

# **The Future of Civil Society in Human Rights Protection in the 21<sup>st</sup> Century Levant**

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## ABSTRACT

The Levant is currently experiencing a shift in the social and political dynamics that have been central to its existence for the past few decades. This shift has come as a result of broader regional movement that demands institutional reform and political freedoms. These demands are also fueled by a combination of corruption, increased poverty, and a desire for better living conditions. Recognizing the core human rights issues rising to the surface, this paper provides a comparative analysis of the different legal frameworks and political environments that govern civil society sectors in the Levant and its effect on the role of civil society in human rights protection in Jordan, Lebanon, and the occupied Palestinian Territories. This thesis focuses on the effect of laws and administrative decisions on both civil society organizations and media organizations, considering both important parts of the civil society sector while drawing an important distinction between the two. It analyzes the deficiencies in the different systems and relies on international best practices to make recommendations for improvement to be implemented by the public and civil society sectors of the concerned jurisdictions. This is done through evaluating the limited existing information provided mostly by international non-governmental organizations and policy centers working in the Middle East and North Africa. The paper seeks to better define the role of civil society in human rights protection in the Levant and provide tangible growth points based on the currently existing reality.



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## List of Acronyms

ACC	ANTI-CORRUPTION COMMITTEE
ANERA	American Near East Refugee Aid
CBO	COMMUNITY-BASED ORGANIZATION
CSO	CIVIL SOCIETY ORGANIZATION
EU	EUROPEAN UNION
EUBAM	European Union Border Assistance Mission
GDPS	General Directorate for Public Security
GID	GENERAL INTELLIGENCE DIRECTORATE
GUVS	GENERAL UNION FOR VOLUNTARY SOCIETIES
ICCPR	INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
ICNL	INTERNATIONAL CENTER FOR NON-FOR-PROFIT LAW
ICS	ISLAMIC CENTER SOCIETY
INGO	INTERNATIONAL NON-GOVERNMENTAL ORGANIZATION
IQD	IRAQI DINAR
JOD	JORDANIAN DINAR
NGO	NON-GOVERNMENTAL ORGANIZATION
LBP	LEBANESE POUND
LO	LOCAL ORGANIZATION
MENA	MIDDLE EAST AND NORTH AFRICA
MoE	MINISTRY OF EDUCATION
MoH	MINISTRY OF HEALTH
MoI	MINISTRY OF INTERIOR
MoICT	Ministry of Information and Communication Technology



MoSD	MINISTRY OF SOCIAL DEVELOPMENT
MoSMAC	Ministry of State for Media Affairs and Communications
MoYS	MINISTRY OF YOUTH AND SPORT
PA	PALESTINIAN AUTHORITY
PNA	PALESTINIAN NATIONAL AUTHORITY
PM	PRIME MINISTER
oPT	OCCUPIED PALESTINIAN TERRITORIES
UN	UNITED NATIONS
UNCHR	United Nations High Commissioner for Refugees
UNRWA	UNITED NATIONS RELIEF WORKS AGENCY
USAID	UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
USD	UNITED STATES DOLLARS

## INTRODUCTION

The Middle East and North Africa (MENA) region has attracted the attention of the world for several decades now. The Levant in particular has been the focus of those interested in understanding the Arab-Israeli crisis and its reverberations on the area. The recent series of changes sweeping through the MENA region has also fascinated viewers both inside the area and outside of it. These movements now referred to as the Arab Spring<sup>1</sup> have come as a result of widespread frustration with existing status quos, marginalization, and more.

This shift in societal attitudes, from being relatively passive to being active and outspoken, has now become an important consideration for how governments respond to popular demands. Today, both the people and the governments of the Levant find themselves in uneasy positions as violence and civil discord gain momentum in the region. This has highlighted the importance of creating and sustaining a public space in which citizens can dialogue, interact safely and work collectively to protect human rights. This space is the civil society sector.

From years of colonization to independence, the region has been plagued with inconsistencies in governance and the social unrest that commonly accompanies such conditions. The geographic region defined as the Levant is composed of Israel, Jordan, Lebanon, and Syria. In

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<sup>1</sup> The Arab Spring is also perhaps more appropriately referred to as the Arab Awakening. This “awakening” started in December 2010 in Tunisia where Mohammed Bouazizi, a fruit and vegetable vendor, who doused himself in petrol and lit himself on fire because of unfair treatment by public officials. Bouazizi’s act, a desperate one that represented the frustration with social, political, and economic injustices, sparked a nation powered by the same fuel into action. This act of self-immolation led many young Tunisians to the streets. Almost a month later, the dictatorship of Tunisia’s president Zine El Abidine Ben Ali collapsed after he left the country.

People around the Middle East and North Africa took to the streets in the following weeks and months first in support of Tunisia and Egypt, then to demand their own rights and make their voices heard. First demonstrations following those of Tunisia occurred in Algeria against the 19 year old state-of-emergency, followed by Jordan, Sudan, and several other countries.

the case of Israel, the geographic area considered in this thesis is the occupied Palestinian Territories (oPT) composed of the West Bank and Gaza Strip. The current conditions in Syria have resulted in its elimination from this analysis. The previous existence of a security state impeded the proper development of civil society. Conditions in Syria today are recognizable as civil war<sup>2</sup> making it difficult to provide an accurate or useful evaluation of the past, present, or future status of civil society in human rights protection.

Until recently, the interest of human rights scholars in the Levant and the broader MENA has been very limited. Their main concerns were history and politics, particularly Arab-Israeli relations<sup>3</sup>. Most attempts to address human rights in the MENA region looked at the possible relationship between human rights and Islam. Examples include scholars such as Abdullahi Ahmed An-Na'im<sup>4</sup>. Very little outside of these two subject areas exists to depict the reality of civil society or human rights in the Levant. As a result of the Arab Spring, there has been an increase in the amount of scholarly articles that look at human rights abuses and socio-economic difficulties as being the main cause for the Arab Spring and other movements in the MENA region. Despite its still limited amount, this information is helpful to reviewing and building a connection between the current circumstances that exist and those that we should strive for particularly as the Levant experiences what seems to be an inevitable upheaval.

Information relevant to this field of study is centered on the experience and insight of those persons and organizations with experience working on the ground. Reports and articles compromise a substantial amount of written material on the MENA region. This thesis

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2 It is important to note that most of the news coverage still refers to the situation in Syria as a revolution where the reality is that it has descended into a civil war with an united foreign supported and funded opposition. The failure to recognize a still existing loyalty to President Bashar Al-Asad as well as the alienation of minority groups by the "opposition" recalls an image reminiscent of Libya. By overlooking the reality of a civil war, both Syrians and the world are choosing to delude themselves.

3 Renowned scholars in this field include Noam Chomsky, Ilan Pappé, and Edward Said.

4 Abdullahi An-Na'im Website, accessed 22 November 2012, (<http://www.law.emory.edu/faculty/faculty-profiles/abdullahi-ahmed-an-naim.html>).

realizes this limitation and hopes to fill part of what is currently a big gap. This paper aims to add to the limited pool of existing literature on civil society and human rights protection in the MENA region today. The examination of current realities will be done through an analysis of existing literature and the identification of shortcomings and growth points existent in the different civil society sectors.

The paper also aspires to create a background document that draws regional comparisons of successes and failures in the Levant, and works to visualize possible solutions for the growth and empowerment of the sector in each country separately and the region as a whole. It will provide a tool that can be used by civil society and governments to further develop human rights based approaches by clarifying the role of civil society, facilitating access to the knowledge, and using international best practices.

The thesis will focus on the legal framework for civil society and media organizations, as well as the practical reality in which these organizations exist. The importance of this approach is to examine the legal and practical truths and analyze the gaps between the two while envisioning the improvement of the current environment. It is through this method that one can best understand the opportunities for functional and sustainable intervention. Otherwise bridging the gap between reality and the ideal becomes a disorganized, unfounded, and unsustainable process.

The analysis provided in this thesis will rely mostly on recent articles available online that deal with current changes. These articles include scholarly sources, news sources, and reports and press statements from international non-governmental organizations. Although the use of articles may not always provide most analytical perspective, it does provide substantial

insight into the current affairs of the region. In addition to being current, the articles generally provide analyses of the geo-political and socio-economic realities that shape the different environments in the Levant. Other sources widely used are reports prepared by international organizations based on their experience and research in the field.

Chapter 1 provides an overview on civil society, its interaction with the public and private spheres, and its relationship to society. A definition of civil society is adopted in this chapter. Chapter 2 examines the legal and practical environment governing the work of civil society organizations (CSOs) and media workers in Jordan. Chapter 3 researches the legal and practical environment regulating CSOs and media workers in Lebanon. Chapter 4 examines the legal and practical environment experienced by CSOs and media workers in the oPT. Chapter 5 determines common strengths, weaknesses, and their relation to state approaches to civil liberties in the three jurisdictions. Chapter 6 provides recommendations for improvement based on findings in the region so that the different systems become compliant with international best practices and civil society is able to mature. Finally, the thesis concludes by restating the importance of a strong and independent civil society sector capable of protecting human rights to the existence of a stable and coherent state.

Ultimately, the aim of the thesis is to define the role of civil society in human rights protection in the Levant, assess the current existing environments in the three different contexts, and deconstructing the main aspects of the civil society of the Levant and using them to re-construct sectors that are able to develop and mature in a more natural way.

# Chapter I- Civil Society and Human Rights Protection

## THEORETICAL IMPORTANCE

The fundamental right related to the civil society sector, and its organizations, exists in Article 22 of the ICCPR<sup>5</sup>, the right to freedom of association. Article 22(1) states:

Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

The article goes on to state that any restrictions to this right must be “prescribed by law” and “necessary in a democratic society” (Article 22(2)).

The concept of civil society is still considered a ludic one in many places around the world. It is difficult to confine it to one precise definition since several different ones exist. Some define civil society as the third sector of society that exists alongside the private sector and the governmental sector while others define it as “a group of voluntary free organizations which occupy the public sphere between the state and the family and in its pursuit of the members' interests, civil society abides by values and criteria of respect, reconciliation, tolerance, and peaceful management of diversity and differences.”<sup>6</sup> A third definition by Juan Linz and Alfred Stepan introduces civil society as the space “where self-organizing groups, movements, and individuals, relatively autonomous from the state, attempt to articulate values, create associations and solidarities, and advance their interests.”<sup>7</sup>

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5 International Covenant on Civil and Political Rights was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entered into force 23 March 1976, accessed 1 March 2012, <http://www2.ohchr.org/english/law/ccpr.html>.

6 Al Urdun Al Jadid Research Center, “Civil Society Index 2010- Analytical Country Report: Jordan 2010,” 21, accessed 14 March 2012, [https://www.civicus.org/images/stories/csi/csi\\_phase2/jordan%20acr%20final.pdf](https://www.civicus.org/images/stories/csi/csi_phase2/jordan%20acr%20final.pdf).

7 Juan Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore: JHU Press, 1996), 7.

Tom Palmer finds that the definition of civil society is “one of the more important problems in moral, social, and political thought.”<sup>8</sup> He adopts the definition used by Steven Scalet and David Schmidtz that finds civil society to be the “‘community... [that] delegates authority to government and is the body within which ultimate authority resides. Civil society retains the right to dismiss those whom it hires to provide it with governance.’”<sup>9</sup> This definition is certainly an appealing one, but it assumes too much power within a sector that is often viewed to be in opposition of government or perhaps the counter-balance to it. This is not to imply that the sector should be functioning as opposition, but rather as an integral part of the checks and balances of a system, democratic or otherwise<sup>10</sup>.

Other definitions focus more on members of the sector rather than its function. For example, the World Bank defines civil society as one that refers to

“the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations (CSOs) therefore refer to a wide array of organizations: community groups, non-governmental organizations (NGOs), labor unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations”<sup>11</sup>.

Juan Linz and Alfred Stepan concur by finding that this sector can include: “social movements (women's groups, neighborhood associations, religious groupings, and intellectual organizations) and civic associations from all strata (such as trade unions, entrepreneurial groups, journalists, or lawyers).”<sup>12</sup>

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8 Tom Palmer, “Classical Liberalism and Civil Society: Definitions, History, and Relations, Civil Society and Government,” in *Civil Society and Government*, ed. Nancy Rosenblum and Robert Post (Princeton: Princeton University Press, 2001), 48.

9 Ibid, 49.

10 Civil society may be a thriving sector in countries and states where democracy is a far-fetched concept and very little power really exists over the government.

11 “Defining Civil Society,” The World Bank, accessed 28 February 2012, <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0..contentMDK:20101499~menuPK:244752~pagePK:220503~piPK:220476~theSitePK:228717,00.html>.

