



Photo | Melissa Wall

# Legal Environment for Media in Syria

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## Executive summary

After five decades of the absence of any form of independent media and free press in Syria, according to the government's monopoly on the media and media discourse, and the intellectual, legal and administrative structure of the Syrian state that adopted the strong state model governing all societal sectors through government agencies under a state of identification between the concept of the state and the ruling party created by Article 8 of the previous constitution.

Following 2011, the country witnessed a wide media growth that opened the door to the emergence of large numbers of media projects developing in the areas of Syrian opposition control and the areas of the self-Administration, which established a new media reality and created an urgent need for legalization and regulation among the various ruling authorities, including the Syrian government, which was driven by developments on the ground to reconsider and review the legal environment of the media.

This study, published by the Syrian Center for Media and Freedom of expression (SCM) under the title (The Legal Environment of the Media in Syria), attempts to provide a reading of the various legal contexts of the media in the three spheres of influence, and to examine the extent of their compatibility with international standards guaranteeing freedom of expression and media, starting from government control areas through the areas under armed opposition control, and ending with the areas of self-administration and areas of direct Turkish influence. This required the consideration of constitutional texts and the bulk of laws and legislations controlling the media in their various forms and restrictions applicable to them in general, as well as consideration of the historical legislation and the factors of political, social and exceptional surroundings.

However, The study also reviews the political environment of the media by assessing the degree of political control over the media work, and the extent of the authority's commitment to applying laws and legislations, in addition to the laws governing rights and freedoms in general and influencing media freedoms necessarily, as well as the organizational structures represented in the bodies and gatherings incubating workers in the media field.

While the nature of the legal and political environment for the media can be asserted in the areas of Syrian government control, which have always occupied the tail of international classifications of freedom of the press and the media, the main research question that the study tries to answer becomes, has the Syrian opposition, with its various references, provided a legal model that reached the minimum respect of media rights and freedoms and compliance with the international laws governing them, and whether their organs and agencies affiliated with them have provided any protection to the media actors whom were exposed to harassment, extortion, intimidation, detention, and torture!

Finally, the study concludes with a set of recommendations for the next stage and the process of political change and reform, which must guarantee freedom of expression in all its forms, in light of a legislative structure that guarantees freedom of access to information and freedom to circulate it in all ways and consistent with international standards for freedom of opinion and expression supported by an independent judicial system, which does not mean the Syrians' inability to achieve them now, it means their permanent inability to achieve them, given that the current failure is not the end of the road on an extremely complex historical and social track.



## Introduction

From the mid-twentieth century to the present day, Freedom is the absolute value on which legal principles around the world based, is the primary and innate source of any statutory legislation, worldwide human rights instruments, and state constitutions.

Often, Public freedoms advance the state's constitutional document, which provides for its respect and prevention of abuse by the authority, also, it provides for its equal guarantee to individuals as well.

Determining the scope of the implementation of freedoms, controlling them and framing their work is considered the supreme jurisdiction of the legislator, which determines its legal system without in any way leading to its derogation or prejudice, according to the rule of protection of the essence of the right and freedom, which the legislator has an obligation to the effect that the legislative acts by which Rights and freedoms are regulated that should not be a flagrant violation of them or should be emptied of their content.

Therefore, freedom of the media is always at the lead of other sorts of freedoms, which any legal system is focused, since is linked to a package of rights and various freedoms aspects, such as freedom of expression and opinion, freedom of the press, freedom to publish information and opinions, and the right to circulate information.

Yet, freedom of the media in its relations with legislation or the legal environment and practice poses real problems. These freedoms and rights may be enshrined in the constitution and legislation, but in reality, they are not safeguarded and are constantly subject to violations, and at other times, the constitution and the law may guarantee them, but ambiguously, or in a way that makes them more restrictive.

Therefore, an integrated legislative organization is required to frame the work of the media and provide the necessary guarantees to protect it in light of a democratic system that enshrines political pluralism, human rights, the peaceful transfer of power, and citizen participation in political decision-making.

However, Legislative organization is determined directly according to the nature of the governing system. Therefore, in democratic systems, legal rules are drawn up in line with the constitution and international human rights norms and standards, they are applied equally to everyone and within them, and they are governed by an independent judiciary. Unlike the repressive regimes in which the authority seeks to establish legitimacy that exceeds social conditions, through the acquisition of intellectual tributaries that constitute a public opinion, according to the rule of law-making in the service of authoritarianism, and which authoritarian regimes adopt in creating an institutional framework for governance that relies on legal tools.

Accordingly, non-democratic laws are used to undermine established concepts about the rule of law. Moreover, distorting the integrity and impartiality of public institutions, without being related to how the legal text is made and the mechanisms for its application, but rather it goes towards legal formulation in which the "legitimate" system adopts a vague and general language that enables it to a total ban on society.

In this context, the legalization of authoritarianism, which is controlled by the ruling regime in society, is carried out by launching a widespread wave of repression disguised in a legal and judicial solution by which the system tame the process of legislating laws to serve its interests. In addition to the excessive violence by the security apparatus, to form a whole an integrated system that aims systematically to deprive citizens of their rights and freedoms, to restrict public space and to limit it to restrictions and settle fear as a rule that controls people's mind.

Currently and during the time of information revolution, the repressive regime adopts a legal environment as a tool that enables it to move from the state of traditional authoritarianism to modern authoritarianism.

Then, this regime derives its authority from the information and knowledge society and the internet.

Therefore, instead of weakening the state's authority through a free flow of information and opening new communication channels and public debate, it controls the flow of information on the Internet and its content, it also takes advantage of technology and uses it to monitor opponents and stop their activities.

Based on what we mentioned above, the components of the legal environment of the media can be limited to the media sector and the total laws regulating and affecting its work on the one hand, and the authority that legislates and works to implement them on the other hand, and the last is the one that determines the nature and direction of this environment, and here the Syrian case appears to be a fertile field for research, as it witnessed after In 2011, a broad media boom on the opposition side, which included various media outlets and created a need for regulation and regulation, as well as to a lesser degree on the side of the ruling regime, which was prompted by developments to reconsider and review its legal environment.

This study comes within series of studies and reports issued by the Syrian Center for Media and Freedom of Expression since 2006, as an attempt to read the various legal environments of

the media in Syria, and research the extent of their compatibility with international standards guaranteeing freedom of expression and media.

Thus, the study will start from government control areas, passing through the areas under armed opposition control, ending with the areas of self-administration (Northeast Syria) and finally areas under direct Turkish influence.

Taking into consideration the constitutional texts and the bulk of laws and legislations controlling the media with their different forms and the restrictions in force in general, and the necessity to understand the historical development Legislation and the surrounding political, social and exceptional factors.

While it is possible to confirm the nature of the legal environment of the ruling regime in Damascus, which permanently occupies the tail of the international classifications of freedom of the press and information, the main research question that the study tries to answer will be: Has the Syrian opposition, with its various references, provided a legal model that approximates the minimum level of respect for media rights and freedoms and the compliance of international laws governing them?

Moreover, the study concluded a set of recommendations for the next stage and for the process of democratic change and transformation that the Syrians' inability to achieve now does not mean their permanent inability to achieve them, given that the current failure is not the end of the road in a very complex historical and social path.



## Part I General concepts

### Chapter one: The historical development of media in Syria

Syria knew the press early on, with the first printed magazine in 1851 entitled "Moujama Alfawaed", then the first official newspaper in 1865 in the name of "Souria" issued in Damascus after the issuance of the Ottoman Publications Law in 1865 during the reign of Sultan Abdul Aziz, in both Arabic and Turkish languages, "it published the Official orders, government news and court announcements".<sup>1</sup>

Then, in 1887 was the first unofficial/private newspaper entitled "Dimashk" by Ahmed Ezzat Pasha Al-Abed, and continued irregularly for ten years - until the end of its reign in 1887, followed by newspapers and magazines in Syria.<sup>2</sup>

However, the first daily newspaper was "Almouktabas Alsiasy" in 1908, issued by Muhammad Kord Ali in December 1908<sup>3</sup>, Followed by "Taj Alarous" Magazine in 1910 which was published by Mary Alajamy as a first Women's magazine in the Middle East.

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1- Dr. Shams Al-Din Al-Rifay, History of the Syrian Press, Dar Al-Maarif, 1969, Part One, Page 81.  
2- Dr. Philip Tarzai, History of the Arab Press, Beirut Literary Press, first part in 1913, page 198  
3- Muhammad Kord Ali, the Notes, the Origins of the Ancestor, Part One, Page 61.



In 1920, The Constitution of the Syrian Kingdom stated in Article 19: "Publications are free within the law and may not be searched and inspected before printing."

What reflected in the reality of the national press, which witnessed a remarkable boom. Thus, the number of publications reached 31 magazines and 24 periodicals.

However, during the French Mandate, some of those publications stopped, where the press was subject to the censorship of the Mandate authority, moreover, the attempts of the French High Commissioner to link it to the High Commission and its clerk in Beirut, in an attempt to control the public opinion, through censorship and supervision of newspapers, and preventing them from confronting the occupation <sup>4</sup>, which was a further reason to suppress the national press, especially, due to its stances pro-the major Syrian revolution, then, when the press confirmed its positions on the country's unity in front of the division project, and the battle of rights and freedoms in general.

With independence, all French decisions limiting the freedom of the press were canceled, and the Publications Law No. 35 of 1946 was passed, which prohibited the withdrawal of the license of any newspaper or magazine, and prohibited the confiscation of any of the printing tools or the seizure of movable and immovable property for owners of printing presses or publishing houses, and in the same year, the first radio station in Syria was established to be the second radio station in the Arab world, after the Voice of the Arabs in Cairo.

Despite its setbacks and military coups, hopes of a free press rose with the issuance of the draft law regulating the profession of journalism presented by the government of Sabri Al-Asali in 1954, which was considered one of the most mature media laws in Syria because of its insistence on the independence and freedom of the press, but he did not see the light due to the establishment of unity with Egypt, And President Gamal Abdel Nasser's promulgation of Law No. 195 to regulate the press in the Northern Territory, according to which the nascent experience was suppressed by the assignment of newspaper owners to waiving the privileges of their newspapers, revoking the concession, or stopping before the issuance of the decision.

Unity with Egypt marked the beginning of the era of trusteeship and government domination of the media, which deprived the media of freedom, independence and from playing its role in society.

Moreover, this situation deepened with the Baath Party's coup and control of power in 1963, then, the issuance of Statement No. 4, which stated that "and until further notice, the publication of newspapers in all countries except for the following newspapers: Alwehda Alarbya, Barada, Al-Baath, stops, provided that the rest of the newspapers are issued with the prior permission of the competent reference in the Ministry of Information, and the printing presses stop printing any publication except with permission from the same reference.

Therefore, with Hafez al-Assad's regime, the authority takes new dimensions, which blended the personalization \_who the society is centered around\_, and the institutionalization of repressive and Surveillance instruments\_ that control the country\_, which was later known as the transition from turning around in the orbit of the party to sanctifying the individual.

In this context, in 1971, during a private session, Hafez Al Assad mentioned to Hamoud Al-shoufy, who was once the secretary-general of the Baath party and the Syrian ambassador in UN, that

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4- Dr. Shams Al-Din Al-Rifay, History of the Syrian Press, Dar Al-Maarif, 1969, Part Two, Page 14.

"people have economic demands in the first degree", they are looking to obtain a piece of land or a house or a car, then He can meet these demands "in one form or another" - and he added, there are only "a hundred or two hundred people" who "work seriously in politics", or take it as a profession "and they will be against him whatever he does", Moreover, he concluded that "the Mezze prison was originally built for Those".<sup>5</sup> Assad felt that he must remain indisputably so that no one would ever bypass him, Moreover, any quantity of democrat may become a source of confusion for Alassad.<sup>6</sup>

Public freedoms were not in a better condition during the reign of Assad the son, as his system was an extension of the father's, in philosophy and repressive tools.

