of deciding matters to be specified in the Royal Decree when the summons are issued. An extraordinary session shall be prorogued by a Royal Decree.”

³⁴ Hashemite Kingdom of Jordan Radio (Amman), May 20, 1997, as reported by BBC Monitoring Summary of World Broadcasts, May 22, 1997.

³⁵ “Deputies Call For Session to Discuss Amended Press Law,” *Jordan Times*, May 22, 1997.

³⁶ Article 82(2) of the constitution states: “The King may summon the National Assembly to meet in an extraordinary session at the request of an absolute majority of the deputies. Such request shall be contained in a petition specifying the matters which it is desired to discuss.”

³⁷ Parliament will not meet in regular session until after the November 1997 elections.

³⁸ Interview published in *al-Wasat* (London), May 7, 1997, as reported in FBIS-NES-97-089, May 7, 1997.

³⁹ See Human Rights Watch/Middle East, “Algeria: Elections in the Shadow of Violence and Repression,” *A Human Rights Watch Short Report*, vol. 9, no. 4, June 1997, pp. 25-35.

There was also speculation that the hasty passage of the amendments was orchestrated to thwart implementation of the provision in the May 1993 press and publication law which mandated that the government reduce its ownership of newspapers to no more than 30 percent by May 17, 1997.⁴⁰ Articles 19(d) and 19(f) of the law gave the government a maximum of four years to reduce “the shares of the government, government institutions, or the funds thereof” to no more than 30 percent of the capital of press companies or organizations. The state owns about 61 percent of the Arabic-language daily *al-Ra'i*, the largest-circulation daily in Jordan, and about 32 percent of the Arabic-language daily *al-Dustour*.⁴¹ In early May 1997, before the passage of the amendments, the *Jordan Times* reported the impact of government ownership on the content of information that appears in both newspapers:

According to senior journalists in [the Arabic-language dailies] *al-Ra'i* and *al-Dustour*, the [1993] law was intended to reduce government holding in the companies in order to enhance freedom of the press. They maintain that although the government does not practice direct censorship, its equity in the newspapers gives it the power to determine who sits on the board of both companies, and therefore dictates editorial policy. As a result, said a senior *al-Ra'i* official, his newspaper practices heavy self-censorship, and [said] that its news coverage would change if the government sold its shares.⁴²

The revised press law annulled the article in the 1993 law that required the government to reduce its ownership to 30 percent.

Suppression of a Peaceful Demonstration

On May 20, 1997, police violently dispersed a planned sit-in by a small group of journalists and other protesters near the office of the prime minister in Amman. According to the Reuter news agency, some fifty demonstrators waved banners proclaiming “No to the Assassination of Press” and “We will not let our mouths be gagged and our pens broken.”⁴³

One editor, who was attacked by police and asked not to be identified, told the *Jordan Times* that he sustained bruises and bleeding under one eyelid. “I was the first person to be assaulted and I was followed by Leith Shubeilat [president of the engineers association], Khaled Fkhaideh [from *Sawt al-Mara*’ weekly] and Serene Halasa [from al-Jazirah, a Qatari television station],” he said.⁴⁴ Ms. Halasa told the *Jordan Times* that she and a crew of three others from her television station were present to cover the sit-in. “We interviewed Leith Shubeilat and afterwards our cameraman had gone to the car....I went to give him the keys and an officer yelled, ‘stop them, arrest them, confiscate the camera.’” She said that while she and Shubeilat were in the station’s equipment van, “We were attacked from all sides....They opened the car from the back, and they pulled me out by my hair and they pulled Shubeilat from the car.” Three members of the crew were arrested and, according to Ms. Halasa, equipment was confiscated, including the station’s camera and microphone.⁴⁵ Ten persons altogether reportedly were arrested, but they were released after eight hours.

⁴⁰ Government ownership is effected through ownership of shares by the Social Security Corporation (SSC) and other public-sector institutions.

⁴¹ Amy Henderson, “Press Law Amendments Meant to Rein In ‘Unruly’ Tabloids,” *Jordan Times*, May 18, 1997.

⁴² Amy Henderson, “Government, SCC at ‘Loggerheads’ Over Newspaper Investments,” *Jordan Times*, May 7, 1997.

⁴³ Reuter, Amman, “Jordanian Police Break Up Protest Over Press Law,” May 20, 1997.

⁴⁴ Amy Henderson, “Sit-in to protest new press law ends up in arrests and injuries,” *Jordan Times*, May 21, 1997.