12 *Supra* 7. 7.

In some cases the civil society sector is considered a fourth sphere that operates alongside the private, public, and family domains. The main difference with this view is that it regards the family domain as separate from that of civil society whereas the other approaches include family structures as a part of the civil society sector. This includes nuclear families, but focuses more so on extended families and the related structures such as tribes, clans, and family councils that are predominant in many developing countries.

In all cases, it is clearly identified that a primary characteristic of the civil society sector is its independence from the government. Another common characteristic is its exclusion from profit making activities. The civil society sector is also identified by its purpose, which can be viewed as the promotion of its interests or perhaps more appropriately as mediating between the interests of the state and those of the society. As a sector, it is most commonly labeled non-profit, voluntary, non-governmental, or charitable.

The principled importance of this sector lies primarily in its relationship to accountability of state structures. Ernest Gellner describes civil society as a “group of diverse non-governmental institutions which is strong enough to counterbalance the state and, while not preventing the state from fulfilling its role of keeper of the peace an arbitrator between major interests, can nevertheless prevent it from dominating and atomizing the rest of society”<sup>13</sup>. Gellner highlights the important role of civil society in equalizing state powers without seeking to disrupt the government in its conduct of duties. Jude Howell and Jenny Pearce view this as the “intellectual space... in which it is recognized that all individuals through their diverse associations and organizations have the right to contribute to discussions about how to organize their society, deal with its problems, and ultimately define what kind of

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<sup>13</sup> Ernest Gellner, *Conditions of Liberty: Civil Society and Its Rivals* (Harmondsworth: Penguin Press, 1996), 5.



development is required and desired.<sup>14</sup>” This view supports Gellner’s perception of the sector’s role while also highlighting the importance of civic participation and development. Howell and Pearce extend the more traditional definition of the sector and enlarge it to both civic engagement and development based on stakeholder (citizens’) input.

The existence of a strong civil society sector is associated mostly with democratic states. It is here that the perhaps optimistic definitions of civil society have strong bearing. A healthy society is a balanced one where all three sectors are in equilibrium. In such cases, the three sectors (governmental, private, and non-governmental) complement each other and work to ensure and reflect a balanced society. Imbalanced sectors eventually lead to imbalanced societies due to the need of other sector(s) to compensate for the weakness of any one of them.

For an empowered civil society sector to be effective in human rights protection, actors working at the various levels need to be strong. They also need to be aware of the need to organize across communities and through the different levels of structures in order to ensure citizenship engagement as well as involvement and ownership at the different levels and stages of any process. The obligation of the sector is to work on both vertically and horizontally, stepping in to support the government when needed.

Vertical involvement is the ability to involve citizens at a local, municipal, and national level. Despite seeming simple, this involves the ability to forge strong connections, build trust, and engage community members in their own future. It is at the local level where the truest information on needs and availabilities are found. A similar horizontal process should be

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14 Jude Howell and Jenny Pearce, *Civil Society and Development: A Critical Exploration* (Boulder: Lynne Rienner Publishers, 2002), 13.

happening within the de-concentrated local levels of governmental stakeholders because policies at the national level are not always likely to translate into effective action at the local one.

At the municipal level, civil society activists should be working with CSOs, community leaders, religious leaders, and other stakeholders to analyze realities and address needs. The same process should also be inclusive of local government representatives who ideally are responsible for giving feedback on national policies and overseeing its local implementation. The amount of influence and decision-making power of this tier could vary widely<sup>15</sup>. It is nonetheless important that all different levels of society are involved in informing and analyzing governmental policies and practice so as to ensure the most effective interaction with beneficiaries. A human rights approach, and not a more traditional charitable one, should inform the policies and the analyses.

Being able to access information and stakeholders at all levels is crucial for the creation of realistic policies that are responsive to needs and abilities. This starts at the local level and is used in the conversations being had at the municipal level, which are then brought to a national level where governmental decision makers and civil society representatives are able to build responsive policies and strategies for tackling social problems facing local communities around a country.

For the purpose of this paper, the civil society sector is defined as the third sector that operates independently from the government and from the profit-making sector. It includes non-governmental organizations, (NGOs), international non-governmental organizations

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<sup>15</sup> In some cases, local government institutions are fully empowered to make decisions on behalf of their respective institutions while in other cases they simply act as messengers between the people and the central government.

(INGOs), local organizations (LOs), community-based organizations (CBOs), trade unions, religious associations, women's groups, civic associations, student movements, and more. The purpose of this sector is to promote the interests of society through multi-tiered communication in the pursuit of development and advancement. This definition acknowledges family as an important part of civil society, particularly in areas like the Levant where family ties remain strong and clan systems influence the social and political realms.

## **Theory in practice**

Theory is an important part of defining the function of the civil society sector. The general vision is that civil society sector is used to promote good governance, cohesive societies, and development. The practical manifestation of these aspirations is dependent on the country and environment of each particular sector. Any illusions of uniformity should be dispelled early on.

Despite its theoretic independence from the public and private sector, civil society is realistically connected to and dependent on the performance of the two other sectors. The dynamic nature of civil society should enable it to expand and fill shortcomings within those sectors. More permanent expansions will eventually lead to unbalanced societies where one of its major pillars is consistently weak, opening the door to a volatile situation. Daniel Posner finds that in the absence of the state, civil society uses a "substitution" method in the context of a failed state whereby the sector steps in to provide public goods<sup>16</sup>. Examples include neighborhood watch groups in the absence of police protection, community organizations building schools, and more<sup>17</sup>.

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16 Daniel Posner, "Civil Society and the Reconstruction of Failed States," in *When States Fail: Causes and Consequences*, ed. Robert Rotberg (Princeton: Princeton University Press, 2004), 237.

17 Ibid, 239.

In some cases, civil society work happens in collaboration with the state sector. Posner highlights the difficulty of building civil society in a failed state<sup>18</sup>. His description of the difficulty focuses on the need for a basic measure of state stability and security. This highlights the roles of the sectors as complementary to each other and not opposing, but it also helps to outline other possible dangers that may arise from failed states, such as the rise of armed groups and militias. Although many other factors contributed to the failure of a state and the rise of militias, this has been witnessed in Republican parts of Northern Ireland during the troubles<sup>19</sup>, Somalia, and rural Yemen.

The sector is meant to thrive in conditions where the state sector is both strong and enabling of it. The approach of many governments is unfortunately to stifle the sector and its organizations through co-opting organizations, imposing restrictions, and intruding on their affairs. This is prevalent to varying degrees in dictatorships, autocracies, and new or transitional democracies. These restrictions are generally reflected in either state legislations or administrative policies, or both. In some cases it is the lack of legislation that reflects a government's attitude towards CSOs.

An appropriate example is the deposed Mubarak regime of Egypt that had not legally recognized or regulated NGOs, but rather turned a blind eye to them in more recent years. The absence of regulation has been exploited by the newly elected parliament functioning under the currently ruling Egypt Military Council to disrupt the work of NGOs, particularly those working on issues related to democracy, under the guise of illegally receiving foreign funding<sup>20</sup>. While this has been coined as an issue of Egyptian sovereignty, foreign

<sup>18</sup> Ibid, 246-249.

<sup>19</sup> The same can be said for both Unionist and Republican neighborhoods in the aftermath of the Good Friday agreements. Symbolic examples include the need to pay protection money and the role of paramilitaries as disciplinary committees.

<sup>20</sup> Mohamed Abdel-Baky, "Under Siege," Al- Ahram Weekly Online, 16-22 February 2012, accessed 7 March 2012, <http://weekly.ahram.org.eg/2012/1085/eg3.htm>.

intelligence, and judicial independence, the core matter is the persecution of NGOs for work that can be construed as tipping the political scales through the dissemination of good practices and accountability measures. Other restrictive state practices include Russia's recent response to demonstrations and the freedom of assembly, Iraq's draft Informatics Crime Law<sup>21</sup> that punishes with life-time imprisonment and a fine of 25,000,000 IQD (\$21,420) to 50,000,000 IQD (\$42,840) anyone that takes any actions that could prejudice the independence of the state, its unity, or its economic, social, political, military or security well-being (Article 3(1)), and Syria's ban on foreign media in its territory and any media in the besieged areas.

Thus, the imposition of one sector on another has serious affects on the overall society and its ability to properly function and develop. The response of dictatorships to the sector should serve as a caution to currently functioning organizations of their importance in consolidating local support and playing active advocacy roles nationally and internationally.

On the other hand, civil society has achieved great successes, both historically and in the present day. The humanitarian responses and efforts in disaster relief are a fine example of the mobilization of this sector. Other examples exist on national levels. In the US, the strong social and legal mobilization of civil society known as the civil liberties movement brought an end to segregation. While it is arguably a democratic system, its lack of true democratic practice was reflected in its exclusion and persecution of African-Americans and their segregation from society over decades and centuries. Other successful social change movements have been that of the female inheritance movement in Hong Kong during the 1990s<sup>22</sup> and the campaign for reforming the personal status law in Lebanon and Jordan.

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21 "Iraq: Draft Informatics Crimes Law October 2011," Article 19, accessed 7 March 2012, [http://www.ifex.org/iraq/2011/10/27/11\\_10\\_26-analysis\\_iraq.pdf](http://www.ifex.org/iraq/2011/10/27/11_10_26-analysis_iraq.pdf).

22 Sally Engle Merry, *Human Rights and Gender Violence* (Chicago: University of Chicago Press, 2006), 192-

Local advances are also made through the contribution of this sector. To recount all these developments would be impossible, but it is important to remember that they include every successful instance of ensuring good governance, collective bargaining in the realm of labor rights, poverty reduction, community initiatives, uncovering human rights violations, and much more.

## **Legal Best Practices**

The guarantee for the right to freedom of association as enshrined in the ICCPR requires states not to place limitations on this right or corresponding rights such as the right to freedom of expression and the right to freedom of assembly. Any limitation of this right has to be “prescribed by law and necessary in a democratic society...” according to ICCPR Article 22 (2). The right to free association inevitably affects access to other rights.

In regulating the right of association, some best practices do exist. Best practices are ultimately identified as the removal of most restrictions that could limit or hinder the work of associations. State regulation should focus on creating a framework that limits government intrusion and creates an environment where CSOs can function properly and grow. This includes practices such as not mandating government approvals for creating associations, but instead requesting that associations submit notifications to a particular government agency. Another practice is setting up an independent and transparent body to facilitate the work of CSOs including providing assistance on governmental requirements as far as financial, administrative, and managerial matters are concerned.

Good practices also include not setting limits on the participation of some members of society

in associations. This includes allowing employees from both the private sector and the public sector to unionize. Various countries<sup>23</sup> still do not adhere to this practice and bar their public laborers from the right to association and collective bargaining. This also includes not limiting the rights of previously convicted persons to establish or join CSOs.

In relation to membership criteria, several best practices exist. The first of which is setting a requirement for a very low minimum number for members to create an association. Although no numeric value is included in the definition of an association, conditions should be easy to meet. A good practice would be to set a minimum membership at two or three persons. Some of the more restrictive practices include setting extremely high thresholds for membership.

Another important factor is not limiting membership based on nationality, sex, and education. Based on the belief in the universality of human rights, the right to association should be open to all persons residing within a particular territory or state. While many countries limit the right to association to nationals for numerous reasons, this practice is considered improper and is used in some cases to further disempower segments within society such as stateless persons, refugees, migrant workers, and undocumented workers. Establishing or joining an association also should not be contingent upon the age or criminal record (or lack thereof) of citizens. Such factors should not be used to limit the right. As with other legal matters, joining an association should be allowed based on the legal age of each country or with the consent of a guardian if the person is underage.

It is important to acknowledge that employing best practices does not mean creating an unregulated sector nor is it an attempt at compromising state security. These practices are

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<sup>23</sup> Iraq continues to adhere to a series of decisions and laws (Decision 150 of 1987, Law 52 of 1987, and Law 71 of 1987) that prohibit laborers in the public sector from forming unions or collective bargaining.

intended for the creation of a strong, self-regulating third sector that complements the role of the state in meeting the needs of its people.



## CHAPTER II- JORDAN

### Geopolitical Background

The Hashemite Kingdom of Jordan is a constitutional monarchy bordered by Syria in the North, Iraq and Saudi Arabia in the East, Saudi Arabia in the South, and Israel/ the occupied Palestinian Territories in the West. A former British colony and previously part of the Ottoman Empire, Jordan gained its independence in 1946. Jordan's population today is estimated at approximately 6.5 million, almost 2 million of who live in its capital Amman<sup>24</sup>.