However, the climate of optimism that spread with his assumption of power and what was alluded to in his oath speech in 2000 claimed to get rid of the authoritarian structure in state administration and turn into a structure More democratic, only led to temporary and limited political detente, manifested in the revival of political, economic and cultural forums, which were unable to continue and grow due to the suppression of power that did not abandon the legacy of long decades of party exclusivity and political repression and the restoration of a speech justifying the absence of basic freedoms In the forefront of freedom of expression and opinion, and minimize the importance of democratic transition in favor of the priority of the face of external pressures and conspiracies against Syria.

Al-Assad - the heir - and his regime adopted a supreme racist superiority against his people in an educational leadership step directed at the people.

This method adopted by the Syrian media in dealing with people as children, and its function is to educate them with "softness" when necessary, and with propaganda and to their advantage when necessary. Then, is the job of the security services that brutally educate them to learn a lesson, lest they dare revolt against their masters.<sup>7</sup>

The suppression of power, and the prevention of any manifestation of freedom of expression, took an upward trend after the assassination of the Lebanese Prime Minister Rafik Hariri and the exit of the Syrian army from Lebanon.

The suppression of power, and the prevention of any manifestation of freedom of expression, took an upward trend after the assassination of the Lebanese Prime Minister Rafik Hariri and the exit of the Syrian army from Lebanon.

Meanwhile, in 2006, most of the Arab publications were prevented from entering Syria, such as Alnahar and Almoharer Alaraby from Lebanon, and Alshark Alawsat from London, in addition to many others.

Therefore, the next few years never witnessed positive development in the field of free media, in light of the dedication to the legitimacy of censorship and the facilitation of wasting individual and societal rights without regard to the disastrous consequences of that.

Though, it is enough to mention that, in the first half of 2009 number of websites blocked in Syria reached 225 sites, an increase of 65 sites blocked in 2008, which is the period that witnessed dozens of violations against media professionals. Documented by the "State of the Media and

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5- hanna batatu, syria's peasantry, the descendants of its lesser rural notables, and their politics, Arab Center for Research and Policy Studies, first edition page 386

6- patrick seale asad the struggle for the middle east, page 715.

7- Azzmi Bishara, Syria- A way of suffering to freedom, Arab center for researches and policy studies, page 9.

Press Freedom - Syria 2008 - 2009 Silence of the Pens and the Noise of Censorship”, issued by the Syrian Center for Media and Freedom of Expression.

Afterward, when the Syrian revolution starts, the suppression of freedom of expression, press freedoms, and direct targeting of journalists reached unprecedented levels. In the period between February 2011 and October of the same year alone, the Syrian Center for Media and Freedom of Expression monitored 114 cases of violations against 99 people and workers in the field of media, so that violations would follow later. According to Reporters without Borders, press freedom in 2019, Syria ranked 174 out of 180 countries, meanwhile, Freedom House organization, considered it among the worst in the world in terms of press freedom.

On the other side, the armed opposition’s control areas, or the areas of self-management, have not witnessed a positive situation in terms of protecting freedoms, nor have they provided a model that approximates the minimum level of respect for media rights and freedoms and compliance with international laws regulating them, or provides protection for media professionals who They have practiced the policies of harassment, extortion, intimidation, detention, and torture.

## Chapter Two Rights and Freedoms

In addition to the obligation to provide legal protection for workers in the field of journalism and information, and the primacy of the rule of law over the security authority, a set of rights and freedoms agreed upon by law emerges that the legislator must abide by when drafting laws regulating the media, in a way that ensures that it is free, professional and pluralistic, and in support of democracy as a better system to revitalize and develop societies.

Then, at the forefront of these rights is the right of media, freedom of information, and freedom of opinion and expression, which are interrelated concepts that are organically related to each other.

## Media freedom:

The Media freedom's concept means, the right to obtain information from any legitimate source, the right to publish news and ideas without restrictions, and media freedom controls mean the restrictions that protect media freedom on the one hand and prevent them from crossing legitimate borders on the other hand, and UNESCO has defined it as being the right to access news that is in the possession of public institutions. This freedom is closely related to the fundamental right to freedom of expression.

Freedom of the media is based on the freedoms of expression, opinion, publication, distribution, and the use of means of communication, in addition to economic freedoms based on competition and freedom to circulate and flow media products, given that media is an industrial product that can be traded commercially.

Hence, all this diversity indicates the penetration of the media in various aspects of human life, and the right to media from a legal standpoint, it means the right to legal protection of freedom of the media, and it is the right associated with the right to development, which is a fundamental requirement of developing countries.<sup>8</sup>

Some believe that freedom of the media is the general freedom of expression of thought in all its forms: such as expressing by word, speech, screaming, singing, writing, printing, or periodical press, theater, cinema, radio, and television<sup>9</sup>, while others see it as the right of the media to display everything that matters to people, and the right of people to exchange information and obtaining news from any source, and the right of people to publish newspapers and express their opinions without prior censorship<sup>10</sup>.

## The right of media:

It is the right of individuals, groups and peoples to obtain news, ideas and various types of correct information, receive it and transfer it to others in various legitimate ways granted, whether written or printed or in any artistic form, and by any means without regard to the geographical location or borders, to promote participation in directing public opinion Decision-making and development.

The right of media is closely related to freedom of the media, as it is the legal framework and extension of this freedom. The right to information: these are the legal powers that give individuals the exercise of these partial freedoms of the media, and this means a set of abstract rights to gain access to complete rights, and the latter in turn leads to the right to receive the media message and extends to legal powers that lead to access to real and impartial information so that it entitles its owners to carry out their profession in an objective manner.<sup>11</sup>

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8- Qadri Ahmed Hafez, Third World and International Media Law, PhD thesis in State of Law, majoring in Public Law, Faculty of Law, Ben Aknoun, University of Algeria, 2010-2011, p. 14.

9- Maurice Nakhleh, Al-Hurriyat, Al-Halabi Human Rights Publications, Beirut, Lebanon, 1999, p. 38

10- Muhammad Saad Ibrahim, Freedom of the Press, a study in legislative policy and its relationship to democratic development, 3rd edition, Dar Al-Kutub Al-Alami for Publishing and Distribution, Minia University, Abdin, Cairo, 2004, p. 26.

11- Rasim Mohammed Al-Gammal. Communication and media in the Arab world. Center for Arab Unity Studies, Beirut, 1991, p. 19

## Freedom of speech:

Freedom of opinion and expression is the backbone of intellectual freedom, and it is not by chance. Freedom to think freely is subject to freedom to express these thoughts because ideas that cannot be expressed remain in the mind of the individual thinker. Thus, the ability to persuade, exchange opinions and ideas, criticize authority, and express the inherent privacy of every human being, is subject to the existence of freedom of expression, and there is no room for compromise in this inherent human right stipulated in Article 19 of the Universal Declaration of Human Rights without restriction or condition.

And freedom of expression: "The effective right of all citizens who support the protection of the law to individual freedom of expression, in particular, the right to political expression, including criticism of rulers, criticism of government actions and approaches, criticism of the existing political system, criticism of the economic and social system, and criticism of dominant political ideologies".<sup>12</sup>

## Freedom of expression restrictions:

Despite the tendency of many academics and media professionals to consider the right to freedom of expression an absolute right without restriction or condition, the legal reality accepts the application of legal restrictions that limit its release, as no system recognizes the right to obtain information and freedom of expression, for example, the German Constitution establishes in its fifth article: "Freedom of expression. Every person shall have the right freely to express and disseminate his opinions in speech, writing, and pictures and to inform himself without hindrance from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship".

However, it expressly states in articles 18 and 19 that the fundamental rights can be waived and limited in certain cases: "Whoever abuses the freedom of expression, in particular, the freedom of the press, in order to combat the free democratic basic order shall forfeit these basic rights. This forfeiture and its extent shall be declared by the Federal Constitutional Court".<sup>13</sup>

This was also approved by the French Constitutional Council when he considered that "the right to express an opinion is not absolute, nor of a comprehensive nature, as its fulfillment is linked to the fulfillment of a set of requirements."

Likewise, Article 19 of the International Covenant affirms that the right to freedom of opinion and expression carries with it special duties and responsibilities. Consequently, it may be subject to certain restrictions.

Article 29 of the Universal Declaration of Human Rights also states that everyone has "duties to society", and all rights, including the right to freedom of expression, are subject to these obligations.

The aim of these articles is to ensure that the exercise of the right to freedom of expression

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12- Ali Khalifa Al-Kuwari and others, *The Democratic Question in the Arab World*, Center for Arab Unity Studies, Lebanon, 2001, p. 51

13- German Basic-law

does not infringe upon any other rights, for example, the right to privacy or the right to a life free from racism, the right to a good reputation or freedom from crimes such as defamation or insult. Yet, in the commentary of the United Nations Commission on Human Rights on Article 19 of the International Covenant on Civil and Political Rights No. 34 of 2011, paragraphs (22, 23, 24, 25) the committee stated the following:

The third paragraph set three specific conditions, and therefore the restrictions that can be imposed on freedom of expression must be subject to these limitations, the restrictions must be defined by the text of the law, and must be imposed on the grounds provided by points A and point B of the third paragraph, and must pass through a severe examination On the necessity and proportionality of the restriction \*

Concerning the third paragraph and to characterize a principle as a "law" it must be drafted with high precision so that the individual can organize his exercise of the right to freedom of expression in a manner commensurate with this formulation, which must be accessible to all citizens.

Moreover, the law must not give the authority responsible for Following up on its application is freedom to impose shackles that restrict freedom of expression, then, laws should provide clear guidance to the agencies responsible for following up on their application to enable them to make valid judgments about the nature of opinions that can be restricted and any opinions that should not be exposed.

The restriction must also aim to protect one of the legitimate objectives mentioned in Article 19-Paragraph 3, and for the United Nations Human Rights Committee, the list of reasons for restricting freedom is limited to the reasons stated and that the restrictions imposed and not related to any of the goals The legitimacy contained in the text is considered invalid and rejected. It is also not permitted to impose restrictions for reasons other than mentioned in paragraph 3, even if there are grounds to justify the imposition of such restrictions on other rights contained in this Covenant, and the imposition of restrictions should be only to serve the objectives described in the third paragraph, and they must be linked in a way Direct with specific needs or circumstances, and that these needs and circumstances are predetermined.\*

## Chapter Three

### Freedom of the Media in International Law

In the Syrian case (the subject of the study), the importance of international law and its impact on the legal and organizational environment of the media is manifested for two reasons.

The first is the principle of supremacy of international law, which means that the rules of international law, whether they are convention or customary rules, transcend the rules of internal law.

Whatever the rules are constitutional, legislative, statutory, or judicial rulings, where international courts have decided to prevail over the rules of international law over the norms of national law when in the conflict between them.

Furthermore, the principle of the supremacy of the rules of international law provides a legal basis for the illegality of Syrian laws that suppress freedom of expression and media freedoms for violating Article 19 of the International Covenant binding on its parties, moreover, although the constitution currently in force, did not explicitly stipulate the principle of supremacy of international covenants endorsed by internal laws.

However, we can find a dedication to this principle in many Syrian laws, such as the text of Article 25 from the Syrian Civil Law, "Lack of validity of the provisions of the preceding articles or violation of an international treaty in force in Syria".

In addition, article 311 from the Civil Procedure Law stipulates, "The implementation of the advanced rules does not prejudice the provisions of the treaties concluded between Syria and other countries in this regard".

Likewise, the Syrian Court of Cassation Resolution No. 366/1905 from 1980, obliging national courts to apply the provisions of treaties in case they conflict with internal law. "The supremacy of the rules of international law stems from the importance of the interests that are based on their care and protection, just as international law can acquire transcendence by being Creating the collective will of the international community that transcends the will of states or persons of international law. "

The second reason is what the International Committee of the Red Cross announced on July 16, 2012, and what was later confirmed by the report of the Independent International Commission of Inquiry on Syria entering the conflict in the country the stage of non-international armed conflict, to which the rules of customary international humanitarian law, which have a mandatory character in Facing all parties to the conflict and imposing restrictions on the conduct of hostilities, such as protecting civilians in general and for journalists and the media in particular, as well as providing a legal basis for accountability for perpetrators of violations of the right to information.