⁴⁵ *Ibid.*

A Jordanian university professor who was an eyewitness told Human Rights Watch that the protesters were "attacked as they were turning back. Leith Shubeilat [as well as others] were dragged around and hassled. They [the police] meant to do it. It was premeditated."⁴⁶ Jordan's Minister of State for Information Affairs Dr. Samir Mutawi declared that the police conduct was justified because the protesters did not have permission to demonstrate.⁴⁷ The Jordanian Television Network showed the gathering being dispersed by police as an announcer said: "Any unlicensed gathering, march, or sit-in is considered a violation of the law."⁴⁸

INTERNATIONAL HUMAN RIGHTS STANDARDS

THE HASHEMITE KINGDOM OF JORDAN HAS BEEN A STATE PARTY TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) SINCE 1975. ARTICLE 19 OF THE ICCPR GUARANTEES THE RIGHT OF EVERYONE TO FREEDOM OF EXPRESSION, INCLUDING THE "FREEDOM TO SEEK, RECEIVE AND IMPART INFORMATION AND IDEAS OF ALL KINDS, REGARDLESS OF FRONTIERS, EITHER ORALLY, IN WRITING OR IN PRINT, IN THE FORM OF ART, OR THROUGH ANY OTHER MEDIA OF HIS CHOICE."⁴⁹ THE U.N. HUMAN RIGHTS COMMITTEE HAS NOTED THAT THE MANNER IN WHICH A STATE DEFINES AND RESTRICTS EXPRESSION DETERMINES THE EXTENT TO WHICH INDIVIDUALS ENJOY THE RIGHT TO FREEDOM OF EXPRESSION:

IT IS THE INTERPLAY BETWEEN THE PRINCIPLE OF FREEDOM OF EXPRESSION AND SUCH LIMITATIONS AND RESTRICTIONS WHICH DETERMINE THE ACTUAL SCOPE OF THE INDIVIDUAL'S RIGHT....[W]HEN A STATE PARTY IMPOSES CERTAIN RESTRICTIONS ON THE EXERCISE OF FREEDOM OF EXPRESSION, THESE MAY NOT PUT IN JEOPARDY THE RIGHT ITSELF.⁵⁰

GOVERNMENTS HAVE A DUTY TO BOTH PUBLISHERS AND READERS TO ENSURE THAT THE FREEDOM TO SEEK, RECEIVE AND IMPART INFORMATION AND IDEAS OF ALL KINDS, AS REQUIRED BY ARTICLE 19 OF THE ICCPR, IS GUARANTEED. MEDIA AND PUBLISHING PLURALISM THEREFORE ENTAILS BOTH ACCESS TO NEWSPAPERS AND OTHER PUBLICATIONS BY ALL SEGMENTS OF THE COMMUNITY AND THE DISSEMINATION OF A DIVERSITY OF VIEWS, EVEN IF THESE VIEWS ARE OPPOSED TO OR CRITICAL OF PREVAILING STATE POLICIES. THE JORDANIAN GOVERNMENT, IN REGULATING NEWSPAPERS AND OTHER PUBLICATIONS, IS OBLIGATED UNDER INTERNATIONAL HUMAN RIGHTS LAW TO DO SO IN SUCH A MANNER AS TO PROTECT AND FOSTER FREEDOM OF EXPRESSION. IT ALSO HAS A DUTY TO ENSURE THAT REGULATION DOES NOT UNNECESSARILY INHIBIT THE FREE EXCHANGE OF IDEAS AND INFORMATION, INCLUDING THE REPORTING OF NEWS, POLITICAL ANALYSIS, AND OTHER ISSUES RELATED TO DOMESTIC AND FOREIGN AFFAIRS.

THE AMENDMENTS TO THE PRESS AND PUBLICATIONS LAW RAISE CONFLICTS WITH INTERNATIONALLY RECOGNIZED NORMS OF FREE EXPRESSION BECAUSE THE PROVISIONS ATTEMPT TO REGULATE AND RESTRICT IN UNREASONABLE FASHION THE CONTENT OF MATERIAL PUBLISHED IN NEWSPAPERS AND OTHER PUBLICATIONS. ARTICLE 19(3) OF THE ICCPR ALLOWS RESTRICTION OF EXPRESSION ONLY IN LIMITED CIRCUMSTANCES, NAMELY IN THE INTEREST OF "RESPECT OF THE RIGHTS OR REPUTATIONS OF OTHERS" OR "THE PROTECTION OF NATIONAL SECURITY OR OF PUBLIC ORDER (ORDRE PUBLIC), OR OF PUBLIC HEALTH OR MORALS." SUCH RESTRICTIONS MUST BE "PROVIDED BY LAW" AND BE "NECESSARY." THESE EXCEPTIONS ARE NARROWLY FRAMED, AND THE BURDEN OF DEMONSTRATING THEIR VALIDITY RESTS WITH THE STATE.