The chief of state is the monarch King Abdullah II and the head of the government is the Prime Minister appointed by the King. The Jordanian parliament is known as the National Assembly of Jordan (Majlis Al-Umma) and is composed of two chambers. The first is the Chamber of Deputies/ Representatives (Majlis Al-Nuwab) and the second is the Senate (Majlis Al-Aayan<sup>25</sup>). The Cabinet of Ministers is composed of ministers for 30 different ministries, approximately ten of which are legally connected to the civil society sector. Historically, true power lies in the hands of the Monarch, but reforms today have included increased independent decision-making power by the Cabinet of Ministers. The National Assembly, which represents a certain amount of democratic practice, has relatively limited power and is a generally dysfunctional institution.

Bordered by countries with tumultuous pasts and in presents, Jordan's physical location has

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24 "The World Factbook: Jordan," Central Intelligence Agency, accessed 2 March 2012, <https://www.cia.gov/library/publications/the-world-factbook/geos/jo.html>.

25 Members of this chamber are also appointees.

rendered it a special standing both regionally and internationally. It is viewed as a Western friendly country and a haven for peace. This includes hosting Palestinian refugees (1940s, the 1960s, and 1970s), admitting asylum seekers from Iraq in the aftermath of the American occupation and following sectarian violence (2003-2009), welcoming those fleeing Lebanon during the war with Israel (2006), and most recently taking in Syrian refugees able to flee into Jordan<sup>26</sup> (2011-current)<sup>27</sup>.

Although its demographic composition may seem near uniform, a big social problem exists in the division between those persons who are originally Palestinian and true Jordanians, who come from a tribal background (either originally nomadic or non-nomadic). The distinction made between the two types of Jordanian still poses political problems and gives rise to some human rights issues. These obstacles are not always shaped in such distinct and clear terms, but regularly resurface in different ways.

## Legal Framework

The prime bases for the freedoms of expression and association rest in Jordan's constitution of 1952. These freedoms are enshrined in articles 15 and 16 of the Constitution. Article 15 states that "[t]he State shall guarantee freedom of opinion. Every Jordanian shall be free to express his opinion by speech, in writing... provided that such does not violate the law." Article 16 guarantees the right of holding meetings within the limits of the law and to establishing societies and political parties<sup>28</sup>.

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26 As of January 2012, the number of asylum seekers in Jordan remained rather low (approximately 1000) while the numbers in Turkey have reached almost 20,000. The disparity in numbers is related to the location of major urban areas close to either border as well as the closure of the actual border during the offence on southern Syria and the city of Dara' in particular, which lies very close to the Jordanian border.

27 According to the CIA Factbook, the number of Syria refugees in Jordan is now estimated at 105,000. "The World Factbook: Jordan: Transitional Issues," Central Intelligence Agency, accessed 20 November 2012, <https://www.cia.gov/library/publications/the-world-factbook/geos/jo.html>.

28 While the designation of these freedoms in the Constitution is clearly important, the clear qualification of needing to comply with "the law" indicates the existence of a more restrictive framework, thus deducting from the absolutism of these rights particularly during times of political hardship.

The legal framework governing CSOs and media reflects the state's attitude towards having an independent sector and its functions. The regulation and registration of organizations belonging to the civil society sector are split based on a variety of matters, most apparent of which is the specialization of the institutions. For example, organizations with charitable aims and international organizations are generally registered under the Ministry of Social Development (MoSD) while youth organizations are registered under the Ministry of Youth and Sport (MoYS). Trade unions, human rights organizations, environmental organizations, regional offices for INGOs and not-for-profit companies are each registered under a different entity.

The law governing the registration of charitable associations is the Associations Law (51) of 2008 as amended by Law 22 of 2009<sup>29</sup>. The law has faced a lot of criticism and was passed amid a controversy over an even more constraining legislation that was previously proposed. Despite these improvements, the law remains intrusive and fails to comply with international best practices such as requiring notification and not registration/ approval.

The law comes with a broad scope that seeks to consolidate its control over more CSOs, while granting exception to certain organizations such as those established by a special law<sup>30</sup>, those registered under the provisions of the Awqaf and Islamic Affairs or Zakat Fund laws, non-Islamic religious communities/ sects, and institutions registered under the provisions of the law for the Higher Council for Youth (Article 3 (b)). This is problematic because many CSOs

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29 "Jordan: Associations Law (51) of 2008 as amended by Law 22 of 2009 (Arabic)," accessed 2 March 2012, [www.mosd.gov.jo/images/files/SOS/law%20associations%20%20updated%202009.pdf](http://www.mosd.gov.jo/images/files/SOS/law%20associations%20%20updated%202009.pdf), and

"Jordan Associations Law (51) of 2008 as amended by Law 22 of 2009 (English translation)," accessed 10 March 2012, <http://www.icnl.org/research/library/files/Jordan/51-2008-En.pdf>.

30 The most important of these organizations are the royal NGOs: the Jordan River Foundation (JRF) chaired by Her Majesty Queen Rania Al-Abdullah, Nour Al-Hussein Foundation (NHF) chaired by Her Majesty Queen Noor Al-Hussein, the Jordanian Hashemite Fund for Human Development (JOHUD) chaired by HRH Princess Basma, and Queen Zein Al-Sharaf Institute for Development (ZENID) that is a break-off of JOHUD.

seek registration with other ministries and governmental bureaus due to their less restrictive and bureaucratic procedures. Their inclusion results in decreased autonomy and increased bureaucratic burden, while allowing others to continue their operations unhinged.

A significant criticism of the law is the security dimension that is reflected through registration and funding. The Law requires all founding members of CSOs to be Jordanian and have a certificate of good conduct from the General Intelligence Directorate (GID) in order to apply for registration. Article 8 does not explicitly require this certificate, rather states that the person cannot be convicted of a misdemeanor involving moral turpitude or any felony, which is in effect translated to the certificate requested from the GID. For organizations with non-Jordanian founders, the approval of the Council of Ministers is required (Article 11 (d) (1)).

The prioritization of security and interference of the government show up again in the realm of funding. The International Center for Not-For-Profit Law (ICNL) highlights foreign funding as one of the obstacles posed by the new law where organizations are required to request approval from the Council of Ministers in order to receive foreign funding. Approvals should include the source, the amount, means of transfer, and purpose on which funding will be spent as well as any special conditions. The Council of Ministers shall issue its decision within 30 days. If not, the funding is considered approved (Article 17 (c))<sup>31</sup>. The Law also stipulates that donations or funding accepted contrary to the provisions of this law shall be redirected by the Council of Ministers to the Societies Support Fund unless the funder or donor objects (Article 17 (d)).

The ICNL also finds the law to pose operational obstacles, such as associations' inability to

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<sup>31</sup> This provision applies to both CSOs and not-for-profit companies.

engage in political activities or purposes even though the term “political” is not defined. This is furthered by the requirement for written notification of the Register and the relevant minister of the time, date, location, and agenda of General Assembly meetings at least two weeks in advance (Article 14 (a) (3)) for which they can each appoint a delegate to attend. Failure to do so results in the meeting not being considered legal.

Increased control over organizations, including dissolution, also poses a threat to the sector by giving the government the ability to dismiss the boards of directors, appoint temporary boards, and dissolve organizations. This also opens to the door to financial mismanagement that the associations are then held accountable for. This has already been witnessed through the government takeover of the Islamic Center Society (ICS) and the General Union of Voluntary Societies (GUVS) in 2006<sup>32</sup>.

The media on the other hand falls under the auspices of the Ministry of State for Media Affairs and Communications (MoSMAC) and is regulated by the Press and Publications Law No. 8 of 1998, its amendments of 2007 and 2012 and the Information Systems Crime Law (Temporary Law) No. 30 of 2010 issued by the Ministry of Information and Communication Technology (MoICT). Censorship has historically been applied to the media when addressing issues related to the government, the monarchy, and religion with such acts being classified as defamation, sedition, and blasphemy in the penal code.

The Press and Publications Law of 1998<sup>33</sup> is the base law that includes several articles contrary to standards of freedom of expression. Amendments have been made to the law<sup>34</sup>, the

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32 “Jordan: Scrap New Laws That Stifle Democracy,” Human Rights Watch, accessed 3 March 2012, <http://www.hrw.org/news/2008/06/30/jordan-scrap-new-laws-stifle-democracy>.

33 “Jordan: Press and Publications Law (Arabic),” accessed 5 November 2012, [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1998&no=8](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1998&no=8).

34 For an accurate reading of the law, it has to be read along with Law 30 of 1999 and Law 32 of 2012.

most important and recent of which were made in August 2012. These most recent amendments push Jordan further into the abyss governmental interference and state controlled the media.

Article 5 of the Press and Publications Law states that publications must investigate the truth and maintain accuracy, neutrality, and objectivity in presenting material. They must also refrain from publishing material contrary to the principles of freedom and national responsibility, human rights and the values of the Arab and Islamic nation. Although similar provisions are found in a several publications laws in the MENA region, such provisions create a situation where publications must self-censor or risk legal consequences in vague subject areas. This can also be viewed as a tool available to prevent democratic dialogue or engagement.

The law also poses substantial restrictions on key figures in media institutions such as owners, editors in chief, and managing directors. Article 9 limits this profession to Jordanians<sup>35</sup> who must have no ties to foreign entities. Article 10 bars from non-journalists from performing the job of journalists. This argument is particularly interesting in the world of modern technology where social media sites and blogs have enabled anyone interested and capable to practice journalism. Article 11 (a) gives the explicit right to Jordanians and Jordanian companies to own publications, in turn limiting the voice of non-Jordanians in the country to own and produce publications.

Article 16 requires the managing directors of press, publication houses, distribution houses, centers for studies and research, public opinion/ polling centers, translation offices or, advertising offices to be Jordanian and permanent residents within the Kingdom (Article 16

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35 Exceptions can be made with the approval of the Board of the Union with approval from the Prime Minister.

(a)). It also requires that the person be free from a conviction of a felony or misdemeanor involving moral turpitude and public morality (Article 16 (b)), have obtained qualifications or practical experience commensurate with the requirements of the institution's work that will be managed and in accordance with regulations issued by the Minister for this purpose (Article 16 (c)). The necessity for such regulations is questionable.

Similar provisions apply to the owners of publications, whereas editors in chief have a relatively different set of regulations. According to Article 23 (a), editors in chief must: be journalists with no less than four years of membership in the journalists' union, Jordanian citizens with actual residency in Jordan, be fully available to perform duties required by the job and not work at any other publication, fluency in the language of the publication, and never sentenced with a punishment that prohibits the exercise of journalism. Article 30 (a) prohibits editors in chief from printing articles for authors using pen names, unless the author presents real name. This can be seen as an attempt to promote transparency where in reality it is most likely a desire to keep track of writers and opinions.

In the case of online content, two main sources prevail. The first is the Information Systems Crime Law (Temporary Law) No.30 of 2010 that is viewed as an opportunity to further restrict media freedoms. It brings online news sites under the scope of the Press and Publications Law, enabling wider regulation of online content and activity. Reporters Without Borders considers the temporary law a "legislative arsenal that can be used to regulate the Internet and punish those whose posts upset the authorities."<sup>36</sup> Some have considered this law as a positive opportunity to improve the standards of Internet reporting<sup>37</sup>, but this may not be

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<sup>36</sup> "New law allows government to regulate online content," IFEX, accessed 3 March 2012, [http://www.ifex.org/jordan/2010/08/13/restrictive\\_internet\\_law](http://www.ifex.org/jordan/2010/08/13/restrictive_internet_law).

<sup>37</sup> The Jordan Press Association (JPA) has welcomed the law, but has probably done so under pressure from the government.

the main purpose or concern of the law when fines ranging from 100 (\$143) Jordanian Dinar (JOD) and 2,000 JOD (\$2,825) for posting defamatory or insulting comments. Article 12 of the law levies a 500 JOD (\$706) to 5,000 JOD (\$7,062) fine and a minimum of four months in prison on those publishing previously unpublished information affecting Jordan's national security, foreign relations, public order or the economy.

The temporary law was followed by the August 2012 amendment to the Press and Publications Law that regulates electronic publications under Article 49. Article 49 (a) (1) states that any electronic publication that prints news, investigations, articles or comments related to the internal or external affairs of Jordan is required to register and be licensed by the Head of the Department of Press and Publications. Article 49 (a) (2) extends the jurisdiction of the law to electronic publication outside the Kingdom. Article 49 (b) states that if an electronic publication is required to register, it is then automatically subject to the provisions of this law. This clearly casts a wide net that includes many electronic publications and websites.