## Chapter Four

### The guarantee of freedom of media in international treaties

#### First topic: peacetime

Despite the antiquity of talking about the human right to freedom of opinion and expression, their practical applications began to be rooted through legislation governing societies and states, most notably the French Declaration of Citizenship Rights in 1789, which constituted a qualitative leap on the intellectual level, as it stated that "Freedom of expression is one of the fundamental freedoms of the human being", thus transferring them from the realm of acquired rights to the realm of the original rights that exist with the existence of man, and form an integral part of his being, and may not be derogated from in any way.

## United Nations General Assembly Resolution:

The United Nations Organization recognized early on the freedom of information as a human right, according to Resolution No. 59/1 adopted by the General Assembly at its first session in 1946, which stated that "Freedom of information is a fundamental human right, and it is the touchstone of all other freedoms that are adopted by the United Nations."

## Universal Declaration of Human Rights

Article 19 of it stipulates that: "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 and regardless of frontiers".

Thus, this article considered as the first legal basis for exercising this right by seeking, receiving, and transmitting information "by publishing and broadcasting it", without being bound by geographical borders.

The most important characteristic of this article is that it did not restrict the exercise of this right with any restrictions, which was violated by subsequent international conventions.

## International Covenant on Civil and Political Rights

Article 19 of it stipulates that: Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, orally, either in writing or print, in the form of art, or through any other media of his choice.

It has permitted these rights to be subject to some restrictions if they defined by the text of the law and are necessary, to respect the rights or reputation of others, or to protect national security, public order, public health, or public morals

## International Covenant on Economic, Social and Cultural Rights

The first paragraphs (A and B) and the third of Article 15 of the International Covenant on Economic Social and Cultural Rights, affirm the right to know and obtain information:

1. The States Parties to the present Covenant recognize the right of everyone:
  - (a) To take part in cultural life;
  - (b) To enjoy the benefits of scientific progress and its applications;
2. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.



## Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

In 1993, the United Nations Commission on Human Rights established the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, further issued Resolution No. 42 of 1998, by which it emphasized the Special Rapporteur to expand and develop its comments and recommendations on the right to seek, receive and impart information.

Likewise in 1998 report, the Special Rapporteur emphasized that freedom of opinion and expression includes freedom to obtain information, besides, emphasized that the right to seek, receive and impart information imposes a positive obligation on States, especially if it comes to information held by government agencies.

However, the special Rapporteur emphasized in its report for the year 2000 and 2002 the freedom to exchange information and knowledge not only a basic pillar of democracy yet also the basis for participation and development, which is affirmed in all subsequent reports calling on governments to abide by their responsibilities towards media freedoms and the traditional and networked media, where is called for 2018 Governments and private companies that monitor online content to consider transparency and compliance with the law.

## The decisions of the United Nations Educational, Scientific and Cultural Organization UNESCO

Resolution 4 - 301 adopted by the General Conference in 1970 on the contribution of the mass media to the promotion of understanding and cooperation at the international level, in the service of peace and human welfare, and in the fight against propaganda in favor of war, racism, apartheid, and hatred between nations and the mass media's ability to make in achieving these goals.

Declaration on the Basic Principles on the Contribution of the Media to Supporting World Peace and International Understanding, Promoting Human Rights and Combating Racism, and Incitement of War of 1978, which stipulates that the exercise of freedom of opinion and expression and recognized freedom of the media is an integral part of human rights and fundamental freedoms, which are An essential factor in promoting international peace and understanding.

## Second Topic: Wartime

### International humanitarian law

Article 79 of the Additional Protocol to the 1949 Geneva Convention for the Protection of Civilians in Military Conflict, stipulates that civilian journalists who perform their duties in areas of armed conflict must be respected and treated as civilians, and protected from every form of intentional attack if they do not perform activities contrary to their status as civilians.

### Study of the International Committee of the Red Cross on the customary rules of international humanitarian law 2005

Article 34, Chapter 10 "Civilian journalists engaged in professional missions in areas of armed conflict must be respected and protected as long as they are not taking a direct part in hostilities".

### Resolution 1738 of the UN Security Council in 2006, which states:

- ▶ Condemn intentional attacks against journalists, media personnel, and associated individuals during armed conflict
- ▶ Equating the safety and security of journalists, the media, and assist teams in armed conflict areas by protecting civilians there
- ▶ Consider journalists and freelance journalists as civilians who must be respected and treated as such.
- ▶ Considering the facilities and equipment of the media civilian objects that may not be the target of any attacks or reprisals

### Resolution 2222 of the UN Security Council for the year 2015

Who called on states, regional and local organizations to take advantage of best practices, experiences and lessons learned related to the protection of journalists, and condemned all forms of violations, violations, and attacks against journalists during the period of armed conflict, and called on all parties during armed conflicts to respect professional independence and the rights of journalists, and who condemned the continued impunity of aggressors against journalists From punishment, he called for them to be brought to justice.

## European Court of Human Rights

Which concluded that freedom of the media is vital to providing knowledge to citizens. Freedom of the press is one of the best ways for the public to shape public opinion and discover the ideas and positions of their political leaders. In particular, it allows politicians to reflect and comment on the concerns of public opinion and thus provides an opportunity for all to participate in the free political debate that is at the heart of the concept of a democratic society. <sup>14</sup>

“The press must communicate information and ideas on issues related to the public interest, not only because it has to transmit this information and ideas: The public also has the right to have it. If this is not the case, then the press cannot play its vital role as a “public observer” <sup>15</sup>.

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14- Thoregerson against Iceland, Judgment of June 25, 1992, Group A No. 239, paragraph 63.

15- Castles v. Spain, Judgment of April 23-April 1992, Group A No. 236, paragraph 43.



## **Part II**

# **The legal environment for the media in Syrian legislation**

### **Chapter one:** Legal environment for the Arab media

Before examining the reality of the media in Syria and the legislative structure regulating it, it is worth noting the reality of freedom of expression, freedom of the Arab media, and the failure of Arab countries to adopt internationally recognized rights and freedoms.

However, they knew some freedom for a very limited period, which followed the independence or establishment of some Arab countries.

Nevertheless, it can be said that they did not know Freedom of the press, even those countries that were described as the freest and most liberal in the region, such as Lebanon.

Consequently, according to Reporters Without Borders, during the year 2019, the Middle East and North Africa region remains the most difficult and dangerous region for journalists.

Arab media reality, in general, is governed by the contradiction between legislation and practice. All Arab constitutions stipulate the principle of freedom of expression, freedom of publication and freedom of the press and the media, but all these texts are restricted by a phrase within the

limits of the law, meaning that there are legal texts that frame this freedom within the vision of the ruling political system.

In the same time, when international and regional covenants provide for freedom of expression and media freedoms, the Arab Charter for Human Rights of 2004 violated the established principle in international law by allowing the restriction of freedom of opinion and expression in vague and loose terms, without adhering to the three conditions set forth to restrict the right to international law and that Under Article 32:

- ▶ This charter guarantees the right to information and freedom of opinion and expression, as well as the right to obtain and receive news and ideas and transmit it to others by any means without regard to geographical boundaries.
- ▶ These rights and freedoms are exercised within the basic foundations of society and are subject only to restrictions imposed by respecting the rights or reputation of others or protecting national security, public order, public health, or public morals.<sup>16</sup>

The Arab exception also shows the adoption by the Arab Information Ministers of the “principles of organizing satellite broadcasting and reception in the Arab region” within the framework of the League of Arab States in February 2008. Which obliged broadcasting organizations and providers of satellite broadcasting and rebroadcasting to observe general rules, including adherence to the religious and moral values of Arab society.

Broadcasting organizations and broadcast and retransmission service providers are obligated to apply the standards and controls related to preserving the Arab identity in broadcasted works. Respecting the dignity and national sovereignty of states and peoples and not defaming their leaders or national and religious symbols of defamation.<sup>17</sup>

## Chapter Two: The constitutional reference for the media

Most state constitutions provide a set of individual rights and public freedoms, such as freedom of expression and opinion, and puts them at the top of the hierarchy of the legal system in the state, as they transcend all legal rules, and all authorities in the state and the inclusion of rules on public rights and freedoms in the constitutional document is among the most prominent Legal guarantees for their protection.

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16- The Arab Charter for Human Rights 2004: <http://www.amnestymena.org/ar/Magazine/Issue16/righttofreedom.aspx>

17- The sixth item of the principles of organizing radio and television satellite broadcasting in the Arab region, the media and communication sector, the General Secretariat, the League of Arab States, February 2008, p. 04

Even some jurisprudence went on to say that, the codification of constitutions was for the sake of stating the rights, freedoms, and basic guarantees for their protection.

Despite the supremacy of the constitutional document and its consideration as the guarantor of rights and freedoms, it does not occupy a central position in the Syrian cultural and political awareness, unlike the case in Egypt for example, and this is due to decades of obstructing the constitution and working in the emergency law since the 1960s, and because the ruling elites did not respect the independence of the constitution's sacredness, then, It was subject to amendment and change based on political will or interest, as well as military coups since the coup of Hosni al-Zaeem until the coup of Hafez al-Assad, which played a decisive role in destroying the building of constitutional and institutional culture.

However, It should be noted that the first constitutional experiment in Syria, "the Constitution of the Syrian Kingdom in 1920", was very developed in the section on rights and freedoms, as article 19 of it stipulated that "publications are free within the law circle and may not be searched and inspected before printing", as is the case In the 1930 constitution, while the 1950 constitution is the most comprehensive and detailed in the matter of rights and freedoms.

The current Syrian constitution in force explicitly provides for freedom of information and arranges an obligation for the state to protect the right of citizens to express. Article forty-two states that "every citizen has the right to express his opinion freely and publicly by saying or writing or by all means of expression", as well as in Article 43 The state guarantees freedom of the press, printing, publishing and the media and their independence per law.

Then, article 34, which states that every citizen has the right to contribute to political, economic, social and cultural life, can be thought of as supporters of freedom of the media.

However, despite the explicit stipulation of freedom of the media and the press, some constitutional jurisprudence tends towards the invalidity of the constitution in Syria as a protector of rights and freedoms, as it is tainted by nullity, thus inferring that it was not established by a constituent assembly that was directly elected by the people for this purpose, and thus possessed a popular mandate, or A constitutional committee produced by the consultations of the active political forces on the ground.

Rather, it was put in place by a committee tasked with the current executive authority, which is one of the products of the previous constitutional status and tainted by the invalidity, as the 1973 constitution came to legitimize the coup of Hafez al-Assad in 1970.

In addition, the absence of mechanisms to control the constitutionality of laws, both political and judicial, as the guarantor of the failure of the authority to violate constitutionally recognized fundamental rights and freedoms, negates the possibility of considering the current Syrian constitution as a protector of freedoms, including freedom of the media.

Political or previous censorship of the issuance of the law is according to the Syrian constitution, one of the powers of the President of the Republic or one-fifth of the members of the People's Assembly in terms of laws, one-fifth of the members of the People's Assembly when it comes to a legislative decree, and the nature of the political system and the absence of real opposition in the People's Assembly, not used during almost half a century Only once in November 2019, when the Syrian Supreme Constitutional Court, based on the objection of the President of the

Republic, canceled articles stipulated by the Law of the Council of State and considered them null for violating the provisions of the Constitution.

As for judicial oversight that gives any citizen who believes that a law has violated one of its basic rights, the right to defend the constitutionality of this law before the Supreme Constitutional Court, it is also suspended because of the association of the formation and powers of the latter with the President of the Republic, and the absence of independence from its work.

## Chapter Three: The repressive laws of freedom of the media

By the laws restricting freedom of media, we mean the set of laws that control society and whose authority was adopted in the formulation of its articles and clauses on vague and interpretable concepts, as opposed to the original in the legal text that assumes clarity and accuracy in its body and kept it as a sword over the necks of citizens in general and the media and media work in particular.

Here, it is necessary to mention the **state of emergency** declared with the takeover of power in 1963 by Ba'ath Party, where martial law was declared by Military Order No. 2, which remained crouched by the issuance of Syrians until April 21, 2011, and **despite its abolition**, it provided continued work for decades of reference to the laws and ongoing exceptional courts Until now.