⁴⁶ Human Rights Watch telephone interview, Amman, Jordan, May 25, 1997. Name withheld by Human Rights Watch.

⁴⁷ Citizens may not gather publicly in Jordan without a permit. The U.S. State Department reported this in its *Country Report* on Jordan for 1996: "The Government has become concerned about public dissent arising from the peace treaty signed with Israel in 1994. In 1995 it denied permits for public protests and rallies in opposition to the treaty. In May [1996] the Government rescinded a previously issued permit for a conference sponsored by 11 political parties opposed to the normalization of relations with Israel."

⁴⁸ Jordan Television Network (Amman), May 20, 1997, as reported by FBIS-NES-97-140, May 20, 1997.

⁴⁹ The Jordanian constitution also guarantees freedom of opinion and freedom of the press. Article 15(I) grants to every Jordanian the right to "express his opinion by speech, in writing, or by means of photographic representation and other forms of expression, provided that such does not violate the law." Article 15(ii) states: "Freedom of the press and publications shall be ensured within the limits of the law." Article 15(iv) specifically notes the requirements for imposing censorship of the press and other publications: "In the event of the declaration of martial law or a state of emergency, a limited censorship on newspapers, publications, books and broadcasts in matters affecting public safety and national defence may be imposed by law."

⁵⁰ UNITED NATIONS, COMPILATION OF GENERAL COMMENTS AND GENERAL RECOMMENDATIONS ADOPTED BY HUMAN RIGHTS TREATY BODIES.

IN THE ABSENCE OF COMPELLING JUSTIFICATIONS BY THE GOVERNMENT OF JORDAN, HUMAN RIGHTS WATCH FINDS THAT THE RESTRICTIONS ON EXPRESSION IN THE PRESS LAW AMENDMENTS CREATE UNACCEPTABLE INFRINGEMENTS ON THE RIGHT TO FREE EXPRESSION. THE CONTENT BANS ARE ARBITRARY BY TWO MEASURES: THE NECESSITY FOR SUCH SWEEPING RESTRICTIONS HAS NOT BEEN DEMONSTRATED, AND THE MEASURES APPEAR DISPROPORTIONATE. BANS ON MATERIAL THAT "PERTAINS TO THE JORDANIAN ARMED FORCES OR THE SECURITY FORCES," "OFFENDS THE KING," OR "FEATURES RUMORS DETRIMENTAL TO THE PUBLIC INTEREST OR STATE AGENCIES OR THEIR PERSONNEL" SEEM DESIGNED TO BAR NEWS AND CRITICAL REPORTING ABOUT GOVERNMENT OFFICIALS AND INSTITUTIONS, AND THE CONDUCT OF DOMESTIC AND FOREIGN POLICY, RATHER THAN TO PROTECT NATIONAL SECURITY OR PUBLIC ORDER. SIMILARLY, THE BROADLY FORMULATED LANGUAGE BANNING MATERIAL THAT "CONTAINS DISPARAGING REMARKS ABOUT RELIGIONS," "HARMS NATIONAL UNITY," AND "FOMENTS DISHARMONY AMONG MEMBERS OF SOCIETY" IS BOTH UNEXPLAINED AND SUBJECT TO ARBITRARY INTERPRETATION, AND PLACES THE BURDEN ON JOURNALISTS AND EDITORS TO GUESS WHAT IS MEANT BY THESE AMBIGUOUS TERMS. BUT IT IS THE STATE, IN FACT, THAT MUST SPECIFY THE MEANING OF SUCH TERMS, AND JUSTIFY ANY CONTENT BAN BY REFERENCE TO SPECIFIC AND TANGIBLE CONCERNS FOR NATIONAL SECURITY OR PUBLIC ORDER.