According to Article 49 (c), publication's owner and editor in chief are responsible for any comments published in an electronic publication. Article 49 (d) prohibits the publication of comments that include information or facts not relevant to the story or information that has not been verified or could constitute a crime based on this law. The law also requires the maintenance a log of comments printed including full information on the comments' senders for a period of no less than six months (Article 49 (e)). Additionally, the Head of the Department of Press and Publications has to block any website that is not licensed in Jordan if it commits an offense based on this law or any other law (Article 49 (g)). These are all clear examples of governmental intrusion and legalized attempts at censorship.



Other examples of direct and indirect censorship of the media exist and become even more alarming when considering recent connections being drawn between the Anti-Corruption Commission (ACC) bill and the Press and Publications Law such as Article 32 of the bill enforces fines between 30,000 JOD<sup>38</sup> and 60,000 JOD<sup>39</sup> on those who make public accusations of corruption without proof.

## Civil-society organizations

The history of the development of the civil society sector can be traced back to Jordan's 1989 agreement with the IMF, which led to protests against rising costs of basic food supplies, and to the political liberalization undertaken as a result. The eventual encouragement of the civil society sector was done to promote pluralism and to detract from the support given to Islamist groups<sup>40</sup>.

There are currently 1197 local associations<sup>41</sup> registered under the MoSD, 410 of which are located in the capital of Amman. Another 49 INGOs are registered under the Ministry as operating in Jordan<sup>42</sup>. These numbers do not reflect unregistered organizations or those registered under different ministries. Numbers provided by Urdun Al-Jadeed Research Center are as high as 5,703 and include professional associations, environmental organizations, and other institutions that form a part of civil society<sup>43</sup>.

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38 Approximately \$42,372 based on an exchange rate of (1 USD = 0.708 JOD).

39 Approximately \$84,745 based on an exchange rate of (1 USD = 0.708 JOD).

40 Sameer Jarrah, "Civil Society and Public Freedom in Jordan: The Path of Democratic Reform," The Saban Center for Middle East Policy at The Brookings Institute, accessed 3 July 2009, [http://www.brookings.edu/~media/Files/rc/papers/2009/07\\_jordan\\_jarrah/07\\_jordan\\_jarrah.pdf](http://www.brookings.edu/~media/Files/rc/papers/2009/07_jordan_jarrah/07_jordan_jarrah.pdf), 6.

41 "Jordanian MoSD Charitable Associations Guide," accessed 3 March 2012, [http://www.mosd.gov.jo/images/files/SOS/associations\\_guide.pdf](http://www.mosd.gov.jo/images/files/SOS/associations_guide.pdf).

42 The list provides a close estimate, but is missing some organizations such as the International Rescue Committee, Financial Services Volunteer Corps, and Un Ponte Per. "Jordanian MoSD List of INGOs," accessed 3 March 2012, <http://www.mosd.gov.jo/images/files/organization.pdf>.

43 *Supra* n. 6, 27.

Today, Jordan is often lauded as a good example of progress and development in the Levant and the greater MENA region. The country boasts a high number of CSOs per capita and considers that as an indicator of progress. The increased attention to the sector in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries has translated into millions of dollars of funding provided by USAID, EU, the UN and other donors. Yet many of the programs implemented with this assistance have yet to be translated into durable change and solutions affecting actual human rights because of the structural weaknesses in the sector and its relationship with the public sector.

Although Jordan's efforts in the civil society realm may sometimes be viewed as liberal, the success of the civil society sector should be evaluated based on the role the sector plays in mediating between the interests of the state and those of the society, as well as the role it plays in mobilizing based on public demands<sup>44</sup>. Ultimately, CSOs are meant to contribute to democratic participation through the amplification of those voices within society that are otherwise being shut out, preferably based on a human rights platform. The reality in Jordan is quite different because of the weaknesses and shortcomings of the sector, the most prominent of which are the interference of the security services, the internal weaknesses, and the application of a charitable rather than rights based or developmental approach.

Firstly, interference of the security services in CSOs sector starts at the level of registration with a need for a certificate of good conduct by the founders of an association. This relationship between organizations and the security services can continue as a general involvement or escalate into intrusion depending on the interests and activities of the organization. This intrusion comes in various ways, including supervision and oversight of CSO activities and in some cases banning of demonstrations or civic action. While some

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<sup>44</sup> *Supra* n. 40, 5.

restrictions on civic action have been eased since in response to the Arab awakening sweeping through the area in the end of 2010 and beginning of 2011<sup>45</sup>, the security services have continued their surveillance of organizations with perhaps even more vigor.

This prioritization of security by the State has led to general violations of the freedom of expression and associations, but more particularly it has kept local CSOs from getting involved in true democratic matters or human rights issues that can be construed as political matters. This obstructs the process of democratic involvement and prevents the sector from fulfilling its purposes. On the other hand, the CSOs' lack of political engagement has led to a more vocal youth represented through movements such as *Thabahtoon*<sup>46</sup> campaigning nationally for students' rights. The group has also taken an increasingly vocal role on matters related to freedom of expression, assaults on youth and bloggers, and governance issues.

Secondly, internal weaknesses and self-perception also play a significant role in the sector's shortcomings. Their effect is as crippling if not more than that of security interferences. The persistence in not addressing or reforming these weaknesses poses as big a threat to the development of the sector, one that parallels that of state intervention. Internal weaknesses include a lack of management skills, transparency, technical capacity, and more. At the root of the problem are the lack of vision of organizations and their unqualified staff. These problems are aggravated by the lack of internal governance structures, which Law 51 has now come to require of CSOs.

Many organizations have serious problems in management, mostly because of the non-democratic or transparent manner in which they conduct their affairs. This is worsened by the

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45 The King's policy for easing restrictions allowed for more demonstrations. These demonstrations were met with comparatively high levels of police brutality.

46 Thabahtoon Website, accessed 6 March 2012, <http://www.thab7toona.org/>.

widespread presence of institutions with static leaderships and those created based on family ties making it easier for decisions to go unannounced and unchallenged going against the findings of the Civil Society Index Analytical Country Report for Jordan in 2010.

The Civil Society Index Analytical Country Report for Jordan in 2010 finds the highest scores are achieved in the Practice of Values section that includes democratic decision-making, labor regulations, code of conduct and transparency, and more. On democratic decision-making, 84.9% of organizations indicated that organizational decisions are made democratically<sup>47</sup>. While this perception may be true, it takes into account neither the level of nepotism nor the hierarchical structure prevalent in Jordanian society. The lack of democratic management helps to ensure that associations remain as static and ineffective as their leadership. This condition is present in CSOs operating both on the local and national levels. Fortunately, a lot of associations working at the national level are able to keep a more dynamic nature because of the wider membership and employee base, as well as the need for executive directors cooperate with their boards of directors.

The internal technical weaknesses, along with a generally weak constituency, have impeded the sector from contributing to human rights protection. Some of the contributions of the sector are in the provision of welfare and charitable services when possible. These include kindergartens and pre-schools, and advancing women's rights (to some extent)<sup>48</sup>. Some of these cases also reflect a measure of selfishness on the part of local components sector. For example, pre-schools hosted by local organizations are quite common because only a limited number of pre-schools has been recently sanctioned and set-up by the Ministry of Education

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<sup>47</sup> This figure does not take into account the non-democratic factor of static but democratically elected leadership, nor does it consider the familial ties upon which elections are often based.

<sup>48</sup> Women's rights have been a leading matter for national and foreign governments working in Jordan. It is one of the main targets that have dominated the development agenda since 1995. The nature of society has resulted in limited advances in the promotion of this right. A widespread acceptance of spousal abuse and even wider conviction of non-equality between the sexes still characterizes Jordanian society.

(MoE)<sup>49</sup>. The presence of non-private pre-schools is prevalent in poor areas where families do not have the financial resources to send their children to private ones. Therefore, local CSOs get licensed by the MoSD and are paid for through nominal fees and sometimes subsidies from the government to maintain pre-schools that are oftentimes shut down by the Ministry of Health (MoH) due to the hazardous environment or health code violations. Even so, local CSOs have not played an important role in advocating for the adopting of kindergarten and pre-school programs centrally by the MoE or locally through the different municipalities.

Examples of Jordanian practices that shy from political controversy and therefore a human rights based approach is that of citizenship for Jordanians of Palestinian origin. In the period between 2008-2010, the government started to aggressively pursue a policy of revoking the nationalities of thousands of Jordanians of Palestinian origins<sup>5051</sup>. Various reasons and policies were associated with this, the most prominent of which was a supposed agreement with the Palestinian National Authority (PNA) to get its nationals to take up Palestinian citizenship. The reasoning was clearly flawed since various indicators point to the fact that ex-residents of Jerusalem and other Israeli controlled areas in the occupied Palestinian Territories were particularly targeted by the policy.

The alternative provided to citizens facing this long and non-transparent process was for them to return to their place of original residence from which they were displaced and prove their residency there<sup>52</sup>. Aside from no longer recognizing displaced Palestinians as Palestinian or

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49 This was based on demands related to foreign funding and pressure from INGOs

50 The reason given was the loss of right to residency in the West Bank, which was the premise for issuing Jordanian nationalities in the aftermath of the 1967 war that resulted in the takeover of Jerusalem and the West Bank.

51 "Jordan: Stop Withdrawing Nationality from Palestinian Origin Citizens," Human Rights Watch, accessed 5 March 2012, <http://www.hrw.org/news/2010/02/01/jordan-stop-withdrawing-nationality-palestinian-origin-citizens>.

52 This basically meant relocating across the Jordan River to the cities and villages they were displaced from after the 1967 war and meeting the residency requirements of the Israeli authorities.

Jordanian-Palestinian, the absurdity of both the problem and the proposed solution managed to remain out of local civil society forums. It did eventually garner some publicity in the lower house of parliament that questioned both the policy itself and the silence of local organizations on the topic. Human Rights Watch<sup>53</sup> and Amnesty International<sup>54</sup> were among the only organizations to publically comment on and approach the government concerning the matter.

The third biggest impediment facing the sector is not unique to Jordan alone, it is the charitable approach that is widespread among local and community-based organizations. This finds the foundation of civil society work and institutions in religious values considered embodied in Islam or Christianity. The self-perception of being religion or charity oriented has several dangers including the difficulty of adopting a rights based approach and poor service provision as a result of lack of planning, consistency, and sustainability.

Perceiving oneself as an organization with religious ties will inevitably result in a clash between universal human rights norms that activists strive for and the religious (or cultural) values that are used. Local organizations struggle to promote different rights such as children's rights. This starts with the different social definition of a "child" differently than the standard legal definition. This social definition is based on biological factors like puberty, rather than legal ones. When considering child abuse, CSOs and the communities they operate in generally believe in a religiously sanctioned right to physically discipline of children. This parental right to physically discipline is used particularly when it comes to religious matters such as getting children to start praying and girls to cover their hair.

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<sup>53</sup> *Supra* n. 51.

<sup>54</sup> "Discrimination- Jordanian citizens of Palestinian origin," Amnesty International, accessed 6 March 2012, <http://www.amnesty.org/en/region/jordan/report-2011#section-71-7>.

The clash between religious/ cultural values and human rights makes it difficult to improve conditions for at-risk groups and to develop traditional societies when those tasked with the job identify themselves based on those same religious values that pose an impediment. This problem is also intensified when local organizations come to consider legal and social issues related to women. Instead of supporting basic women's rights, many organizations in practice end up reinforcing social and religious values that actually curb women's rights<sup>55</sup>.

This charitable approach also overlooks the importance of structural change and instead focuses on the distribution of nominal support and providing some services based on donor requests. It is neither able to fill the gap created by shortcomings of government policy nor does it aim to close it by reforming those same policies. While some of the national organizations have managed to move onto more programmed work with actual vision<sup>56</sup>, the majority remain stuck in a mostly religious, charitable mind frame.

The presence of a human rights based approach within the Jordanian civil society sector is limited to some national NGOs and INGOs, this approach fades away the farther one moves from urban centers. INGO efforts to promote a rights based approaches are met with social and cultural resistance that can be attributed to its perception of a western concept, but it is more likely a result of the general disempowerment of society as well as their own unwillingness to get involved in political change.

## **Media**

The media, an important democratic institution, has historically clashed with different Jordanian government institutions including the Parliament. This tension is detrimental to the

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<sup>55</sup> It is important to note that especially in cases of domestic violence, the lack of real durable solutions provided by the government or CSOs inevitably encourages the promotion of more religious and traditional approaches.

<sup>56</sup> Such as Jordan River Foundation's involvement in the national strategy on domestic abuse.

general climate of the country and the ability of the media to perform their duties of reporting and human rights protection, particularly when considered within the narrower realm of press restrictions. Government imposed censorship, as well as the self-imposed one, weakens the media's role as a critic of the government and society. Criticism of the government is one of the liberalizations seen in the wake of the Arab Spring, but this has realistically still exempted the King for criticism<sup>57</sup>. Media in Jordan has contributed to a more lively debate on issues surrounding good governance, transparency, and sometimes rule of law. On the other hand, their journalistic tactics have often been limited to reporting stated facts as opposed to investigative journalism, overlooking matters related to core human rights such as torture, government interference in the media, and more.