Likewise, **revolution protection law**, promulgated by Legislative Decree No. 6 of 7/1/1965, in which the fourth article punishes hard labor for life or death for the commission of acts that are considered to be contrary to the application of the socialist system in the state, **whether it occurred, by saying, writing, or by any means of expression Or publication.**

Then, the legislator intentionally failed to clarify the criminal acts that violate the socialist system in the body of the article and does not specify what it is and its pillars, to use it in the direction of opponents and violators and punish them with life imprisonment or death.

**Also Law No. 49 of 1980**, which stipulated in its first article that it is considered a criminal and capital punishment for every (affiliated) of the Muslim Brotherhood organization, which was the reason for the decline in printing and publishing the religious book in Damascus and Aleppo, and the closure of many libraries culturally linked to the Brotherhood organization, or anyone used to publish some books of Dr. Mustafa El Sebaei or other Brotherhood leaders.

In other hand, came **the law 19 of 2012** on combating terrorism, of which Article Eight stipulates that "Anyone who distributes printed materials or stored information, regardless of their form, to

promote terrorist means or terrorist acts, shall be punished by temporary imprisonment with hard labor, and the same penalty shall be imposed on anyone who manages or uses a website for this purpose.”

Likewise, the **Terrorism Cases Court Act No. 22 of 2012**, which replaced the “State Security Court” that was abolished in April 2011 to join the extraordinary judiciary, that does not respect the most basic fair trial rules, before which thousands of peaceful activists, journalists, and activists have appeared before the internet merely They document the violations that occur, as well as hundreds of human rights activists and lawyers.

## Chapter Four: Laws governing the media

### First Topic: Media Law issued by Legislative Decree 108 of 2011

The Media Law promulgated by Decree No. 108 contains the basic rules regulating media work in Syria, and its provisions canceled the previous Publications and Broadcasting Law as well as the Network Communication Law issued by Legislative Decree No. 26 of 2011, and despite the issuance of the law within the package of reform laws according to the Syrian government, it did not provide real guarantees for media freedoms and media work.

According to the third article of the law, media work is based on basic rules, including “the national and national values of the Syrian society and the responsibility to spread knowledge and express the interests of the people and protect the national identity.” Here, according to the preamble of the constitution currently in force in Syria, national belonging is limited to Arab national belonging, which means the law ignores the rest of the components of the Syrian people and establishes media work to exclude them.

In Article 13, the law prohibited the media practitioner from subjecting to the private life of individuals, but he seemed more specific when he said, “It does not violate personal privacy to criticize or publish information about those charged with a public service or service, provided that the media content is closely related to their work and targeting the public interest.” That is, the law ostensibly allowed the publication of information on government officials and officials if they were related to their work and thus removed them from the scope of privacy, but the law did not provide immunity for the media practitioner from accountability under the slander and defamation crimes stipulated in the Penal Code.

The articles on defamation, which are articles: 375-376-377.  
Articles related to the mug, which are articles: 378.



The Syrian Penal Code did not provide a clear definition of libel and defamation, and it maintained the ambiguity of the phrase, and the jurisprudence of the General Court of the Court of Cassation did not provide a better definition than what leaves the door open for the judge's assessment, a matter that threatens media freedoms due to the lack of independence of the judiciary in Syria. "What constitutes defamation and insult is not limited to specific phrases or words, but that varies according to the person who was the victim of the crime and the significance of the words and expressions issued and the extent of their impact on the person addressed to him and the court of the subject is independent in estimating that."

#### **Resolution EAS Basis 796 Resolution 419 dated 10/10/2006 -**

As for the list of prohibitions from publication contained in Article 12, it came in vague terms open to many interpretations, such as affecting national unity and national security or raising sectarian or sectarian strife, which constitutes a clear threat to the media, and prevents them from practicing their work freely, as well as prohibiting the publication of everything that touches symbols The state, which according to the ruling regime in Syria includes the head of state who is not subject to exposure.

Also, any media coverage related to the army and the armed forces is prohibited, which includes the security services that are mostly affiliated with the Ministry of Defense. It is worth mentioning here, Article 123 of the Military Penal Code in force in Syria, which punishes with imprisonment from two months to two years every military or civilian person who submits peacetime to publishing, reporting or disclosing everything related to military incidents inside or outside the barracks or the measures taken by the military authority The right of one of its members, or the orders and decisions issued by this authority, and everything related to the movement of units and military detachments, and everything related to the operations carried out by the forces of the armed state.

Moreover, the penalty is doubled in wartime, and its provisions are also applied to whoever commits the actions mentioned therein against the allied armies and armies acceding to the Arab League's Charter, provided that their laws or the agreement concluded with them include similar provisions.

Indeed, the aforementioned media law did not contain penalties for arrest or imprisonment for media personnel, and its penalties were limited to fines, but article 79 of it referred media professionals who violated the prohibitions contained in its - Article 12 - to the laws in force, from which we mention, for example, the following articles of the law Penalties:

Article 287 of the Syrian Penal Code, which punishes with a fine and imprisonment for at least six months, every Syrian who broadcasts abroad and is aware of the matter false or exaggerated news that would undermine the state's prestige or financial position.

Likewise, Article 307: "Every act, every writing, and every speech intended or provoking sectarian or racial strife or inciting conflict between sects and the various elements of the nation are punishable by imprisonment from six months to two years and by a fine of one hundred to two hundred pounds."

Article 309, which is punishable by imprisonment for at least six months, is fabricated facts or false allegations to cause a decline in national banknotes or to undermine confidence in the strength of the country's cash and bonds and all bonds related to public financial confidence.

The law concluded the chapter on penalties and the principles of trials in Article 99, which states that “every crime for which no text is stipulated in this law applies to the Penal Code and the laws in force,” which eliminates any meaning of the immunity meanings guaranteeing media work, and the legislator was first to abolish this article and content itself with the penalties Fines included in the body of the law.

The law is also, and if it appeared differently, it enshrines the mechanisms of the authority to control the media. A clause has been added that says that licensing for media organizations does not become effective after the approval of the National Media Council, but rather requires approval by the Council of Ministers, without specifying a time limit for ratification or rejection. After the abolition of the National Media Council in 2016, he restored the authority to grant licenses to the Ministry of Information.

Article 15, which prohibits the media worker from getting advertisements or obtaining any direct or indirect amounts or benefits from publishing advertisements in any capacity, can be considered a restriction on the freedom of the media, and advertising funding constitutes the largest part of media funding sources, and it was not enough The legislator has thus prevented the media outlets from accepting donations, subsidies, or any special benefits from foreign entities, directly or indirectly. The first legislator was to legalize foreign media subsidies as it is also an important part of media financing in the current era.

The restriction of ownership of the media to those who enjoy Syrian nationality is taken exclusively on the law, as well as setting the upper limit for individual ownership “and its assets and branches” at 25% for radio and 20% for television, in what was considered an explicit expulsion of media investment necessary to develop the media industry, and to preserve the existing monopolies of the state.

## **Second topic: Media commissions.**

### **National Media Council**

According to Article 19 of the Media, Law promulgated by Legislative Decree No. 108 of 2011, the National Media Council was created, setting conditions for the selection of its members - by the executive authority - and withdrawing their membership and everything related to its functions, executive body, and funding sources, and the law specifies 15 tasks or powers of

the council without mentioning The authorities and the tools that make achieving some of these tasks possible, especially that one of the mentioned responsibilities is to work to protect freedom of the media and freedom of expression.

The council, which requires independence as a basic element in its work mechanism, was dealt with like any public institution or body, in terms of selecting members and working mechanisms, so the selection of board members was carried out in the same way in which the members of the board of directors of any public company or company were chosen, until the licensing of publications, which according The law comes by a decision of the council following procedures, including that "the council decides the application for the license submitted to it within a period not exceeding thirty days from the date of its submission."

However, the law obliges the Council to have a reasoned decision in the event of refusal of the license, with the right of the applicant to submit a new application in the event of his application being rejected and to resort to the Administrative Judicial Court if his request for licensing is rejected for the second time, but the law stipulated that the license only become effective after being approved by Council of Ministers.

on the pretext of incomplete tasks between his work and that of the Ministry of Information, on September 6, 2016, the President of the Republic issued Legislative Decree No. 23 to abolish the National Media Council after five years of its establishment.

## | Ministry of Information:

While democracies around the world have moved to abolish the Ministry of Information as a supreme executive authority, that would curtail the work of media institutions and give media organizations complete independence away from state financing and restructuring, Syrian ministry of information established in 1962 to keep speaking in the name of the ruling regime through the guardian media approach, which are carries a discourse dominated by moral guidance and unilateralism.

In addition to the blatant interference in the work of media institutions, as a tool to curb and obstruct the critical handling of public affairs.

According to the third article of its bylaw, issued by Legislative Decree No. 108 of 2011 on the Media Law, the ministry's mission is to use all media to inform public opinion, consolidate Arab national trends in the country, and support links with Arab and friendly countries, per the principles of the Arab Baath Party Socialist and state policy.

Hither, instead of the internal system including the values of freedom of opinion and expression, principles of human rights and public freedoms, he affirmed the ministry's commitment to the principles of the Baath Party, the goals of unity, freedom, and socialism, as well as contributing

to the spread of culture among the masses, and other broad phrases such as enlightening public opinion and reviving Arab heritage.

The law also kept the role of the trustee ministry in place of the sponsor, by maintaining its oversight role over publications, whether they were imported books or newspapers and magazines, as well as the publishing houses and licenses granted, through the Directorate of Press and Publishing, and the Directorate of Publications. It is also considered as the administrative reference for journalists working in official newspapers, and therefore the holder of the right to employ workers in the government media, or to dismiss, transfer or dismiss them.

In addition to the above, its supervisory role on the media product produced by its institutions, through the Directorate of Internal Information, which is competent to monitor what is published in the Syrian media, read, audio and video, and the extent of its consistency with the established media policy and national and national constants, and to make observations thereon according to the directions, according to the article 19 from the system.

## | Arab Advertising Corporation:

It was established by **Legislative Decree No. 225 dated 10/31/1963**, as a control institution whose work relates to the concept of control and control rather than productivity, however, and with the recent economic transformations in the past two decades, it has turned into a highly profitable institution because of the flourishing advertising business, not with its contribution. Although the Media Law prohibited any form of media monopoly, the system through which it controls the entire advertising market in Syria, as the Corporation charges commissions for advertisements published in various public and private media outlets, without having any role in marketing these ads, which include:

- ▶ Fees and commissions imposed on the work of advertising companies and agents.
- ▶ Commissions charged for advertisements published in various media outlets.
- ▶ Fees from advertisement boards for professions and private companies.

## | Legislative Decree 15 of 2008 creating the General Printing institution

The institution, according to the decree, is a public institution of an economic nature that enjoys legal personality, financial and administrative independence, and is linked to the Minister of Education, and its center is in the governorate of Damascus.

This institution constitutes a monopoly of the authority of the printing market under Article Three, which sets among its goals "printing the school book, distributing it to its branches in the governorates, and printing all publications of the ministries of education and information", that

is, obliging the printing of official newspapers and magazines in an institution affiliated with the Ministry of Education, far from the origins and arts of printing.

Also, the fifth article of the decree permitted the Prime Minister to compel public sector entities in whole or part to print their needs with the institution, while Article nine of it exempted the imports of the institution from the technical devices, printing machines and other printing requirements from all taxes, financial, customs, and municipal fees, statistics, and other fees, which gives it a differential advantage over the printing press in Syria and allows it to monopolize the entire print market.

## | Journalists Union

The Union of Journalists was established in the Syrian Arab Republic based on Law No. 1 of 1990, which adheres to the decisions and directives of the Arab Socialist Ba'ath Party in its work. That is according to the third article of its founding law, it does not exercise any of its powers as a professional trade union, but rather governs its work in direct subordination to the executive authority of "The Minister of Media, Council of Ministers"

Likewise, the federation, which sees media as a means of mass education that fortifies Arab socialist national thought, is still restricted to journalists working in government media institutions only, without regard to journalists working in the private sector and their rights.