THE CONTENT BANS APPEAR CLEARLY DESIGNED TO IMPOSE A REGIME OF SELF-CENSORSHIP ON THE PRESS AND OTHER PUBLICATIONS, PREVENTING THEM FROM CARRYING NEWS AND OTHER INFORMATION RELATED TO DOMESTIC AND FOREIGN AFFAIRS. IN THIS SENSE, THE PROVISIONS ENACTED BY THE COUNCIL OF MINISTERS IN MAY 1997 ARE EXCESSIVE, AND EXTEND BEYOND WHAT IS ENVISIONED IN THE JORDANIAN CONSTITUTION WITH RESPECT TO CENSORSHIP IN TIMES OF MARTIAL LAW OR A STATE OF EMERGENCY, NEITHER OF WHICH IS CURRENTLY IN EFFECT IN JORDAN. ARTICLE 15(IV) OF THE CONSTITUTION PROVIDES THAT, EVEN IN SUCH EXTRAORDINARY CIRCUMSTANCES, ONLY "A LIMITED CENSORSHIP" MAY BE IMPOSED ON THE PRESS, PUBLICATIONS AND OTHER MEDIA "IN MATTERS AFFECTING PUBLIC SAFETY AND NATIONAL DEFENCE."

JORDANIAN GOVERNMENT OFFICIALS HAVE DEFENDED THE AMENDMENTS AS MEASURES DESIGNED TO ADDRESS TABLOID WEEKLIES THAT HAVE PRACTICED IRRESPONSIBLE JOURNALISM. YET, THE REMEDY TAKEN — WHICH IMPOSES BROAD AND HARSH RESTRICTIONS ON *ALL* NEWSPAPERS AND OTHER PUBLICATIONS IN JORDAN — IS WHOLLY DISPROPORTIONATE TO THE PERCEIVED PROBLEM. THE SWEEPING CONTENT BANS, FOR EXAMPLE, ARE BOUND TO AFFECT EDITORIAL DECISIONS AND JOURNALISTS' REPORTING AND COMMENTARY ON A WIDE RANGE OF ISSUES OF IMPORTANCE TO THE PUBLIC. FURTHER, THE IMPOSITION OF PRIOR CENSORSHIP OF ALL NEWS AND OTHER MATERIAL RELATED TO THE MILITARY AND SECURITY FORCES IS AN UNJUSTIFIABLE RESTRICTION ON THE PRINT MEDIA'S RIGHT TO SEEK AND IMPART, AND THE PUBLIC'S RIGHT TO RECEIVE, INFORMATION AND IDEAS.

THE EXORBITANT FINES THAT MAY BE IMPOSED FOR VIOLATIONS OF THE CONTENT BANS — RANGING FROM OVER \$21,000 TO OVER \$35,000, AND WELL BEYOND THE FINANCIAL MEANS OF THE MAJORITY OF JOURNALISTS IN JORDAN — ALSO APPEAR CLEARLY INTENDED TO HAVE A CHILLING EFFECT ON WHAT JOURNALISTS DECIDE TO WRITE AND WHAT EDITORS DECIDE TO COVER AND PUBLISH. AS FORMER INFORMATION MINISTER AL-SHARIF HAS NOTED, SUCH PROVISIONS "WILL SERVE AS A PERMANENT THREAT TO JOURNALISTS IN CARRYING OUT THEIR DUTIES."

THE PROVISIONS OF THE NEW LAW THAT PLACE RESTRICTIONS ON THE OPERATION OF PRIVATELY OWNED NEWSPAPERS — SUCH AS THE CITIZENSHIP AND PROFESSIONAL EXPERIENCE REQUIREMENTS FOR CHIEF EDITORS — APPEAR TO CONSTITUTE ARBITRARY AND DISCRIMINATORY INTERFERENCE BY THE STATE. THE GOVERNMENT HAS NOT PERSUASIVELY ARGUED THE NEED FOR SUCH RESTRICTIONS.

RECOMMENDATIONS

TO THE GOVERNMENT OF JORDAN:

- ENSURE THAT LEGISLATION DESIGNED TO REGULATE THE PRESS AND OTHER PUBLICATIONS MAXIMIZES FREE EXPRESSION AS GUARANTEED UNDER INTERNATIONAL HUMAN RIGHTS LAW, AND FURTHER ENSURE THAT THE IMPOSITION OF ANY RESTRICTIONS ON THE EXERCISE OF FREEDOM OF EXPRESSION ARE SPECIFIC AND NARROWLY DEFINED SO AS NOT TO PLACE IN JEOPARDY THE RIGHT OF FREE EXPRESSION ITSELF.
- REPEAL THE MAY 1997 LAW THAT AMENDS PROVISIONS OF THE PRESS AND PUBLICATIONS LAW.
- FACILITATE A NATIONAL DEBATE CONCERNING THE FULL SCOPE OF THE RIGHTS AND RESPONSIBILITIES OF THE PRESS IN A DEMOCRATIC SOCIETY, AND PERMIT A TRANSPARENT PROCESS BY WHICH LEGISLATORS AND OTHER INTERESTED PARTIES, INCLUDING THE MEDIA, CAN DELIBERATE ON THE FACTORS THAT STRIKE THE BEST BALANCE BETWEEN THE FULL ENJOYMENT OF THE RIGHT TO FREEDOM OF EXPRESSION AND STATE REGULATION OF THE PRINT MEDIA.