In the virtual realm, online monitoring has only been officially sanctioned in 2010, but earlier measures to ensure close monitoring of Internet cafes and their users started years ago. Although widely known, it remains unacknowledged in many circles that the GID has used been monitoring the Internet and particularly blogs and social media sites for several years now. Increased youth activism in the real and the virtual realms has attracted additional attention in recent years. Young bloggers and activists have started to speak out against government policies and actions, going so far as to criticize institutions and persons previously deemed untouchable. The intimidation and censorship by the GID has done little to deter what is becoming and increasingly vocal group, which may soon start to advocate both for reform and human rights.

## Conclusion

The existence of a strong civil society sector ultimately depends on the creation of an environment and atmosphere where institutions can thrive and healthy societies can develop.

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<sup>57</sup> This is also backed by Article 195 of the Jordanian Penal Code that prohibits insulting the King.



This can be achieved by realizing that freedoms must precede democracy<sup>58</sup>. Although governmental policies and intrusion may hinder the work of current civil society sector in Jordan, it is also the sector's own deficiencies that keep it from rising to the task of human rights protection and advocacy. From the failure of local organizations to mobilize their constituency to their failure to truly capitalize on the assistance (technical and financial) of INGOs, local organizations have treated the civil society sector as an alternate employer or a pastime allowing them to exercise charitable acts without committing to any struggle that could eventually lead to change.

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<sup>58</sup> *Supra* n. 40, 13.

## Chapter III- Lebanon

### Geopolitical Background

The Republic of Lebanon is a parliamentary democracy bordered by Syria in the north and east, Israel to the south, and the Mediterranean Sea to the west. Lebanon was formerly ruled by the French Mandate and was part of the Ottoman Empire previous to that. It gained its independence in 1943. Its population today is estimated at approximately 4.1 million<sup>59</sup>, most of who live in the capital Beirut.

The governmental system of Lebanon is based on a confessional system that aims to fairly represent the demographic distribution of the different religious groups<sup>60</sup> in Lebanon. The high-ranking offices in the government are reserved for members of specific religious groups<sup>61</sup>. The Parliament is composed of one chamber (128 seats) divided equally between Christians and Muslims. Members are elected for four-year terms on the basis of sectarian proportional representation<sup>62</sup>. The Cabinet is composed of 27 ministries and 30 ministerial seats.

Bordered by Syria and Israel, Lebanon's geographic position has meant heavy involvement in the regional conflicts with Israel. Lebanon is perhaps the Levant state most engaged in

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59 "The World Factbook: Lebanon," Central Intelligence Agency, accessed 9 March 2012, <https://www.cia.gov/library/publications/the-world-factbook/geos/le.html>.

60 Arend Lijphart, "Consociational Democracy," *World Politics* 21 (January 1969): 207, accessed 24 June 2012, <http://www.jstor.org>.

61 Imad Harb, "Lebanon's Confessionalism: Problems and Prospects," United States Institute of Peace, accessed 14 March 2012, <http://www.usip.org/publications/lebanons-confessionalism-problems-and-prospects>.

62 "Overview of the Lebanese System," accessed 9 September 2012, <http://www.presidency.gov.lb/English/LebaneseSystem/Pages/OverviewOfTheLebaneseSystem.aspx>.

confrontation with the State of Israel with the most recent conflict being in 2006. The State has also suffered from internal strife, the most notable of which was the civil war lasting from 1975-1989 and a recent conflict in 2008. With a civil war not so far behind in the Lebanese past, the language of sectarianism started to reemerge after the assassination of former PM Rafic Al-Hariri in 2005<sup>63</sup>. Different parties have been blamed, but no conclusive evidence has been found<sup>64</sup>. The Syrian forces withdrew from Lebanon in the aftermath of the assassination, but their influence over the years continues even without a military presence.

The demographic landscape of Lebanon is perhaps the most complex of its neighbors in the Levant. The population is composed of mostly Christians (39%) and Muslims (59.7%)<sup>65</sup>, with other religions accounting for roughly 1% of the population. The State officially recognizes 18 religious groups (1 Jewish, 5 Muslim<sup>66</sup>, and 12 Christian sects<sup>67</sup>). It is on the basis of belonging to these religious sects that the Lebanese political system has been set up. The Constitution states in its preamble that “the abolition of political confessionalism is a basic national goal and shall be achieved according to a gradual plan”<sup>68</sup>, but today that same system exists and is consolidated, any changes in the near future seem unlikely.

In addition to the problems posed by the diverse religious composition of the country, Lebanon also hosts a large number of Palestinian refugees. The UN Relief Works Agency

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63 “Explosion kills former Lebanon PM,” BBC News, 14 February 2005, accessed 5 March 2012, [http://news.bbc.co.uk/2/hi/middle\\_east/4263893.stm](http://news.bbc.co.uk/2/hi/middle_east/4263893.stm).

64 The UN Special Tribunal for Lebanon was officially opened in 2009 to investigate the assassination of Rafic Al-Hariri and the 20 other people who died in that same incident. UN Special Tribunal for Lebanon, accessed 10 March 2012, <http://www.stl-tsl.org/>.

65 “The World Factbook: Lebanon: People and Society,” Central Intelligence Agency, accessed 9 March 2012, <https://www.cia.gov/library/publications/the-world-factbook/geos/le.html#People>.

66 Shia, Sunni, Druze, Ismailis, and Alawites.

67 Armenian Catholic, Armenian Orthodox, Assyrian Church of the East, Chaldean Catholic, Copts, Greek Catholics, Greek Orthodox, Maronite, Protestant, Roman Catholic, Syriac Catholic, and Syriac Orthodox.

68 Lebanese Constitution promulgated May 23, 1926, Preamble- Paragraph H, accessed 10 March, 2012, <http://www.nowlebanon.com/Library/Files/EnglishDocumentation/Official%20Documents/Lebanese%20Constitution.pdf>.

(UNRWA) has registered 433,000, but claims that between only 260,000 and 280,000 reside in camps<sup>69</sup>. UNRWA also finds that two-thirds of the Palestinians living in Lebanon are poor, many of whom live in camps characterized by poverty and overcrowding<sup>70</sup>. Because of their refugee status, Palestinian refugees in Lebanon have been excluded from political participation and the work force<sup>71</sup>. Economic exclusion over the years has perpetuated their status as a structurally and systemically marginalized population<sup>72</sup>.

## Legal Framework

The legal regulation of CSOs in Lebanon is perhaps the most progressive law in the Levant and even broader MENA region, in addition to being one of the oldest laws currently in effect. This law is the 1909 Ottoman Law of Associations<sup>73</sup>. It defines an association as a “group composed of several individuals for uniting their information and efforts in a permanent way and the goal of it is not to divide profit”<sup>74</sup>. The law does not require governmental approval to establish an organization, but limits it to notification (Article 2).

One of the few weaknesses of this law is that it puts in place some limitations, such as the need for association members to be 20 years of age or over and not to have been charged with a felony or be deprived of his/ her civic rights (Article 5). Another shortcoming of the Law is the monetary fines and sanctions, and possibly imprisonment imposed on associations that do

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69 “Palestine Refugees: a special case,” UNRWA, accessed 10 March 2012, <http://www.unrwa.org/userfiles/20111002306.pdf>, 2.

70 “Lebanon Camp Profiles,” UNRWA, accessed 15 September 2012, <http://www.unrwa.org/etemplate.php?id=73>.

71 In 1962, the Lebanese Government classified the Palestinian refugees as foreigners (Law 10 of 1962) (International Federation for Human Rights Report, 2003: 10) according to this law all foreigners had to obtain work permits.

72 Sawsan Abdulrahim and Marwan Khawaja, “The Cost of Being Palestinian In Lebanon,” *Journal of Ethnic and Migration Studies* 37 (January 2011): 151-166, accessed 15 September 2012, <http://web.ebscohost.com>.

73 “Lebanon: 1909 Ottoman Law of Associations (Arabic),” accessed 15 March, <http://www.icnl.org/research/library/files/Lebanon/ottoman.pdf> or “Lebanon: 1909 Ottoman Law of Associations (English translation),” accessed 15 March 2012, <http://www.icnl.org/research/library/files/Lebanon/ottomaneng.pdf>.

74 1909 Law of Associations- Article 1.

not notify the authorities of their existence based on the provisions of the law (Article 13).

One grey area in terms of legislation concerns approvals for CSOs working in Palestinian camps. The legal framework governing CSOs working with Palestinians in Lebanon is different than that of regular Lebanese CSOs. For these organizations to function, they require the approval of the MoI<sup>75</sup>.

The General Directorate for Public Security (GDPS) is responsible for the licensing and regulation of media (particularly print), while the Ministry of Information oversees some of the more basic functioning of the media sector. The sector is governed by a group of laws that have been reviewed more recently than the Ottoman Law on Associations and are subject to criticism. These laws reflect an approach that is more similar to that of some neighboring states, one of control and regulation. The two laws currently enforced are the Publications Law 19<sup>76</sup> and Audiovisual Media Law (Law 382/94).

Unlike the legislation governing civil society organizations, those governing media are responsible for a substantial amount of the obstacles facing the sector. Aside from being relatively outdated, the laws censor the industry using the guise of regulation. It places all print materials under the oversight of the GDPS (Article 1, Decree 1, 1977), giving them the right to cancel (partially or completely) materials prepared for publication. If printed, sanctions could include imprisonment and fines (Article 2, Decree 1, 1977). Repeat offences can result in the withdrawal of the publication house's license (Article 3, Decree 1, 1977). The restrictive measures of this decree are further highlighted in Articles 4 and 5 that takes

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<sup>75</sup> Ibid.

<sup>76</sup> This law is based on the law enacted in 1948 (revised in 1952). Decree 1 of 1977 that focuses on the regulation of publications enhanced the substance of the 1962 law. It is also referred to the Media Law or is confused for being Decree 104 of 1977.

the right of appealing decisions away from normal courts.

In the same year, Decree 104 followed Decree 1 and revised 19 articles of the 1962 laws. This decree further restricts the ability to publish and print certain types of information, including any files, information or letters belonging to the public administration and labeled as classified (Article 12(3)). It also prohibits non-political publications from printing any studies, articles, news, cartoons, or comments of a political nature (Article 13).

The more concerning and blatantly restrictive provisions can be found in Article 23 of the Decree related to harming the dignity of heads of state. This article states that any publication exposing a head of state (Lebanese or foreign) in a manner that could affect his dignity or can be considered defamatory or contemptuous leads to the automatic commencement of a public interest case without the need of a complaint. The Attorney General also has the right to stop the publication, in addition to confiscating its editions. The Attorney General must also refer the published material to the court that can decide to continue the stoppage of the publication until the end of the trial and may impose a sentence of imprisonment and/or a fine. If the offence is repeated a first time within five years from the date of sentencing, the punishment is doubled and the publication stopped for two months. In case of a second repeat, the publication is stopped for six months. Should there be a third repeat, the publishing license is permanently revoked.

The field of audiovisual media is slightly different. Lebanese government was one of the first Arab nations to license private television stations. It has been used primarily for entertainment rather than politics and human rights. Audiovisual media is tied into the Satellite Broadcasting Laws that requires 200 million LBP<sup>77</sup> from each station to be licensed. In

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<sup>77</sup> Approximately \$132,980 based on an exchange rate of (1 USD = 1054 LBP).

addition to promoting the existent sectarian and confessional system, this structure pushes out smaller independent voices ultimately limiting the presence of independent agencies and actors in the media field.

It is possible that the media framework existent in Lebanon today may change. Attempts are also being made to expand the Lebanese media law through the introduction of new legislation rather than amending the existing one. A draft electronic media law has been considered by the Parliament in late 2011 and early 2012. Many civil society actors have rejected this as an attempt to restrict freedom of speech rather than protect citizens and entities<sup>7879</sup>.

## Civil-society organizations

The civil society sector in Lebanon is among the most advanced in the Levant and the greater MENA region. This sector has gone through five phases of development starting in 1900s and going until the present day<sup>80</sup>. Khaldoun Abu Assi provides a concise overview of this development and the reasons for it in the report “Lebanese Civil Society: A Long History of Achievements Facing Decisive Challenges Ahead of an Uncertain Future” published by CIVICUS<sup>81</sup>.