## Chapter Five: Electronic media in the Syrian legislation

According to the United Nations Human Rights Committee, the legal support for protecting the right to freedom of expression and freedom applies to the press and electronic media in the same level, which means obligating states parties to the International Covenant on Civil and Political Rights to adapt and harmonize their laws to regulate freedom of expression on the Internet, and

on other electronic means with The logic of Article 19 and its interpretation by the Committee. However, in Syria, which is one of the ten countries who most applied to Internet censorship in the world <sup>18</sup>, the authority tended to restrict social networks, through the renewal of its legislative system, and its general policy in the field of information and communication to tighten control and control of the public space provided by the information age.

Meanwhile, the authority dealt with public electronic spaces securely, by pursuing activists and restricting them, Moreover, by legislating through the achievement of a tight legal environment that serves its objectives in total control over it.

Thus, since 2011, the security services have benefited greatly from Facebook, while some have gone on to emphasize their penetration of the accounts of some activists and political opponents.

They have also established electronic brigades in the name of the Syrian Electronic Army that the President himself named in his speech on June 20, 2011, as a virtual world fighters, who practiced Declared attacks on international sites, such as the Associated Press, Harvard University, and others, in a blatant attack on freedom of expression and the right to flow of information.

Legislatively, and given the number of laws approved by the authority to surround e-crime in Syria in which financial transactions via the Internet are scarce, as well as electronic payment operations, and daily internet users in general, which negates the need for legislation to codify these transactions, all of these legislations appear to be directed directly to restrict freedom of expression and media freedoms. The system adopts a negative narrative about the Internet and social media and shrinks it to digital spaces in which opposition activities and rumors spread, and ignores its role in the political and cultural development of societies. Likewise, this legislation has a general character based on protecting the system from information crimes, and not protecting the general user.

According to the study published by the Syrian Center for Media and Freedom of Expression entitled (Taming the Internet), the Syrian government that works during the day to expand the area of users and improve the service is the same one that works at night through its security services to block websites and prosecute the owners of dissenting opinions, and to achieve this the government uses the assistance Syrian major international companies in this area.

**Legislative Decree 26 of 2011 Law on Communication with the Public on the Net “Repealed by Information Law No. 108”.**

**Legislative Decree No. 17 of 2012, implementing the provisions of the Law on Network Communication and Combating Information Crime.**

In a reading of the text of the decree, several observations emerge, perhaps the most prominent of which is the control authority granted by the law to the judicial authorities in Article 2, which included a clear violation of Article 37 of the Constitution that deals with the privacy of individuals,

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18- <https://www.worldatlas.com/articles/10-countries-that-censor-the-internet.html>

and it stipulated that "Internet and telecommunications service providers are obliged to save a copy of the content stored in them in case its presence and submission to the authorities upon request, and the preservation of traffic data that allows verification of the identity of the persons who contribute to placing the content on the network.

This means, by law, legislation that informs the security services of the data and the identities of content publishers on the network, which includes the accounts of individuals on social media sites, and messages in all their audio, visual and written forms. In addition to the legislator allowing the authorities to obtain and confiscate any data outside the network stored on mobile phones, computers or others, as digital evidence, the judicial officer may search them, by returning to the investigating judge only, without a final judicial decision.

On the other hand, according to Article 7 of the decree, the website, or any similar system used by the network communication service provider, is not totally or partially blocked, permanently or temporarily, except in one of the following two cases:

- ▶ By order of the judiciary.
- ▶ If the network communication service provider breaches its obligations to place identification data on its website, in violation of the provisions of Article 5 of this law, until the violation is removed.

However, according to Resolution No. 290 issued by the Ministry of Communications and Technology, which includes the executive instructions of the decree, the National Authority for Network Services in the Ministry of Communications and Technology and implementation of the second clause of Article 7 is entitled to take this step on its own, or based on a complaint it receives, without mentioning the need to return to the judiciary, Obtaining a warrant or a final judgment

As for the violation of the sanctity of private life, it is a new charge approved by Article 23 of the decree, which "requires imprisonment from one to six months and the fine for everyone who publishes through the network information that violates the privacy of any person without his consent even if that information is correct" and the concept of privacy here is easy to adapt To silence any criticism, nudity, or corruption of officials of the system, even by the environment in support of it.

The decree also went on to consider that committing one of the crimes stipulated in the Penal Code, such as the crime of defamation and defamation, for example, by using the network, is an aggravating reason that requires doubling the minimum penalty, as stated in Article 28 that if a text in the criminal laws applicable to one of the crimes stipulated in this law applies, the penalty applies which is more severe, and the minimum penalty prescribed for any of the crimes stipulated in other applicable criminal laws is doubled, if the crime was committed using the network or occurred on the network.

The law also lacked specific formulations and definitions of crimes, but rather broad terms such

as those contained in Article 29, which are punishable by imprisonment from six months to three years in addition to the fine for advertising activities and incitement to commit crimes stipulated in the criminal laws in force using the network, without specifying the nature of propaganda and incitement and their pillars.

Likewise, Article 30, which tightens the penalties stipulated in the law if the subject of the crime affects the state or public safety, and in the absence of a general community debate to agree on criteria for defining the concept of public safety that requires prejudice to legal prosecution, the state has the right to define acceptable and rejected concepts and ideas, in Formulas that enable them to always target freedom of expression.

However, and according to Al-Modon's website, during an interview with the Attorney General in Tartous, there is a new package of electronic crime that is punishable by law even if it does not explicitly mention it, on top of which is joining hostile groups and electronic army, belonging to hostile pages and humiliating the media to achieve personal gains <sup>19</sup> .

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19- [almodon.com/media/2018/12/29/](http://almodon.com/media/2018/12/29/)





## **Part III**

# **The legal environment for the media in areas outside the control of the Syrian government**

### **Chapter One:** Armed opposition control areas

We cannot approach the legal structure of the media in the areas controlled by the Syrian opposition, without noting that the media and legislative work environment, including the actual practice of any form of governance in these areas, was an exceptional environment in all its details.

Those areas were subjected to almost continuous blockade and daily violent bombing by the regime and its Russian ally later, then, accordingly, It cannot be compared to the areas under Syrian government control, either the largely established self-administration areas.

Besides, since 2011, these regions have witnessed geographical, and power changes, which were intertwined with each other, which often means the difficulty in determining who is responsible, and the regulations and laws in force, as well as regarding the issue of violations of freedom of the media, and the direct identification of the responsible faction about it.

Legally, Syrian political opposition does not have a basis to enable it to legislate, despite the

recognition by many countries of the world of the National Coalition of the Syrian Revolution and Opposition Forces, a legitimate representative of the Syrian people, but considering the international interests, balances, and the limitations of the work of the political opposition, this recognition remained in the political realm and did not get any legal recognition, therefore, it was not entitled to take the seats of the Syrian Arab Republic in the United Nations nor in the international organizations, who remains for the Syrian regime.

However, saying that the coalition, as the representative of the Syrian people, has legislative rights to operate in exceptional circumstances, allowed him in this context to form the interim government, even this coalition ignores the reality of forming the interim government according to the international political will in the first place, not the legal authority of the coalition.

In addition to the Validity, the real dilemma of the legal nature of any legislation issued by the coalition, or any regularity decision by the interim government, Shown by the inability to apply.

However, any legal system should include rights and duties, in addition to deterrence or punishment, which is defined as a "social means aimed at ensuring respect and application of the law by deterring violations against it". Thus, the absence of the penalty or the ability to implement it strips the legal system of its nature.

Therefore, and due to the absence of their effective authority on the ground, the interim Syrian government was unable to fulfill the main condition to apply the legal system, while this system must include a legal rule that includes provisions, and a forced procedure applied to the breach of these provisions and their applicability.

In this regard, the report issued by the Center for the Protection of Civilians during Armed Conflicts in late 2012 indicated that there are hundreds of different militias and battalions operating on the ground, with each group following its rule package, as acknowledged by Aaron Lund, an expert on opposition groups Syrian, saying: "Some groups operate under Islamic Sharia laws, while some other groups follow the rule by force of arms or so-called revolutionary justice."

In the absence of any ability or authority for the Syrian opposition to legislate, the opposition factions had to adhere to the current Syrian law, given that it is not allowable to pass new laws during the war, and no military or political party has the right to pass a law at this stage, where the validity of the legislation is limited to the parliament or the representative councils in the country.

Consequently, the lack of agreement to implement the Syrian law has resulted in a state of confusion and duplication of judicial rulings.

Some courts in the opposition-controlled areas have adopted Islamic law, while others have adopted the unified Arab law of 1966, also, many attempts emerged to implement laws issued in the mandate of the 1950 constitution only or the complete Syrian laws.

For example, a draft of the Free and Independent Syrian Judicial Council's decision to establish a court to sue some of the regime's figures in March 2014 identified the laws that it will adopt in the trials, namely:

- ▶ Judicial Authority Law No. 98 issued in 1961
- ▶ Criminal Procedure Law No. 112 of 1950
- ▶ Penal Code No. 148 issued in 1949

The legal bodies of the opposition were also characterized by inefficiency, in the forefront of which was the legal office in the National Coalition, which was unable to carry out its most important tasks of building a judicial body to unify all the judicial councils operating on the liberated Syrian lands through a general conference to which all judicial bodies are called, This results in the formation of the judiciary, the judicial police, and the establishment of courts that implement a unified law in all liberated areas, resulting in a state of judicial void that has been filled with different bodies and authorities.

## **First topic: The Judicial Authority.**

### **Revolutionary judiciary:**

In September 2012, the "Free and Independent Judiciary Council" was established in the city of Aleppo, after four judges defected from the judiciary in Syria in what was known then as the necessity judiciary, in response to the urgent need of judicial authorities following the departure of some areas from the control of the Syrian government, and the council initiated to layout structures Working mechanisms to unify the judicial authority, prevent multiple courts, and implement a unified law, as well as establish documentation committees to monitor human rights violations in the country.

However, the failure of the Ministry of Justice's failure at the interim government in moving to work inside the liberated Syrian territories later, and its lack of a comprehensive policy at the national level, as well as the absence of a judicial officer affiliated with it, and several local reasons related to the distribution of powers on the ground led to ending the work of revolutionary judicial bodies in opposition-held areas And despite the multiplicity of initiatives to revive the revolutionary judiciary in all Syrian regions and its diversity between creating coordination with the Sharia courts, or trying to unify the references at the national level, or resorting to civil arbitration, this experience has not been written for development and continuity.

## Sharia courts:

Sharia courts emerged in Syria with the beginning of the emergence of Islamic factions to solve internal problems among their elements, to extend their powers later and to include the military and civilians in the region.

The Sharia judiciary was no better in terms of institutional structure than its revolutionary counterpart, as it can be considered as a product of the de facto authority whose dictionary of performance is almost devoid of terms of concern for rights and freedoms, and which seeks to legalize laws by obligating people to recognize their legitimacy under pressure of oppression or the threat of it and the beginnings of the Sharia judiciary date back to the last month of 2012, when the formation of the Sharia Board was announced in the city of Aleppo, to be followed by Idlib, Ghouta, Damascus, and Houran, and all areas outside the control of the Syrian government. In terms of procedures, these courts did not follow any specific legal system, even those that followed a system such as the Unified Arab Law did not adhere to it because of the weak legal expertise in its cadres.

Still, on the level of rulings, these courts applied strict interpretations of the Islamic law that adopts a different theory in the field of rights and freedoms in general and media freedoms in particular.

Perhaps the most important disadvantages of the legal bodies from the legal point of view are their violation of the rule of stability of the judiciary's rulings, as the provision of Islamic Sharia rules resulted in the absence of a codified Islamic penal law, due to the double judgments and their different judgments in the same incident due to the court's reliance on Islamic jurisprudence and its understanding of the provisions of the Qur'an and Sunnah, which varies with different circumstances and individuals.

