

13 August 1999

Open letter to Honourable Members of Parliament:

We, the undersigned organisations, are writing to urge you to ensure that the amended Press and Publications Law respects constitutional and international guarantees of freedom of expression.

We understand that His Majesty King Abdullah has called for an extraordinary session of the Parliament to be convened on Saturday, 14 August 1999, with the aim, among other things, of amending the 1998 Press and Publications Law. The 1998 Law was widely criticised, both within Jordan and by international organisations and bodies, for undermining press freedom and the public's right to know. We welcome this opportunity to address those concerns and to enhance guarantees for freedom of expression in Jordan.

The proposed amendments, published on 11 August 1999,<sup>1</sup> would remove several of the restrictions in the 1998 Law and include important protections for press freedom. In particular, the amendments would enhance journalists' right to protect confidential sources of information, allow journalists to report on court proceedings unless ordered not to by the court and grant journalists a right to access government-held information. They would also remove a provision which allows newspapers to be suspended pending trial and reduce the fines for breach of the law.

However, the amendments would leave in place a number of important restrictions on freedom of expression. Our key concerns are the following:

### **Content Restrictions**

The 1998 Law includes a number of vague, broadly-worded restrictions on the content of what may be published. These restrictions go beyond any legitimate concerns the government may have. Most are, in any case, duplicated in the Criminal Code. In addition, because these restrictions are vague, they may potentially be applied to a broad range of published statements so that journalists and editors cannot know with any certainty whether their stories might attract censure. Article 7, requiring journalists to be balanced, objective and not to promote discord, is unaffected by the amendments. The amendments remove Article 5 and five of the 14 content restrictions in Article 37. Article 37 still prohibits, among other things, publishing any information that:

- disparages the King or Royal family;
- deals with the armed forces;
- harms national unity or provokes grudges;
- insults the head of friendly states;
- leads to moral corruption; or

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<sup>1</sup> For example, in *Ad-Dustour*.

- shakes confidence in the national currency

We recommend that all content restrictions be removed from the law.

### **Restrictions on the Practise of Journalism**

Article 10 of the 1998 Law, in conjunction with the 1993 Jordan Press Association Law, places restrictions on who may be a journalist, although it does allow non-journalists to write articles. In addition, the Jordan Press Association Law requires all journalists to be members of the JPA. It is well established that the guarantee of freedom of expression means that anyone may work as a journalist and that journalists may choose freely whether or not to join professional bodies.<sup>2</sup> In this respect journalism is unlike other professions, such as medicine and law, whose subject matter does not relate to a basic right. In practice, the main effect of this provision is to create a two-tiered profession as many “non-journalists” are in fact employed on a regular basis by newspapers. The 1998 Law also places restrictions on who may own a newspaper (Article 21) and who may be an editor (Articles 23 and 25, for newspapers and specialised publications respectively).

We recommend that restrictions on who may practise journalism, own a newspaper or be an editor be removed from the law and that mandatory membership requirements be abolished.

### **Paid-up Capital**

Article 13 of the 1998 Law establishes high minimum paid-up capital requirements for newspapers (500,000 dinars), non-dailies (100,000 dinars) and specialised publications (5,000 dinars).<sup>3</sup> The amendments reduce this requirement to 50,000 dinars for non-dailies but otherwise retain them. Capital requirements inhibit the emergence of new publications and therefore restrict the choice of newspapers and magazines available to the public. On the other hand, they serve no important social goal – they do not even ensure that newspapers are able to pay debts or court fees – and have not been deemed necessary in other countries.

We recommend that paid-up capital requirements be removed from the law.

### **Licensing**

Article 17, along with Articles 12 and 15, of the 1998 Law provides for government licensing of publications, printing presses, research centres and a number of other bodies. Pursuant to Article 19, licenses may be cancelled for a number of reasons, for example if license conditions, including requirements relating to specialisation, are

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<sup>2</sup> See the decision of the Inter-American Court of Human Rights, *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism*, Advisory Opinion OC-5/85 of 13 November 1985, Series A, No. 5.

<sup>3</sup> 1 Dinar is approximately equal to US\$1.4 so the amounts, respectively are about \$700,000, \$140,000 and \$7000.

breached. The amendments leave in place the licensing system but provide that if the cabinet or Minister of Information does not respond to applications within 30 days, the application will be deemed to have been accepted. In addition, reasons must be given for rejecting an application and the courts, rather than the Minister, have the power to cancel licenses for breach of license conditions. While these are important improvements, any licensing system breaches the guarantee of freedom of expression. Individuals should be able to establish a newspaper without needing permission from the government, although technical registration requirements may be consistent with the guarantee of freedom of expression.

We recommend that the licensing provisions be removed from the law.

### **Prior Censorship**

The 1998 Law includes a number of articles establishing a system of prior censorship. Article 31 requires imported publications to be submitted to the government for approval before they may be distributed. Article 35 requires books to be submitted to the government for approval before publication. Prior censorship of this sort exerts a very serious chilling effect on freedom of expression. Courts around the world have long decried the insidious impact of prior censorship and international conventions ban it.

We recommend that all prior censorship provisions be removed from the law.

### **Funding for Research Centres**

Article 41 of the 1998 Law prohibits research centres and a number of other bodies from receiving any funding from Jordanian or non-Jordanian sources. Funding for joint ventures and studies is permitted only when approved by the Minister of Information. These restrictions are extremely broad and give the Minister a great deal of control over what are supposed to be independent bodies, reducing their ability to contribute to the free flow of information and ideas and undermining the public's right to know. Research bodies are subject to general laws outlawing corruption and governing commercial matters, which should be sufficient to ensure appropriate financial practice.

We recommend that restrictions on research centres and other bodies receiving funding be removed from the law.

### **Government Ownership of Newspapers**

The 1993 Press and Publications Law, which preceded the 1998 Law, required the government to reduce its ownership share of daily newspapers to not more than 30%. This provision was removed from the 1998 Law and the government presently owns approximately 60% of *Al-Rai'i* and 35% of *Ad-Dustour*. Ownership naturally leads to control and opens up the possibility of government interference and fettering of

editorial independence. Governments generally have ample opportunity to present information and views to the public without owning shares in newspapers.

We recommend that the Parliament seriously consider requiring the government to divest itself of newspaper ownership within a set timeframe.

To summarise, we recommend:

- that all content restrictions be removed from the law;
- that restrictions on who may practise journalism, own a newspaper or be an editor be removed from the law and that mandatory membership requirements be abolished;
- that paid-up capital requirements be removed from the law;
- that the licensing provisions be removed from the law;
- that all prior censorship provisions be removed from the law;
- that restrictions on research centres and other bodies receiving funding be removed from the law; and
- that the Parliament seriously consider requiring the government to divest itself of newspaper ownership within a set timeframe.

We hope that the Parliament will take full advantage of this opportunity to address the criticisms which have been levelled at the 1998 Press and Publications Law and to guarantee freedom of the press in Jordan.

Arab Archives Institute for Publishing

ARTICLE 19

Bar Human Rights Committee of England and Wales

Committee to Protect Journalists

Euro-Mediterranean Human Rights Network

International Federation of Human Rights

International Federation of Journalists

International Press Institute

Reporters sans Frontières

World Association of Newspapers