The strength of this sector is linked to the on-going turmoil, internal and external, which has plagued Lebanon. The absence of governmental structures has forced CSOs to fill these gaps by performing duties traditionally belonging to state actors. In particular, this shifted CSOs

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78 “Now Lebanon rejects the new LIRA draft law,” NOW Blog, 26 March 2012, accessed 6 May 2012, <http://www.nowlebanon.com/BlogDetails.aspx?TID=2292&FID=6>.

79 Walid Daouk, “The Electronic Media Draft Law is Full of Gaps,” UNIEM, accessed 7 May 2012, [http://www.uniem.org/index.php?action=show\\_page&ID=689&lang=en](http://www.uniem.org/index.php?action=show_page&ID=689&lang=en).

80 Khaldoun Abu Assi, “An Assessment of Lebanese Civil Society,” CIVICUS, accessed 10 March 2012, [https://www.civicus.org/new/media/CSI\\_Lebanon\\_Country\\_Report.pdf](https://www.civicus.org/new/media/CSI_Lebanon_Country_Report.pdf), 22-24.

81 “CIVICUS World Alliance for Citizenship Participation”, accessed 13 March 2012, <https://www.civicus.org>.

from their previously charitable approaches into ones based on social service provision and assistance. Examples of CSO involvement during the Civil War include the treatment of the wounded, rebuilding damaged houses, and assisting displaced persons. During the Civil War and in a militia-controlled environment<sup>82</sup>, CSOs worked to respond to urgent needs thus limiting the amount of economic development and social development work they were able to do<sup>83</sup>.

The aftermath of civil war included a difficult adaptation period for CSOs. In addition to having to step back from their previous roles, CSOs needed to envision a new reality for themselves. This period saw a rise in organizations based on civil values such as human rights, political environment, and civil liberties as opposed to confessional values. Today, CSOs in Lebanon still enjoy a great deal of flexibility. This has enabled them to advocate for changes based on human rights values.

There has also been an emerging youth CSO movement demanding an end to Lebanon's confessional system. It is a strong indicator of the civil desire to end political and sectarian segregation that is further entrenched by the current system. This desire is most pronounced in the capital Beirut where youth from different sects and minority groups are more integrated than their counterparts in other areas. This is probably due to youth's limited reliance on social and family networks and their recognition of the importance of equal opportunity and rights based approaches. This has led urbanized youth to recognizing confessionalism as an instrument of upholding and maintaining traditions and values that may no longer be

82 These CSOs included a group of international NGOs that were active in supporting relief efforts around Lebanon.

83 Geoffroy d'Aspremont, "The Development of Civil Society in Lebanon from the Ottoman Empire to the XX<sup>th</sup> Century: A Driver of Political Changes," Institut MEDEA, accessed 13 March 2012, <http://www.medeas.be/2011/12/the-development-of-the-civil-society-in-lebanon-from-the-ottoman-empire-to-the-xxist-century-a-driver-of-political-changes>.



convenient or practical, as well as recognizing the current system as being excluding of moderate and independent voices. This type of activism is most noticeable in the legal advocacy efforts that aim to change laws affecting women, children, and refugees.

These CSOs are not without challenges. The ability to mobilize people on a national level remains difficult due to sectarian values and the confessional political system. Reminders that the Civil War is not so far in the past constantly emerge<sup>84</sup>. Crossing sectarian divides remains a challenge for the organizations because of the different backgrounds and histories each of them may have. This is compounded by the confessional democratic system that oftentimes resists secular incursions into the Lebanese legal realm. Even in the presence of a popular will for structural reform, political persuasions and opportunity pose an obstacle to such progress. This is most apparent in legal spheres that are now more commonly being governed by civil and not religious law.

One such matter that has dominated the public sphere is that of marriage, traditionally considered to be a religious affair. In Lebanon, the different laws of the 18 recognized religions and sects govern marriage. This puts basic personal decisions such as choice of spouse in the hands of religious authorities that have the power to reject applications for the marriage of couples from different religious/ minority backgrounds. As a result, couples from different religious or racial backgrounds have had to go to Cyprus to register the civil marriages they are not able to have at home. This restriction is seen as an offense to personal liberties and has resulted in nation-wide campaigning for the reform of the personal affairs law to allow civil marriages.

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84 This can be seen through the 2007 altercations between Hizbollah and the Lebanese government, as well as the incidents with Nahr Al-Bared refugee camp also in 2007.

One of the shortcomings of Lebanese civil society is its limited interaction with and response to the issue of the Palestinian refugee population in Lebanon. The establishment of Palestinian refugee camps in Lebanon dates back to 1948 and continued until the 1960s. The camps host generations of displaced persons who have inherited refugee status and have no hope for resettlement or return. The American Near East Refugee Aid (ANERA) reports that even today, Palestinians in Lebanon continue to suffer from limited access to rights and services, ensuring that they remain fairly isolated in camps, and self identify as the “forgotten people”<sup>85</sup>.

This isolation is supported by political hostility towards Palestinians in Lebanon. This was caused by the decision of Palestinians to launch guerilla activities from Lebanon against Israel during the late 1960s. The internal conflict between Lebanese and Palestinians continued throughout the Civil War, in which Palestinians were involved and emerged from hated<sup>86</sup>. The resentment of the state remains visible through the adopted policies that reflect a historically strained relationship as was exhibited in the 2007 events of Nahr Al-Bared<sup>87</sup>.

The Lebanese position towards Palestinians is not limited solely to the government, the perception of Palestinians as a threat cuts across the different political factions, both Christian and Muslim<sup>88</sup>. This segregation in the political sphere has resulted in isolation in the civil society sector where many CSOs still operate on an identity basis (religious or racial). This has made it possible for many Lebanese CSOs to remain unengaged and even apathetic towards the plight of Palestinian refugees within their borders. This has also allowed the state

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85 “Palestinian Refugees in Lebanon,” ANERA, accessed 17 October 2012, <http://www.anera.org/documents/Refugees.pdf>, 2.

86 Michael C. Hudson, “The Palestinian factor in the Lebanese civil war,” *Middle East Journal* 32 (Summer 1978): 261, accessed 15 September 2012, <http://www.jstor.org>.

87 Samer Abboud, “The siege of Nahr al-Bared and the Palestinian refugees in Lebanon,” *Arab Studies Quarterly* 31 (2009): 31, accessed 22 September 2012, <http://web.ebscohost.com/>.

88 Ibid, 33-34.

to consistently view Palestinian related problems as security threats rather than problems with socio-economic roots.

This historic lack of interest is facilitated by the additional regulations imposed by the government for operating in camps or working with the Palestinian population. Although no exact information exists, mostly UNRWA, local camp organizations, and some INGOs serve refugees in camps. The physical and political segregation of refugees has made it unlikely that refugees are served by other more national organizations. This reality started to shift around 2007.

Caused by a realization of the socio-economic roots to Palestinian problems in Lebanon rooted in their access to the labor market, advocacy efforts by UNRWA and civil society led to an amendment of the Lebanese labor law. The amendment waived the work permit fees for Palestinian refugees and opened up employment in several categories. While it may be seen as a step in the right direction, it is also viewed as “legal discrimination”<sup>89</sup>. The shortcomings of the sector relate to a host of protection issues that go beyond securing employment and economic livelihoods<sup>90</sup> for one of the most vulnerable groups in Lebanon.

Another weakness of the sector is its inability to push for real dialogue around the civil war. This struggle will be overcome as activists and communities become more adamant about building and maintaining a Lebanese sense of identity based on nationality and not religion. This weakness includes the sector’s inability to engage Palestinian refugee issues in a direct

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89 Sari Hanafi, “Stop Humiliating Palestinian Refugees,” The Daily Star, 16 March 2012, accessed 17 October 2012, <http://www.dailystar.com.lb/Opinion/Commentary/2012/Mar-16/166826-stop-humiliating-palestinian-refugees.ashx#axzz29fLNHLbK>.

90 “Lebanon: Treatment of Palestinian refugees, including information on identity documents, mobility rights, property rights, access to social services, education and employment, and living conditions,” UNCHR, accessed 17 October 2012, <http://www.unhcr.org/refworld/docid/507553bd2.html>.

and constructive manner. Even so, the Lebanese sector is among the most advanced and successful in the MENA region. In order to further achieve progress within the sector and on a broader societal level, it is the duty of CSOs to pursue legal and social development free from religious and confessional ties.

## Media

The shortcomings of legislation reflect the relationship between politics and media. Lebanon has unfortunately followed in the footsteps of other Arab states in restricting freedom of expression and opinion. The strong influence of the Syrian government on Lebanese politics is also reflected in the Lebanese approach to media.

Media censorship is oftentimes carried out by unknown or non-state actors. This censorship is severe and comes in the form of failed and successful assassinations of prominent media personnel such as news anchor May Chidiac<sup>91</sup>, journalist Samir Kassir<sup>92</sup>, and former politician and editor Gebran Tueni<sup>93</sup>. This unofficial form of censorship is perhaps more dangerous than state censorship because of its possibly lethal results, the difficulty of managing it, and the inadvertent self-censorship that comes as a result.

Despite the over-regulation and threats, journalists have played an important role in shedding light on controversial issues of both political and social natures. The nature of the media law has forced connections between media agencies and political parties, which have in turn assisted the free expression on particular matters such as opposing the Syrian physical

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91 "Press Statement by Security Council President on Attempted Assassination of Lebanese Journalist," United Nations, 28 September 2005, accessed 13 March 2012, <http://www.un.org/News/Press/docs/2005/sc8512.doc.htm>.

92 Hassan M. Fattah, "Car Blast Kills Lebanese Critic of Syria's Role," *New York Times*, 3 June 2005, accessed 13 March 2012, <http://www.nytimes.com/2005/06/03/international/middleeast/03lebanon.html>.

93 "Gibran Tueni assassinated by car bomb," 13 December 2005, accessed 13 March 2012, <http://www.dailystar.com.lb/News/Politics/Dec/13/Gibran-Tueni-assassinated-by-car-bomb.ashx#axzz1p09wWmCN>.

presence and interference in Lebanon. While these connections may support politicized media, they also threaten free media. The current legal framework that limits the number of licenses and creates more competition for them has the effect of encouraging affiliation of news sources with political parties and placing a heavier financial burden on independent sources and making it less likely for those voices to emerge.

According to the International Press Institute's report based on a 2006 fact-finding mission to Lebanon <sup>94</sup>, this politicization of the media increased in the aftermath of Hariri's assassination. This regression continued as the political situation in Lebanon further deteriorated in the period between 2005 and 2006.

## Conclusion

The development and progress of Lebanese civil society has been relatively easy to track over the years. The change in context from civil war and internal strife to peace has not erased all the pre-existing undertones and sentiments, but it has made way for economic and social development. The civil society sector in Lebanon has reached a point where it is comfortable engaging in national politics and telling its own leadership that the time for divisive politics is over. Unfortunately, this call does not include Palestinian refugees who continue to live unresolved hardships and exist on the peripheries of society. The lack of broader engagement of the issue by Lebanese CSOs has been and will remain a disconcerting mark on their record in human rights protection.

The media sector also remains closely associated with political circumstances sometimes resulting in a more direct and fatal form of censorship. Although such actions can be

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<sup>94</sup>“Media in Lebanon: Reporting on a Nation Divided,” International Press Institute, accessed 15 March 2012, [http://www.freemedia.at/fileadmin/media/Documents/IPI\\_mission\\_reports/Lebanon\\_Mission\\_Report.pdf](http://www.freemedia.at/fileadmin/media/Documents/IPI_mission_reports/Lebanon_Mission_Report.pdf).

classified as illegal under the penal code, it nonetheless remains an effective form of censorship particularly of those voices that question the political dynamics and status quo of modern day Lebanon. The longer-term implications of the conflict in Syria on media remain to be seen.

## **Chapter IV- Occupied Palestinian Territories**

### **Geopolitical Background**

The occupied Palestinian Territories (oPT) refers to the Palestinian territories annexed by the State of Israel during the Six Day War of 1967. These territories are also the areas that will compromise a Palestinian state. The oPT includes the West Bank and the Gaza Strip. Despite, Israel's unilateral disengagement from Gaza in 2005, both areas are still considered to be under occupation because of an actual occupation in the West Bank and Israel's exercise of effective control<sup>95</sup> over Gaza<sup>96</sup>. The two pieces of land are not connected and form two islands within the State of Israel. The borders of the West Bank with Israel and Jordan are controlled by Israel whereas the European Union Border Assistance Mission (EUBAM) in Rafah monitors Gaza's international border with Egypt.

The governmental system of the oPT is made more complex both because of occupation and the fact that the West Bank and Gaza Strip are physically separated. The Palestinian National Authority (PNA), also known as the Palestinian Authority (PA), is the administrative authority that governs the oPT. While its authority is supposed to extend to both the West

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<sup>95</sup> This is based on Article 42 of the 4<sup>th</sup> Hague Convention of 1907, 20 September 2012, <http://www.icrc.org/ihl.nsf/full/195>.