Moreover, reliance on personal ijthihad violates a firm legal principle that there is no crime and no punishment without a legal text, i.e. a clear and specific text that clarifies criminal acts, punishment, circumstances and reduced and aggravating excuses for them.

The complete subordination of the armed factions to the armed factions and the legal approval of these factions instead of the jurists, led to the denial of any legitimacy from these courts, which was recently approved by the Swedish judiciary, considering that the detention and executions issued by these courts constitute war crimes, which means the removal of any civil character from the body judicial and judges are considered fighters in these groups.<sup>20</sup>

## Unified Arab Law:

It was put in place by the Arab justice ministers in Sana'a, the capital of Yemen, in 1996, in what was then known as the "Sanaa Plan for the Unification of Arab Legislation".

Professor Muhammad Ali Al-Astwani has represented the Syrian Arab Republic, though this law

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did not receive approval from the League of Arab States, and it did not find a way to apply in any of the Arab countries.

However, unified Arab law is not a single law, but rather it is several laws, including procedures for litigation, including penal, civil and personal status.

Some factions have adopted this law in all of its courts, inside the Syrian territories, moreover, the Syrian Islamic Council issued a comprehensive study on it in June 2015, through which it urged the opposition factions to implement it in areas outside the regime's control.

As for the extent of the adequacy of its texts to international standards for freedom of expression and media freedoms, it suffices to recall that the law is a product of the official Arab system during the 1990s, as well as its adoption of the provisions of Islamic Sharia alone, as it is the main and only source for its provisions: "Adoption of the Noble Qur'an and the Sunnah of the Prophet and the convergence of consensus, measurement, or interests sent without adhering to a specific doctrine of jurisprudence, as well as principles of justice that do not conflict with the provisions of Islamic Sharia, sources of standardization."

## Second topic: media bodies

### Ethical Charter for Media for Independent Syrian Broadcasting

On Wednesday, February 19, 2014, 14 Syrian radio stations met in Gaziantep, south Turkey, launched the Ethical Charter for Media for Independent Syrian Broadcasting, as the charter included a general introduction that included reference to Article 19 of the Universal Declaration of Human Rights, which states that everyone has the right to enjoy freedom of opinion and expression, by any means and without regard to borders, also include a set of organizational and ethical principles to control professional performance in new Syrian broadcasts and raise the level of cooperation between them, in addition to stipulating the rights of broadcasters and their workers and their duties towards society.

The Charter does not depart from being a declaration of intent, without any specific authority or working mechanisms, in general terms about credibility, objectivity, and freedom of information sources.

## Ethical Charter for Media

On the tenth of September 2015 in the Turkish city of Istanbul, a group of Syrian opposition media announced a code of honor for the Syrian media, which came according to those responsible for it, after a full year of consultations and meetings to reach a final formula that defines the standards of professional work for the Syrian media.

So, with a general introduction and eight basic items from the Charter, it includes terminological definitions, general ethical sources and the obligations of media work.

However, the contents of the Charter were general without any legal obligation and even avoided relying on even theoretically specific articles in international law that safeguard freedom of expression and media freedoms and replaced it with the phrase "general moral principles, which are established in international covenants, declarations, and covenants".

The Charter, which presented itself as an ethical and professional reference, regulating the work of the media, and setting up regulatory controls for it, also announced the development of a system to receive complaints via the Charter website and transfer them to the party that first committed the error, and then to issue statements that put before the public opinion the mistakes that the institutions make Informative.

## Syrian Journalists Association

On February 20, 2012, the Syrian Journalists Association was announced as a professional and syndical organization, based in Damascus, and it may have branches in any country that has a group of ten or more members.

The association membership is open for anyone who works in any field on media, inside Syria or Overseas, membership in the association is accompanied by a document practicing a profession from the institutions in which the candidates worked, or a proposal from three of its founding members.

However, the association has set its goals by empowering professionals and ethical journalism, besides, creating an independent environment for work in the Syrian media sector, through continuous training, the abolition of laws that restrict journalism and affect the performance of journalists, to develop social dialogue, and promoting awareness of the press as the fourth authority responsible for unimpeded development.

The association defines itself as an independent democratic group, committed to the contents of the Syrian revolution for freedom and dignity, and their tendency to establish a pluralistic democratic state, which provides justice, equality, liberties and the rule of law to all its citizens without discrimination, and is governed in this framework by its interest, work, internal relations

and in its external relations with other bodies Inside and outside Syria, the Syrian Center for Press Freedom, which was established in 2014, has administrative control over it.

The association that was officially registered as a civil organization in France in July 2013, according to the French Associations Law, does not differ from other gatherings and covenants whose decisions lack commitment, but it is mentioned that it presented an advanced letter by affirming the pluralism on which Syrian society is based and the need to open the way for its components to express Its creative souls, and celebrated the languages used by the components of the Syrian people, such as Arabic, Kurdish, Assyrian, Turkmen, and others.

### **Third topic: Media's reality in the areas under armed groups' control.**

Talking about violations of the media right seems irrelevant to the subject of the study dealing with the legal and regulatory environment, however, in the absence of clear legislative texts, it was necessary to read some experiences to show the relationship of the de facto forces with the media, and the extent of the ability or desire of the judicial bodies to protect the media and the journalists in their regions

In general, the armed opposition's control areas witnessed repeated violations of the media, and many media centers were subject to closure and obstruction.

In the first month of 2015, Mazaya Center and Radio Fresh in the city of Kafr Nabl were attacked by the Al-Nusra Front, on the pretext of printing the number 173 of the newspaper Souriatna, which published a poster in solidarity with the journalists who died in the attack on the French newspaper Charlie Hebdo.

Gunmen also chased the distributors of four newspapers Sada Al-Sham, Tamadon, Souriatna, Enab Baladi, which was followed by burning all the Newspapers who published any solidarity with Charlie Hebdo, Then, a decision was issued by the Information Division, in cooperation with the Ahrar al-Sham military movement, to prevent its circulation.

In addition, human rights report that monitor the reality of media and freedoms in Syria always contains several violations by opposition factions.

According to the report published by the Syrian Center for Press Freedom in the Syrian Journalists Association, on violations committed during the first half of 2019, reached 46 violations, we can see that the Syrian regime topped the list The authorities responsible for committing it are responsible for 17 cases, followed by the Headquarters for Hayat Tahrir Al-Sham with 13, while the Syrian opposition, Turkey and the Syrian Democratic Forces (SDF), and unknown destinations were responsible for the remaining violations.

Also, referring human rights reports to a significant percentage of violations against media workers and media centers in Syria to unknown entities does not absolve armed factions from their tortuous responsibility as de facto powers in maintaining security and protecting civilians in their areas of control, nor do the legalists and judiciary affiliated with these factions be excused from fatwas and incitement speech against the media, which is a direct cause of some violations.

## | Islam Army as an example

The Army of Islam, which withdrew from its spheres of influence in northern Syria in April 2018 under an agreement with Russia, after an intense military campaign targeting the cities of Ghouta, provides a model for reading the behavior of the Syrian armed opposition and its position on public freedoms and freedom of expression and the media in particular.

As the faction may have exceeded the number of its general affiliates 2014 The fifteen thousand "fighters are less than half according to available estimates, while the rest are security and administrative," controlling a specific geographical area, through a system of coordination and governance, through an undisputed central leadership that organizes all the departments of governance, which was not available to factions such as Al-Nusra or the ISIS, even Ahrar Al-Sham who were very widespread but less stable.

Through 2013, which can be called an elimination period, several violations happened by Islam Army, starting with Kidnapping the Violations Documentation Center team in Syria, Razan Zaitouneh, Samira Al-Khalil, Wael Hamada and Nazem Hammadi, from the city of Douma, passing through the fight against civilians under the title of cleansing the country from the abomination of corruption, then, the battles of control and influence with Islamic factions The other is like the Army of Al-Oumma

However, Army of Islam took control of large areas of Eastern Ghouta and concentrated its influence in the city of Douma, and managed to control the unified Judicial Council that supervised the courts in the cities of Douma and Marj, and the offices concerned with criminal law, civil matters, family issues, and Personal status.

The Army of Islam explicitly adopted a discourse opposing the ideas of democracy and pluralism and adopted policies of oppression and organized repression against its opponents, the institutionalization or legalization of violations constituted a striking feature of its behavior towards the media. On June 30, 2015, for example, its members arrested the media activist Anas Al-Khouli in the town of Mesraba and assaulted him and his father by beating. Against the background of his photographing the demonstrations that took place in protest against the excesses of the armed brigades in Ghouta, which was later justified by the spokesman for the Army of Islam in the presence of an arrest warrant issued by the unified judiciary against the journalist Anas al-Khouli and his father on charges of provoking sedition.



## The case of Talnaa al-Hurriya Magazine

The incident of closing the Talnaa al-Hurriyah magazine and the prosecution of those responsible for it, show the repressive structure that the Army of Islam established in face of civil society and the media in particular, and the practices of authoritarianism that it applied to society.

In March 2017, Islam Army closed the offices of Talnaa al-Hurriya magazine, By a decision issued by the Public Prosecution in Douma, against the backdrop of a lawsuit filed against the magazine by the "Directorate of Preaching and Reform" accusing it of disbelief on the background of publishing an article of opinion.

The decision that included closing all the offices belonging to the magazine and stamping them with red wax, moreover, issuing arrest warrants against those responsible for them, were subsequently adopted by the Court of Justice in Houran, operating in the southern region, and the Supreme Judicial Council in Aleppo, as well as the management of the Bab Al-Hawa border crossing, affiliated with the Ahrar Al-Sham Movement, the magazine, was prevented from entering Syria.

Then, the Syrian Islamic Council issued a statement, denouncing the article published in the magazine, "because it is outright disbelief and an assault on the Holy Divine Self", according to the statement.

The effects of the decision also extended to include, without any legal justification, the offices of the Childhood Guardians, Tanmiah and the Day after organization, all of which were civilian bodies that were active in Ghouta and were not primarily concerned with the case related to the lawsuit and the offensive article in Talana Al-Hurriah magazine.

Therefore, this incident demonstrated how the Army of Islam has violated its responsibility to protect civilians and objects in its jurisdiction, as its security forces have refrained from confronting protesters who stormed the building that houses the magazine's office and offices of other civil organizations and vandalized its contents.

Later, the Douma City Court issued a two-month prison sentence against journalists from the magazine and did not adhere to any of the basics of litigation, such as the right to protection, the right to an impartial trial, and the right to have a lawyer, because it lacks clear regulations in the procedures of trials and systems, Besides, because of the absence of a specific legal text, It can be relied upon in the ruling on the charges of "blasphemy against God" and "insulting the divine self" directed against the magazine and those in charge. The judge relied on the Kuwaiti Publications Law article and used it to justify his ruling to ban the magazine.

Moreover, The issue of posters that were published on the streets of the city of Duma before the issuance of the judicial ruling also emerged, at the instigation of the security forces of the Army of Islam or its acquaintance and tolerance of the perpetrators, which carried pictures of members of the editorial family of the magazine Talna al-Huriya, to demand their expulsion from the Eastern Ghouta, which constituted a violation The simplest rules of litigation, such as the right to a fair trial, and the consideration of every accused person is innocent until proven guilty in a public trial, which is considered a general incitement to the magazine and a threat to the lives of its employees.

## Hayat Tahrir al-Sham

Hayat Tahrir Al-Sham militia in Idlib, in turn, explains the factions 'view of media freedoms. After it strengthened its control over the governorate through the Salvation Government, which assumed civil life affairs as an alternative from the Syrian interim government, it imposed through its Sharia-law enforcement (Al Hosbah), and its charitable arms, a set of laws and regulations. It controls the daily lives of citizens and stifles any manifestation of public freedom, foremost of which is freedom of expression.

This group's ongoing violations of human rights in areas under its control that are similar to the repressive practices used by the Syrian regime, including arbitrary killings and arrests, security prosecutions and summonses to Sharia courts without legal justification that may amount to "crimes against humanity," according to the UN Independent Commission for Investigation of Human Rights Violations, UN human rights agency in Syria.