- ENSURE THAT ANY RESTRICTIONS IMPOSED BY LAW ON FREE EXPRESSION — PARTICULARLY THOSE PERTAINING TO THE RIGHT OF JOURNALISTS AND EDITORS TO IMPART INFORMATION AND IDEAS TO THE PUBLIC — MEET THE FOLLOWING DUAL TEST: SUCH RESTRICTIONS MUST BE SPECIFIC AND NOT VAGUELY WORDED, AND MUST BE PERSUASIVELY JUSTIFIED BY THE GOVERNMENT AS NECESSARY FOR THE PROTECTION OF NATIONAL SECURITY, PUBLIC ORDER, PUBLIC HEALTH OR MORALS, OR RESPECT FOR THE RIGHTS AND REPUTATION OF OTHERS, WITHIN THE STRICT LIMITS REQUIRED BY INTERNATIONAL LAW.
- FURTHER ENSURE THAT REGULATION OF THE PRINT MEDIA IS APPLIED ON A NONDISCRIMINATORY BASIS, AND THAT FINANCIAL REQUIREMENTS, AS WELL AS MONETARY PENALTIES FOR VIOLATIONS OF THE LAW, DO NOT HAVE THE EFFECT, INTENDED OR OTHERWISE, OF REDUCING THE DIVERSITY OF THE PRINT MEDIA OR ENFORCING A REGIME OF SELF-CENSORSHIP ON JOURNALISTS, EDITORS AND PUBLISHERS.

TO THE EUROPEAN UNION AND ITS MEMBER STATES:

- In negotiations between the European Commission and the government of Jordan concerning the E.U.-Jordan Association Agreement, make clear that article 2, specifying respect for human rights and democratic principles as an "essential element" of the agreement, includes Jordan's compliance with the free expression standards of article 19 of the International Covenant on Civil and Political Rights.
- In bilateral and multilateral meetings with Jordanian government officials, urge the government of Jordan to repeal the May 1997 decree amending the 1993 press and publications law.

TO THE UNITED STATES GOVERNMENT:

- Raise Jordan's compliance with article 19 of the International Covenant on Civil and Political Rights in bilateral discussions with the government of King Hussein, and urge the government to repeal the May 1997 decree amending the press and publications law.
- In bilateral talks and in public comments, urge the government of Jordan to ensure that measures designed to regulate the press maximize free expression, in compliance with international human rights instruments to which Jordan is a party, and to ensure that restrictions on freedom of expression are specific and narrowly defined so as not to jeopardize the right to freedom of expression itself.

To the United States Congress:

- Use scheduled hearings before the Senate Foreign Relations and House International Relations committees, and the Appropriations committees of both houses, to query the Clinton administration regarding the above recommendations.
- Convey to the government of Jordan the concern of the Members with policies that unduly restrict freedom of expression, and urge the government to repeal the 1997 law that amends the press and publications law of 1993.

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Human Rights Watch/Middle East

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. The staff includes Kenneth Roth, executive director; Michele Alexander, development director; Cynthia Brown, program director; Barbara Guglielmo, finance and administration director; Robert Kimzey, publications director; Jeri Laber, special advisor; Lotte Leicht, Brussels office director; Susan Osnos, communications director; Jemera Rone, counsel; Wilder Tayler, general counsel; and Joanna Weschler, United Nations representative. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Middle East

division was established in 1989 to monitor and promote the observance of internationally recognized human rights in the Middle East and North Africa. Eric Goldstein is the acting executive director; Joe Stork is the advocacy director; Virginia N. Sherry is associate director; Clarissa Bencomo, Elahé Sharifpour-Hicks, and Nejla Sammakia are research associates; Gamal Abouali is the Orville Schell fellow; Awali Samara is the associate. Gary Sick is the chair of the advisory committee and Lisa Anderson and Bruce Rabb are vice chairs.

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