<sup>96</sup> "The Gaza Strip," Diakonia, accessed 20 September 2012, <http://www.diakonia.se/sa/node.asp?node=842>.

Bank and the Gaza Strip, the 2006 election and pursuing conflict between Fatah and Hamas has limited it to the West Bank. The reconciliation pact signed by the two parties in 2011 has done and will continue to do little to change the reality of governance on the ground<sup>97</sup>.

## Legal Framework

The legislation governing in the oPT is technically independent of the Israeli state. The reality on the other hand is different. The Territories, by virtue of being occupied, are also subject to Israel's regulations. This is reflected in the need for INGOs to be registered with the Israeli authorities and the Palestinian authorities for bureaucratic reasons and for access into the different parts of the oPT (particularly Jerusalem). Registration is with the ministries of interior in both cases, which is indicative of the presence of a security state also reflected by the laws governing the establishment of CSOs.

NGOs inside the oPT are bound by the Palestinian Law of Charitable Associations and Community Organizations (2000)<sup>98</sup>, which provides Palestinians the right to partake freely in social, cultural, professional, and scientific activities, including the right to form associations based on the law (Article 1). The law puts associations and organizations under the jurisdiction of the MoI and provides for the creation of a specialized department responsible for maintaining the NGO register.

Some comparatively progressive provisions of the law exist. The first is the granting of tax-free status to organizations falling under the scope of this law (Article 14). According to this article, exemptions apply to moveable and immovable funds necessary for reaching

97 "Palestinians consolidate as Fatah and Hamas sign peace agreement," *RT*, 4 May 2011, accessed 20 September 2012, <http://rt.com/news/fatah-hamas-government-palestinian>.

98 "Palestine: Law No 1 for the year 2000 (Arabic)," accessed 25 September 2012, [http://www.moi.gov.ps/downloads/law/19\\_قانون\\_رقم\\_1\\_لسنة\\_2000\\_م\\_بشأن\\_الجمعيات\\_الخيرية\\_والهئات\\_الأهلية.pdf](http://www.moi.gov.ps/downloads/law/19_قانون_رقم_1_لسنة_2000_م_بشأن_الجمعيات_الخيرية_والهئات_الأهلية.pdf).

organizations' objectives. The only restriction placed is the inability to use assets for other purposes for a period of five years. A provision that is questionable, but is used as a safeguard from conflicts of interest within the sector is Article 16 (2), which states that a board cannot include two or more members that are related to one another in the first or second degree. Furthermore, Article 22 prohibits combining membership on an organization's board with paid employment in the same organization. Both these articles are seen as measures to prevent conflicts of interest, nepotism, and possible corruption.

The compliance of the financial chapter of the law with best practices is debatable. Article 30 sets the budget for organizations at a minimum of 1000 JOD<sup>99</sup> while Article 31 requires that the money be deposited at an accredited banking institution. Article 32 also allows organizations to receive assistance to further their objectives as long as it does not contradict with the provisions of the law. It also permits organizations to fundraise through a variety of venues (parties, sporting events, charitable markets, or more) after notifying the relevant ministry (MoI). The requirement to notify the MoI of charitable or third events is a restrictive effort that allows for closer monitoring of both the sector and civilians

According to Article 37, provisions for dissolving an organization are based on one of three circumstances. The first is a decision by an organization's general assembly, of which the Ministry should be promptly informed. The second is if the organization has not started any of its actual duties within the first year of establishment, as long as this disruption was not a result of force majeure in which case the Ministry cancels its registration after written notification. Considering the need to set up an institution, acquire funds, and perform other basic administrative and operational tasks, the one-year time frame to start program implementation is rather restrictive. The third case is when the organization is in major

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<sup>99</sup> Approximately \$1,409 based on an exchange rate of (1 USD = 0.708 JOD).



violation of its bylaws and has not corrected its standing within three months of written notification from the Ministry or the Department. Any decision to cancel the registration of an organization has to be written and with cause. The organization or association has the right to appeal it in front of the appropriate court.

This law is followed by several decisions by the Cabinet of Ministers. These decisions reflect a better understanding of the sector's work and a shift in the governmental attitude towards CSOs. The first of these is Cabinet Decision 9 for the year 2003 that provides the administrative mechanisms for the Law of Charitable Associations and Community Organizations (2000). It names the responsible department the Registration Department for Charitable Associations and Community Organizations. It also allows the Minister of Interior to place the Department under the auspices of whichever directorate he/she sees fit<sup>100</sup>. This is dangerous because it opens the possibility to putting the Department under the auspices of the intelligence or other security related directorates. The Decision further specifies the need for the Department to inform relevant ministries of registered organizations falling under their auspices.

Another amendment came in Cabinet Decision 229 for the year 2011. Article 1 places INGOs under the same legal and reporting obligations as local CSOs. Article 2 (1) requires all organizations to provide any documents reports or papers to the MoI or the specialized ministry if requested. Article 2 (2) gives the MoI or specialized ministry the right to follow the activities of the organization to ensure that the money is spent on achieving its objectives. While these provisions seem pretty benign at first, they open the way for governmental intrusion.

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100 "Palestine: Article 4 of Cabinet Decision 9 for the year 2003 (Arabic)," accessed 25 September 2012, [http://www.moi.gov.ps/downloads/law/20\\_قرار\\_مجلس\\_الوزراء\\_رقم\\_9\\_لسنة\\_2003\\_م\\_بشأن\\_اللائحة\\_التنفيذية\\_لقانون\\_الجمعيات\\_الخيرية\\_والهيئات\\_الأهلية\\_رقم\\_1\\_لسنة\\_2000م.pdf](http://www.moi.gov.ps/downloads/law/20_قرار_مجلس_الوزراء_رقم_9_لسنة_2003_م_بشأن_اللائحة_التنفيذية_لقانون_الجمعيات_الخيرية_والهيئات_الأهلية_رقم_1_لسنة_2000م.pdf).

In addition to the Palestinian Law of Associations (2000), the Israeli criminal law also governs and regulates CSOs in the oPT. The most notable of these laws are “Prevention of Terrorism Ordinance” (1948) and the “Law on the Prohibition of Terror Funding” (2005)<sup>101</sup>. Although many CSOs and associations worldwide have been subjected to similar measures post 9/11, these measures pre-date most and provide the Israeli authorities with substantial leeway in violating Palestinian rights such as the trying of civilians in military courts. A basic list of rights violated includes the right to association, property, and civil and political rights such as the presumption of innocence<sup>102</sup>. These laws have given way to closures of several organizations, particularly those working in contested areas such as Jerusalem<sup>103</sup>.

The media framework is governed by a different set of laws, each carrying different weight or impact in the Palestinian realm. Print media is governed primarily by the Print and Publications Law (Law no. 9 of 1995)<sup>104</sup>, while audiovisual media seems to have been left to administrative regulations after a series of proposed draft laws that were never enacted. The comparative weakness of audiovisual media is furthered by the occupation because it makes national broadcast difficult due to its control of the broadcast ranges. This has left Palestinians more dependent on international broadcasts available through satellite TV.

The sector faces its own set of challenges particularly when it comes to reporting from within the Territories and especially during times of instability. The Print and Publications Law

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101 “Mapping Study of Civil Society Organizations in the occupied Palestinian territory,” SOGES, accessed 25 September 2012, [http://eeas.europa.eu/delegations/westbank/documents/news/20110712\\_ngomapping\\_en.pdf](http://eeas.europa.eu/delegations/westbank/documents/news/20110712_ngomapping_en.pdf), 27.

102 “Israel: Prevention of Terrorism Ordinance No. 33 of 5708-1948,” Article 8 and Article 9.

103 Linah Alsaafin, “Israel shuts down Palestinian groups in Jerusalem,” *Electronic Intifada*, 18 November 2011, accessed 20 September 2012, <http://electronicintifada.net/content/israel-shuts-down-palestinian-groups-jerusalem/10606>.

104 “Palestine: Law no.9 of 1995- Press and Publications Law (Arabic),” accessed 28 September 2012, <http://www.najah.edu/ar/page/4351>.

(1995) guarantees freedom of expression and opinion as a right for every Palestinian (Article 2). Article 4 guarantees the right for a source to be protected unless otherwise decided by a court for reasons of national security, crime prevention, or achieving justice. The law also provides a duty of public institutions to collaborate with reporters and researchers (Article 6).

Article 7 prohibits the publication of print matters contradicting freedom, civic responsibility, human rights, or respect for the truth while considering freedom of thought opinion and expression a right to citizens as well as publications. The article goes on to prohibit the publications for children and teenagers to print any pictures, stories, or news contrary to Palestinian ethics, values, and customs. This may prove to be overly vague during application of the law.

Another problematic quality of the law is the restrictions on editors, journalists, and media owners (Articles 9-16). Among those are prohibitions receiving foreign funding (Article 9); journalists and other media workers being tied to foreign parties (Article 10); and restrictions on who can serve in the post of editor and manager. Requirements for editors in chief include being a journalist, not overseeing more than one publication, not taking on any post within the publication other than that of editor in chief, being a resident of Palestine, and not subject to legal immunity (Article 11). Restrictions on owners of regular publications require them to be Palestinian citizens residing in Palestine, a non-resident will need to obtain approval from MoI. It also requires that the person not have been convicted of a felony or misdemeanor involving moral turpitude or dishonesty (Article 16).

The minimum capital required for the establishment of publications outlined in Article 21 is concerning. Daily publications are required to have 25,000 JOD<sup>105</sup> registered as capital, while

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<sup>105</sup>Approximately \$35,310 based on an exchange rate of (1 USD = 0.708 JOD).

non-daily publications are required to have 10,000 JOD<sup>106</sup> registered. These minimum amounts are waived in cases where political parties are the establishers of publications. Although this can be viewed as support for democratic and political processes, it is also a deterrent for establishers of independent news sources due to the relatively hefty price tags associated with starting independent publications. This provision does not apply to electronic media since it remains unregulated under Palestinian law.

Article 23 also sees another exception made for publications issued by political parties. With the exception of publications issued by political parties, licenses are considered canceled if no print publication is issued within six months of the date of issuance of the license or in the following circumstances without reasoning accepted by the Minister (of Information):

- a. a daily publication is not issued for the period of three consecutive months,
- b. a weekly publication is not issued for twelve consecutive issues, or
- c. a publication issued regularly for periods longer than one week does not issue four consecutive issues.

Although the law provides some leeway by allowing for judicial review of reasoning, it also provides a double standard between publications issued by political parties and those that are not.

Materials prohibited from publication are outlined in Article 37 (1), they are:

- a. any secret information about the police or security forces, their equipment, operations or exercises;
- b. content that is contemptuous of religions and sects legally guaranteed freedom;
- c. articles that may offend the national unity, incitement to commit crimes, or sow hatred, discord and disharmony, and stir sectarian violence between members of the

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<sup>106</sup> Approximately \$14,138 based on an exchange rate of (1 USD = 0.708 JOD).

community;

- d. secret proceedings of the PNA's National Council or the Council of Ministers;
- e. news articles intended to shake confidence in the national currency/ economy;
- f. articles or news that would offend the dignity of individuals or personal freedoms or damage their reputations;
- g. news, reports, letters, articles, and images that are contrary to morality and public morality; and
- h. advertisements promoting pharmaceuticals, cigarettes and the like unless authorized previously published by the MoH.

These restrictions can easily be viewed as vague and also as a limitation to the media's role, particularly as a government watchdog.

## Civil-society organizations

The history of civil-society organizations in the oPT is an interesting one that can be seen to slightly resemble that of Lebanon. The gap between the 1967 War and establishment of a PNA left a vacuum that the occupation did not fill. The development of events resulted in the emergence of a civil society movement around the time of the first Intifada. This movement came as a response to prolonged occupation, economic hardships, an absence of human rights, and a desire for freedom<sup>107</sup>.

Unlike other initiatives, the movement that became the Intifada was managed out of homes and alleyways. This uprising paved the way for a more structured approach to civil society that is seen today in the Palestinian State. This development was slowed by the creation of

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<sup>107</sup> Several books exist on the topic. A good resource is *Intifada- Palestine at the Crossroads* edited by Jamal Raji Nassar and Roger Heacock (1990).

the PNA in 1994 resulting in a somewhat tenuous relationship between CSOs and the government.

The exact and updated figure for the number of organizations functioning in the oPT is not readily available<sup>108</sup>. A mapping survey done by the Center for the Study of the Presidency and printed in 2008 put the number of NGOs in the West Bank at 1200<sup>109</sup>. Although slightly outdated, the survey highlighted the difficulty of mapping the Palestinian civil society sector and the gaps in information available<sup>110</sup>.