Hayat Tahrir Al-Sham also practices arbitrary arrests, torture of media personnel in its detention facilities, and the application of severe sentences against them, amounting to the death penalty, according to press reports.

It also prohibits any media activity in the city of Idlib without permission or prior approval by the Salvation Government or the security office for Hayat Tahrir Al-Sham, and it also prevents journalists from approaching military headquarters, prisons, and their places of detention, and the areas of presence of the "Guardians of Religion" and "Turkistan Islamic Party" groups In the western countryside of Jesser Al-Shoughour.

## Chapter Two: the legal environment for the media in the areas under Turkish control.

Turkey stands out as the refuge of most of the Syrian opposition media on the one hand, and as an occupation authority after the olive branch and military spring operations on the other hand. With the first months of the Syrian revolution, a large number of Syrian media moved to settle in Turkey, which until the end of 2015 pursued an open-door policy with Syrian refugees, and provided a suitable climate for media work, and a wide margin of freedoms compared to those in Syria, which allowed the establishment of many media projects in it.

Inside Turkey, Syrian media professionals face the legal situation and challenges that all Syrians in Turkey in general face, and that Ankara preferred to classify them as guests and subject their presence to special laws, without giving them legal status as refugees, which linked their presence to political changes, and opened the door to employing it as a bargaining chip Political, both internally and in connection with Turkish foreign policies, while media organizations are subject to the Turkish laws in force to establish companies, license platforms, and civil society organizations.

Procedures to emphasize Syrian refugees throughout Turkey, initiated by the government of the Turkish summer of 2019 did not exclude the Journalists, who have been subjected to arbitrary arrest and deportation, prompting the organization Reporters Without Borders in August of the same year to ask Ankara to protect Syrian journalists refugees in Turkey from the threat of deportation, which contradicts the principle of non-refoulment, which is mandatory for all states in international law.

According to human rights reports, the Turkish authorities deported Syrian journalist Hussein al-Tawil from "Al-Jisr" television, in June 2019, as well as the journalist Yarub al-Dali from Levant News Corporation, on July 9, and the arrest of journalist Obaida al-Omar in Antakya, who works for the Freedom Net website, in July 26 despite having a temporary protection card, and forcing him to sign a permit to voluntarily return to Syria.

The policy of controlling the Syrian presence in Istanbul, and obliging refugees who have temporary protection permits to reside in the provinces in which they are registered, places nearly half of the Syrian media and journalists present in Istanbul between two options, either to lose their job opportunities in the city and return to the states registered there, or an option Violating the residence instructions, which puts them at risk of deportation to Syria.

## | Inside Syria

On March 18, 2018, after a wide-scale military operation called the Olive Branch, Turkish forces, with the direct participation of the Syrian National Army / affiliated with the Syrian opposition, took control of the Afrin region, followed by the "Operation Peace Spring" in October 2019 in the areas under the control of the Syrian Democratic Forces, In which Turkish forces and the affiliated armed groups have expressed a shameful disregard for civilian life and committed grave violations and war crimes, including intentional killing and unlawful attacks that have "killed and injured civilians", **according to Amnesty International.**

Regarding the legal characterization of Turkish military operations in northern Syria, there are two contradictory trends.

**The first based on the legitimacy of operations and their consistency with the rules of international law,** Turkey's right to exercise self-defense guaranteed by law, and Turkey's

membership in the United Nations, which entitles it per Article 52 of the UN Charter to preserve on its national security and the implementation of pre-emptive preventive operations on its borders.

As well as stipulating the Adana Agreement signed between Turkey and Syria in 1998, furthermore, in article five of it stipulates that if Syria does not stop these actions immediately - i.e. support for the PKK - with all the consequences, Turkey reserve the right to self-defense and under all circumstances to demand fair compensation for the loss of life and property.

This was confirmed by the UN Security Council, which possesses, according to Article 39 of the Charter of the United Nations - Chapter VII, the power to characterize acts that constitute a threat to peace and international security, or an act of aggression, when it did not adopt, at its emergency meeting on October 10, 2019, a condemnation of the Turkish operation in Syria and did not consider it an act of aggression.

**The second trend sees Turkish operations in violation of the provisions of international law that guarantee states the right to sovereignty over their territory**, and in violation of the United Nations Charter issued in 1945, which stipulated the principle of non-interference in the internal affairs of states, the principle of respect for regional sovereignty, and the principle of equal legal status of states, as principles A binding defines the legal pathways for state behavior.

**The determination of the legal description of the operations does not seem urgent, whether we are in connection with a legal situation, or an actual situation created by the force majeure and the presence of Turkish forces on the ground.**

The question about the legality of the Turkish invasion of the Syrian territories does not acquire importance, with international law resolving the principle of the applicability of international humanitarian law to it, especially the law regulating the state of military occupation - or what is its goal or so-called invasion, liberation, administration, or occupation.

What is important is the actual presence on the ground, as Article 51 of the Charter of the United Nations stipulates that the use of force and threats- and falls within that state of occupation -in cases where states require the realization of their right to legitimate self-defense, does not prevent the application of international humanitarian law in This situation as the law governing the obligations and rights of belligerents regardless of the legitimacy of their use of force.

The Turkish presence in Syria's compliance with the rules of international humanitarian law, then, the Turkish government has a legal obligation to protect the general population from some of the consequences of the war, as well as the legal protection guaranteed to journalists and due respect for them during armed conflict, which was regulated by Geneva Conventions, in particular, the Fourth Convention, And the first additional protocol 1977 and many separate international resolutions and texts, which were mentioned previously in the research.

Turkey's responsibility to protect media workers and their freedom of action does not stop with the violations committed by elements of the Turkish army in Syria, as it is considered a state responsible for the violations committed by the affiliated armed groups or the operations during which these violations were committed.

On June 22, 2018, members of the "Northern Brigade" group, cooperating with the Turkish army

and at gunpoint, kidnapped a television crew, on a press mission for Al-Hurra, in the countryside of the city of Manbij - Aleppo countryside in the north of Syria, and detained them without any legal basis in the center. The detention is subject to the control of an armed group affiliated with "General Sultan Murad", in clear violation of all legal covenants that protect media personnel in wartime.

In Afrin, for example, all media activities were linked with the approval of the Turkish governor who control the city, whose authority is to endorse work permits for journalists, as well as restrictions on the media through its security services, Turkish intelligence, and joint Syrian-Turkish intelligence, in addition to its police service as well.

## Chapter Three: The Legal Environment in the self-administration Territories in Northern and Eastern Syria

Several resolutions, charters, treaties and international agreements, such as the successive United Nations declarations on the right of peoples to self-determination, the Sever and Vienna agreements and the International Convention on the Elimination of All Forms of Racial Discrimination, were unanimous in recognizing the rights of the Kurdish people to self-determination and freedom in a way. In addition to the texts that protect culture, language, and identity, such as Article 27 of the International Covenant on Civil and Political Rights, the 1993 United Nations Declaration on the Rights of Persons belonging to National, Ethnic, Religious, or Linguistic Minorities, and the Indigenous and Tribal Peoples Convention adopted by them. The United Nations in 1989.

However, the universal recognition of Kurds' rights did not prevent them from the discrimination and marginalization policies applied by the political authority throughout the rule of Al-Baath Party to Syria, which in addition to withdrawing the character of citizenship from some of them targeted the Kurdish national identity by prohibiting speaking Kurdish and prohibiting any form of cultural and media expression, based on that. A set of laws that punish forms of expression and any kind of peaceful activity. <sup>21</sup>

With the beginning of Syrian Uprising in 2011, the influence of the Kurdish parties in their areas emerged, especially when most of the government security forces withdrew from northeastern Syria in 2012, and ceded the local authority in the region to the Kurdish Democratic Union Party and its military wing, but to continue the complicated roads, in which the security interests

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21- Syria: Denying the existence, suppressing the political and cultural rights of the Kurds in Syria, Human Rights Watch, November 26, 2009.

of regional actors overlap with the local dynamics on the northeastern area, the party has reproduced many of the previous practices of the regime, focusing on tightening its security grip on this strategic geographic region, this approach and approach that focuses on security and Effective governance prospects undermined efforts to build self-support management.<sup>22</sup>

On August 13, 2013, the Kurdish Democratic Union Party announced the end of the first phase of the self-Administration project, leading to the announcement of "Self-Administration for Northeast Syria" in September 2018, and throughout these years the informal treaty or tacit understanding between the government of Damascus and the Union Party Kurdish Democrat "to spare the region for airstrikes and ensure a state of stability, which continued even after the region entered into a military conflict with the ISIS in 2014, which led to a media renaissance represented in TV and radio stations, newspapers and electronic and print magazines, news agencies and news sites, distributed among Independent or Partisan.

What is permanently circulated about the preference of the media and freedom of expression in the areas of self-Administration over any other region in Syria does not give positive values, given Syria's permanent position at the bottom of international reports on freedom of the media and the press or the safety of journalists, as well as by the dialectical rule surrounding the experience Political of the self-Administration locally and internationally, we find a strong tendency to dramatize the positive and negative aspects of this experience depending on the position in favor or against its existence, which increases the difficulty in monitoring the state of freedom of the media there.

## First topic: The legitimacy of self-administration laws

The legal characterization of self-administration and the legitimacy of the laws, it issues is problematic in the absence of any clear text in international law that provides a clear legal definition or description of entities or authorities that are formed as a result of civil wars or revolutions, and the principle of recognition that legitimizes new entities remains in international law Vaguely, as sovereign states deal with these entities with duplication governed by political and economic interests.

Legally also, it is difficult to consider self-administration as a de facto government, given that the de facto governments aim to topple the central governments, and bear their economic burdens independently of the government of the system, which was not done in this case.

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22- How Regional Security Concerns Unique Constraint Governance in Northeastern Syria, Carnegie center me, 23 March 2017.

Besides, the social contract and the known constitution does not contain any Articles authorizing independence or separation from the Syrian state.

Likewise, the idea of federalism remains problematic as well. It is not sufficient to consider a declaration of self-administration for a social contract that legitimizes a federal system in northern Syria unilaterally, and without any Syrian or even Kurdish inter-national agreements to recognize the federal law.

## Second topic: Media Law in Al-Jazeera district (Northeastern Syria).

On December 22, 2015, the Legislative Council of the Self-Administration for Northeast Syria passed the Law of Information in Al-Jazeera District, which was prepared by the Democratic Rights Committee in the province, in cooperation with the Free Media Union and the Kurdish Journalists Union, and many journalists working in the area.

The law, which was ratified by the Joint Governance of Al-Jazeera District by Decree No. 1 of 2016, consists of 33 articles that include the mechanism of the Media Council, its powers, duties, and prohibitions of its members and the tasks of the media and publishing office and all the offices of the council, in addition to articles on the right of response, correction, violations, and penalties against media professionals and means. The media, in its preamble, stated, "Establishing legal controls for media work to protect it from excesses does not in any way imply a restriction of its freedom and independence, but rather an affirmation of them."

The law that emphasized freedom of the media and its independence in more than one place did not provide a legal text different from its peers in the region or more in line with the international principles guaranteeing freedom of expression and information.

In Article 2, which states the principles that the journalist must adhere to in his work, the phrase "not to publish racist messages nor challenging of the religious values of society ", which is a suggestive phrase and subject to many interpretations that could contradict the principle of freedom of the media.

The law insisted on more than one point on the issue of licensing, whether for freelance work in the press, or the work of institutions and their offices, and the legislator identified the Supreme Information Council as the authority granting these licenses and the business cards of local and

foreign media correspondents after accepting their accreditation, in addition to several powers approved by Article 12 From the law, which we mention:

- 1- Working on freedom of the media and freedom of expression and its pluralism.
- 2- To suggest and express an opinion on the legislation related to the media sector, and to contribute to its implementation.
- 3- Setting and approving the technical specifications and the book of conditions related to the granting of licenses for the media, as well as studying applications for licenses and granting approval or disapproval with a statement of the reasons and it is his right to review the judiciary.
- 4- Determining fees for all types of licenses. These allowances and fees lead to the Council.

According to the first clause of the council's powers, it is responsible for freedom of the media and freedom of expression, and it referred to pluralism.

Here, it does not appear clear what the legislator's intention is for the council to be a defender and representative of the media in the face of the judiciary or the executive authority, and to defend their freedom, or whether he considered that this task is done from By allowing more journalists and media organizations to operate in areas of self-Administration control.

However, in the third item, the legislator granted the council the power to propose and express opinion only concerning legislation related to the media sector, as well as the authority to contribute to its implementation, without clarifying the nature of opinion and the extent of its obligation, as well as concerning contributing to the implementation of the proposed laws, while the fourth and fifth items are concerned The issue of licenses, by defining specifications and book of conditions, granting approval or lack thereof, and determining fees and wages, referring to the right of the council to review the judiciary, without mentioning the right of the applicant to review the judiciary in turn.

Then, the problem of licenses appears as a general approach without mentioning specific criteria for accepting a License, allows for the mood of the members of the Council's political or cultural attitudes and influence the decision was rejected.

About penalties against media professionals, they came in the form of financial or suspension work penalties, while Article 32 stipulated a single line on media professionals' rights, without any elaboration, explanation, or legal regulation in this regard, and the article states that "every person is punished with any His characteristic was, according to the district's general penal law, if a journalist or media worker was insulted or assaulted because of their work or during it".

In the summary, we see that the law, even though it presented itself in the preamble as protecting freedom of expression, did not give any attention to the media or media institutions in the legal text, which was essentially defining the tasks of official institutions and the conditions for granting licenses, citing the dangers of work and irregularities, without It addresses the protection of media professionals and freedom of expression in a real and sufficient manner.



## Third topic: Kurdish media organizations

In the Al-Jazeera province, many organizations and bodies have emerged that address the protection of journalists and their rights and the development of media work in general, including the Syrian Kurdish Journalists Union, the Kurdish Journalists Syndicate in Syria, the Kurdish Writers and Journalists Union, and the Free Media Union, but they, like their peers in the areas of armed opposition control, lack Institutional work, and the actual ability to engage in the development of the profession, as well as its association with political parties, which led some to consider them as political alliances, in a trade union formula to complement the parties' control over the media reality, no more.

### Free Media Union

In 2012 the Free Media Union was established in Al-Jazeera Province with the support of the Democratic Union Party, which according to its internal system is a professional organization concerned with creating a new professional framework for the media according to the ethical and political perspective of society. Journalism and media development, creating appropriate climates for expression and opinion, and protecting and defending the rights of journalists and media workers according to legal frameworks.

On August 15, 2013, the Kurdish Higher Commission announced that the federation adopted a single reference for journalistic work in the region, as the Ministry of Information is the sole authority responsible for granting media work licenses to the media and media actors in the region and organizing their affairs, and therefore any media institution or A media actor obtained a work permit from this institution, Also, many media actors confirmed that they are compelled to inform the Asayish elements of their actions, while the authorities justify the imposition of the licensing system under the pretext of preserving the safety of journalists.<sup>23</sup>

With the approval of the Media Law in Al-Jazirah District in 2015, the authority to grant licenses to the Supreme Media Council moved, and the Union continued to organize media events that some see as political and emphasizes the organic relationship between it and the Democratic Union Party and not being neutral towards other political parties.

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23- Reporters Without Borders, the media in Rojava, between the hammer of the Democratic Union and the anvil of Asayish, May 2014

## Syrian Kurdish Journalists Union

The federation was established in March 2012 by a group of Kurdish journalists who graduated from the Faculty of Journalism at the University of Damascus, and according to its internal system, it is an independent media regulatory framework that includes Syrian Kurdish journalists at home and abroad, to advance the Kurdish media reality within the Syrian national framework.

The federation, which has a central headquarters in Qamishli and has a membership of 70 journalists, published the Charter of Honor for Syrian Kurdish Journalists, which stressed the responsibility for journalistic work, freedom of the press, and its neutrality, and also provides empowerment and training programs for journalists, and since 2014 has issued an annual report in Arabic, Kurdish, and English on Freedom of the press and violations in the region.



## Recommendations

- ▶ Addressing impunity, that is, “the absence of judicial traceability towards perpetrators of human rights violations,” which is one of the most dangerous practices that intimidate journalists and induce them to not carry out their duties per journalistic ethics, and work to ensure that the perpetrators of violations and those who plan and issue orders to commit them are prosecuted And the application of penalties against them.
- ▶ Ensuring that the reconstruction process in Syria does not cover human rights violations taking place in the country, or facilitate ongoing or new violations by adopting the relevant authorities due diligence to ensure respect for human rights before every new project in the framework of the reconstruction process, as well as investigating credibility and effectiveness in violations of the law International criminal, criminal violations of human rights and international humanitarian law that include violations of the right to the media, to ensure that they are not repeated in the future.
- ▶ Calling attention to the extraordinary role of the media and the necessity of providing protection for freedom of information and expression, by introducing the media as a partner in any future transitional justice efforts, and benefiting from the experience of South Africa in which the media played a key role in the early successes of the Truth and Reconciliation Commission, through its

role in Promote victims' rights, advocate accountability, and even stimulate transitional justice processes by revealing hidden facts about crimes and their perpetrators.

► Providing constitutional protection for freedom of expression by requiring the constitutional text on the issue of the supremacy of international agreements ratified by the Syrian government over internal legislation, which means explicit inclusion of Article 19 of the International Covenant on Civil and Political Rights, which concerns freedom of expression, as is the constitution of the Kingdom of Morocco, which stipulates on the following: "To make international agreements, as ratified by Morocco, within the scope of the provisions of the Constitution, the laws of the Kingdom, and its established national identity, as soon as they are published, transcend national legislation and work to harmonize these legislation with what is required for such ratification."

► Emphasizing the independence of the constitutional judiciary and activating its oversight role, which will be possible by protecting public rights and freedoms, foremost of which is freedom of information contained in the texts of the constitutional document, in line with the international law of human rights.

Hence, the constitutional judiciary works to monitor compliance with these texts and build its decisions on them to achieve constitutional justice, as the judiciary builds its rulings on the laws. Therefore, if the laws are unjust, the rulings issued by the judiciary will also be unjust, and here comes the role of the constitutional judiciary in considering the fairness of those laws in light of the provisions of the constitution and constitutional principles.

► Review the penal code, special laws, and media law to repeal all crimes related to peaceful expression that conflict with Syria's obligations to respect freedom of expression under the International Covenant on Civil and Political Rights, such as the offense of defamation and insult to the President of the Republic, the defamation and insult of public departments and institutions responsible for publication and the media, or the offense of publication False news that would weaken national sentiment, weaken the psyche of the nation, spread sectarian or sectarian discrimination, weaken confidence in the national economy, attempt to change the constitution, and oppose the goals of the revolution and other crimes, or at least abolish prison terms imposed by the criminal law and one possible punishment for these crimes and to keep the financial fine.

► pushing for the abolition of the Ministry of Information and the establishment of an independent media authority as a completely independent body from the executive, as an independent and democratic reference body in the framework of a participatory approach between media professionals, which carries out the functions of self-regulation, mediation, arbitration, rules of freedom and responsibility, respect for the ethics of the profession, advancement, defense of freedom of the press, and access to information, It is chaired by an elected board of directors for a specified, non-renewable period, and there is no harm in using the model of the Supreme Council of Audiovisual Media in France, which is very similar in its formation to the French Constitutional Council.

- ▶ Demanding the approval of the Law on the Right to Access Information, as a basic human right per international covenants and covenants, General Assembly resolutions, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which stipulated the necessity of enabling citizens to obtain information and take measures to exercise them for this right, to promote For transparency and an established culture of good governance.
- ▶ Demanding respect for diversity in Syria and the reformulation of media laws, in a manner that respects the national and linguistic pluralism of the components of the Syrian people and is consistent with international laws that stipulate the rights of national, religious and linguistic minorities, respect for their cultural and social rights, and remove the effects of discriminatory policies on the rights of nationalities in Syria and their repercussions.
- ▶ Reconsidering the laws governing electronic media, according to the declaration of the United Nations Human Rights Council that the use of the Internet is a basic human right, and that Internet rights should be protected as they are not published on the Internet, specifically the freedom of expression granted and protected under Article 19 of Universal Declaration of Human Rights.
- ▶ Consider aggression against the Journalists as an aggravating circumstance that prevents the statute of limitations applied to criminal acts against media professionals according to Recommendation No. 29 issued in 1997 by the United Nations Educational, Scientific and Cultural Organization (UNESCO) titled "Condemning attacks on journalists", in which states called for a revision Their national legislation is aimed at enshrining the principle of non-statute of limitations for crimes against journalists.
- ▶ Working to create a partnership between civil society organizations, masses, and media organizations deployed in Syria and abroad, and working to create the nucleus of a common charter that establishes principles for media work in the future, and stems from loyalty to the Syrian nationalism with its cultural, ethnic and religious diversity, respecting diversity and promoting it as a source of national wealth, It adopts a system of civil rights and fundamental freedoms, foremost of which is freedom of expression, the principle of citizenship and the rule of law.



## References

1. Dr. Shams Al-Din Al-Rifay, History of the Syrian Press, Dar Al-Maarif, 1969, Part One, Page 81.
2. Dr. Philip Tarzai, History of the Arab Press, Beirut Literary Press, first part in 1913, page 198
3. Muhammad Kord Ali, the Notes, the Origins of the Ancestor, Part One, Page 61
4. Dr. Shams Al-Din Al-Rifay, History of the Syrian Press, Dar Al-Maarif, 1969, Part Two, Page 14
5. hanna batatu, syria's peasantry, the descendants of its lesser rural notables, and their politics, Arab Center for Research and Policy Studies, first edition page 386
6. patrick seale asad the struggle for the middle east, page 715.
7. Azzmi Bishara, Syria- A way of suffering to freedom, Arab center for researches and policy studies, page 9.
8. Qadri Ahmed Hafez, Third World and International Media Law, PhD thesis in State of Law, majoring in Public Law, Faculty of Law, Ben Aknoun, University of Algeria, 2010-2011, p. 14.
9. Maurice Nakhleh, Al-Hurriyat, Al-Halabi Human Rights Publications, Beirut, Lebanon, 1999, p. 38
10. Muhammad Saad Ibrahim, Freedom of the Press, a study in legislative policy and its relationship

to democratic development, 3rd edition, Dar Al-Kutub Al-Alami for Publishing and Distribution, Minia University, Abdin, Cairo, 2004, p. 26.

**11.** Rasim Mohammed Al-Gammal. Communication and media in the Arab world. Center for Arab Unity Studies, Beirut, 1991, p. 19

**12.** Ali Khalifa Al-Kuwari and others, The Democratic Question in the Arab World, Center for Arab Unity Studies, Lebanon, 2001, p. 51

**13.** German Basic-law

**14.** Thoregerson against Iceland, Judgment of June 25, 1992, Group A No. 239, paragraph 63.

**15.** Castles v. Spain, Judgment of April 23-April 1992, Group A No. 236, paragraph 43.

**16.** The Arab Charter for Human Rights 2004: <http://www.amnestymena.org/ar/Magazine/Issue16/righttofreedom.aspx>

**17.** The sixth item of the principles of organizing radio and television satellite broadcasting in the Arab region, the media and communication sector, the General Secretariat, the League of Arab States, February 2008, p. 04

**18.** <https://www.worldatlas.com/articles/10-countries-that-censor-the-internet.html>

**19.** [almodon.com/media/2018/12/29/](http://almodon.com/media/2018/12/29/)

**20.** Opening the Floodgates, Controlling the Flow: Swedish Court Rules on the Legal Capacity of Armed Groups to Establish Courts

**21.** Syria: Denying the existence, suppressing the political and cultural rights of the Kurds in Syria, Human Rights Watch, November 26, 2009.

**22.** How Regional Security Concerns Unique Constraint Governance in Northeastern Syria, Carnegie center me, 23 March 2017.

**23.** Reporters Without Borders, the media in Rojava, between the hammer of the Democratic Union and the anvil of Asayish, May 2014



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