INGOs have a substantial presence in the oPT due to the ongoing conflict and humanitarian crises that have existed for over half a century. The nature of the occupation and the political climate make it difficult for local organizations to work on a regional or national level. Easier access is generally allowed to INGOs particularly in the West Bank. In Gaza, access remains a problem for most, but particularly for INGO and other humanitarian agency workers during times of crisis that have been common since Israel's disengagement in 2005.

CSOs, particularly those in the West Bank are often viewed as being more developed than their counterparts in Jordan and other Arab countries. This is mostly because of their longer history as well as the harsher conditions in which they have had to operate. These harsh conditions continue to exist despite the presence of the PNA. The main obstacles facing the civil society sector in general relate also to its ability to protect human rights. They are the undefined and changing role of the sector, the strained relationship between the sector and the government, and the Israeli occupation, including the blockade and on-going military

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108 Several Attempts were made to contact the MoI for the number of registered CSOs, but to no avail.

109 "The NGO Mapping Project: A New Approach to Advancing Palestinian Civil Society," The Center for the Study of the Presidency, accessed 23 September 2012, [http://pdf.usaid.gov/pdf\\_docs/PNADO474.pdf](http://pdf.usaid.gov/pdf_docs/PNADO474.pdf), 4.

110 Ibid., 8.

operations in Gaza.

The sector's ambiguity about its own role puts organizations in a compromising position because the different CSOs are unable to organize themselves in a constructive manner. Many CSOs began their work as a response to Israeli military occupation. Their continuation of this role comes as a response to political developments as well as continued challenge of physical access. Today, CSOs account for 90% of the services provided in the oPT<sup>111</sup>. The importance of this function comes not only in complementing (or filling) the role of the government, but also in ensuring that the needs of marginalized groups are met as effectively as possible<sup>112</sup>, an important aspect of human rights protection. It is also important to note the ability of these organizations to function in the midst of unstable conditions and humanitarian emergencies.

The growing presence of the PNA both on a national and local level has supported the need for the civil society sector to find a new or expanded role within Palestinian society. This reality is changing as the PNA has started enabling local authorities and taken on public service delivery roles particularly in the fields of health and education, which will eventually come into competition with those provided by CSOs. For now, the sector continues to play its pivotal role in service delivery, but waivers in policy setting and acting as a watchdog. The uneasy approach towards advocacy and policy related work has made it difficult for CSOs to promote human rights protection in a more systemic manner.

Complications arising from addressing policies and practices are plentiful. In addition to the general hostility towards criticism, organizations can easily find themselves prey to the political unrest between Fatah and Hamas. Organizations have attempted to approach politics

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<sup>111</sup> *Supra* n.109, 7.

<sup>112</sup> Examples include health services, education, and psychosocial and counseling services.

and policies with difficulty because such an approach touches on the PA's policies and actions. Another facet is related to the political rivalry that has led to harassment and even the closure of some organizations<sup>113</sup>.

Despite the abundance of work being done by CSOs in the West Bank and Gaza, the predominant factor and struggle in their work is considered to be the Israeli occupation. This difficulty also has a complicated relationship with the popular view of the Israeli state as a main aggressor. This complex situation has enhanced the sector's inability to constructively examine or engage internal affairs and problems.

In the Gaza Strip, the circumstances are more intense thus resulting in more dire obstacles. Access to qualified human resources, equipment and material remains a major problem. This is often exasperated by harsh living conditions characterized by regular service (electricity and water) shortages and blackouts for prolonged periods at times. These circumstances have an influential role in hindering the ability of CSOs to protect human rights. The siege also makes it harder for organizations to be critical of Hamas policies and politics because of fear of being aligned with Fatah. In addition to the general inconvenience of harassment, such an alignment means in ability to gain employment in the public sector as well as limited access to social assistance provided by Hamas.

Despite shortcomings in civil society involvement in promoting human rights, their effort is laudable. The general social acceptance of and reliance on NGOs both local and international has been crucial to the development and sustainability of the sector. This will continue to be the case as long the political institutions are inconsistent in their service provision and appear

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113 "OPT: Closing West Bank charities dirty war against Hamas: Haneya," Reliefweb, 9 July 2008, accessed 6 October 2012, <http://reliefweb.int/report/occupied-palestinian-territory/opt-closing-west-bank-charities-dirty-war-against-hamas-haneya>.



to be corruptible.

## Media

Vagueness concerning some of the Palestinian legal provisions leaves the media workers vulnerable to the discretionary powers of the PA. Both the occupation and other political factors pose a great challenge for media personnel. This is reflected in the affect of the political clash between Fatah and Hamas on different media outlets, as well as the influence the Israeli occupation has particularly on audiovisual media sources. The political environment, although welcoming of media at one point, has recently become more hostile.

In the case of international media workers, their presence is constantly accompanied by various difficulties. While they are subject to Palestinian legal authority, they are subjected to Israeli power and occupation as well. This can be seen in denial of visas, denial of access upon arrival, as well as open assault on international media personnel in the oPT during times of conflict. The protection afforded to journalists, photographers, and videographers is often rendered useless when reporting from within the oPT<sup>114 115</sup>.

The mid 2000s saw a media boom caused by political parties' investment in partisan media outlets<sup>116</sup>. By 2008, the media landscape in the oPT started to shift and more serious violations of press freedoms took place. Four years later, this degeneration of liberties is more apparent as seen in several examples of PNA response to allegations of corruption, as well as protests where it seems that media personnel are targeted by police brutality.

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114 Sean O'Hagan, "Tom Hurndall: a remarkable man's photographs of the Middle East," The Guardian, accessed 30 September 2012, <http://www.guardian.co.uk/artanddesign/2012/mar/01/tom-hurndall-middle-east-photographs>.

115 Conal Urquhart, "C4 cameraman killed in Gaza," The Guardian, accessed 30 September 2012, <http://www.guardian.co.uk/media/2003/may/03/middleeastthemediatelevision>.

116 "Palestinian Territories Media Sustainability Index," IREX, accessed 30 September 2012, <http://www.irex.org/resource/palestinian-territories-media-sustainability-index-msi>.

Media efforts, both in exercising freedom of speech and expression or reporting on the exercise of these rights, are often met with hostility. Several incidents exist in 2012 alone, one of which was the arrest of least two journalists and the beating of a Reuters photographer during a protest on 1 July 2012 protest<sup>117</sup>. The recently established Doha Center for Media Freedom monitored and reported on press violations in the oPT during the first quarter of 2010 during which it found repeated interference in journalistic freedoms<sup>118</sup>. The Center also reported on the Palestinian arrest of a journalist in the West Bank in September 2012<sup>119</sup>.

Israeli assaults on media personnel and violations of press freedoms are generally conducted under the guise of military operations. Repeated assaults have been seen over the years, the most recent and prominent of which took place during Operation Cast Lead (the Gaza War)<sup>120</sup>. Israel denied access to media both prior to and during the military operations. This restriction was not limited to media, but included human rights groups and monitors. According to “The Report of the United Nations on the Gaza Conflict”<sup>121</sup>, Israeli forces stopped allowing foreign journalists into the Gaza Strip almost two months before the operation started<sup>122</sup>. Israeli journalists, on the other hand, had been prohibited from entering Gaza since 2006<sup>123</sup>. This ban was lifted for the period of a day and then reinstated<sup>124</sup>. The

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117 “PA police crush new Ramallah demo,” Maan News, 1 July 2012, accessed 1 October 2012, <http://www.maannews.net/eng/ViewDetails.aspx?ID=500441>,

118 “Violations of press freedom in the Palestinian Territories,” Doha Center for Media Freedoms, accessed 1 October 2012, <http://www.dc4mf.org/en/content/violations-press-freedom-palestinian-territories>.

119 “Palestinian journalist arrested in West Bank,” Doha Center for Media Freedoms, accessed 1 October 2012, <http://www.dc4mf.org/en/content/palestinian-journalist-arrested-west-bank>.

120 “Three Years Since Operation Cast Lead: Israeli Military Utterly Failed to Investigate Itself,” Btselem Israeli Information Center for Human Rights in the Occupied Territories, 18 January 2012, accessed 30 September 2012, [http://www.btselem.org/gaza\\_strip/20120118\\_3\\_years\\_after\\_cast\\_lead](http://www.btselem.org/gaza_strip/20120118_3_years_after_cast_lead).

121 “Human Rights in Palestine and Other Occupied Arab Territories- Report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/4825 September 2009),” United Nations, accessed 30 September 2012, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>.

122 Ibid, Paragraph 1735

123 Ibid, Paragraph 1735

124 Ibid, Paragraph 1736

Report goes on to reflect the unwillingness of the Israeli military authorities to allow media access into the sites. These bans were also accompanied by arrests<sup>125 126</sup> and attacks on media infrastructure.

Similar to CSOs, the Palestinian media sector has been active in reporting on human rights abuses and covering human rights stories mostly as they relate to Israeli violations. Young media and political activists have learned to leverage electronic and social media outlets in order to reach a wider and more international audience. A recent and prominent example is the hunger strike undertaken by Palestinian prisoners in Israeli jails. Although the story got international news coverage, it was also covered on sites such as The Electronic Intifada<sup>127</sup> and the Palestine News Network<sup>128</sup>, as well as online campaigns on Facebook and Twitter that highlighted the human rights issues, prisoner demands (better conditions and an end to administrative detention), and on-going coverage<sup>129</sup>.

The emergence of new media in promoting both human rights and Palestinian culture is visible in the oPT. The internet has provided independent youth with access to different parts of the oPT they are physically barred from entering. It has also given them a voice among global youth. Another kind of media that has made headway in the oPT is filmmaking, an industry that has existed since the 1930's but whose international exposure is more recent. Palestinian film festivals have been created in several locations including Belgium<sup>130</sup>,

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125 Ibid, Paragraph 1735

126 "2 Arabs charged with defying IDF censor," *Turkish Weekly*, 13 January 2009, accessed 25 September 2012, <http://www.turkishweekly.net/news/63256/2-arabs-charged-with-defying-idf-censor.html>.

127 Electronic Intifada accessed 30 September 2012, <http://electronicintifada.net>.

128 Palestinian News Network, 30 September 2012, <http://english.pnn.ps>.

129 Linah Alsaafin, "Palestinian prisoners' hunger strikes continue as Israel violates agreements", *Electronic Intifada*, 5 June 2012, accessed 1 October 2012, <http://electronicintifada.net/content/palestinian-prisoners-hunger-strikes-continue-israel-violates-agreements/11364>.

130 Eye on Palestine, accessed 1 October 2012, <http://eyeonpalestine.be>.

Boston<sup>131</sup>, Prague and Brno<sup>132</sup>, Chicago<sup>133</sup>, London,<sup>134</sup>, Toronto<sup>135</sup>, and Washington, DC<sup>136</sup>.

Palestinian films have also been present at different non-Palestinian film festivals. Examples include *Paradise Now*<sup>137</sup> and *Salt of this Sea*<sup>138</sup>. The former is a 2005 film and winner of several awards including a Golden Globe, Amnesty International Film Prize, and Best Foreign Film at several festivals. The latter was on official selection in 2008 at the Cannes International Film Festival and the BFI London Film Festival.

Media has sought to play an important role in raising awareness on and promoting human rights, particularly during humanitarian crises. Regardless of the progress made using new media mediums, censorship by Palestinian authorities is not too far behind. The PA has recently started censoring internet sites critical of its leaders<sup>139 140</sup>, while Hamas apparently requires filmmakers to get prior authorization and approach from the Ministry of Culture to check for content and compliance<sup>141</sup>. These steps in a dangerous direction are not likely to end anytime soon.

## Conclusion

Ending the occupation and the existence of an effective Palestinian state will allow CSOs to work in a more enriched and capable environment. Yet it is important to note that the struggles posed by occupation over-shadow the shortcomings of a local system facing serious

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131 Boston Palestine Film Festival, accessed 1 October 2012, <http://www.bostonpalestinefilmfest.org>.

132 Palestinian Film Days, accessed 1 October 2012, <http://www.insaan.cz/index.php/en/events/85-pfd>.

133 Chicago Palestine Film Festival, accessed 1 October 2012, <http://palestinefilmfest.com>.

134 The Palestine Film Foundation, accessed 1 October 2012, <http://www.palestinefilm.org>.

135 Toronto Palestine Film Festival, accessed 1 October 2012, <http://tpff.ca>.

136 DC Palestinian Film and Arts Festival, accessed 1 October 2012, <http://dcpff.tumblr.com>.

137 Written by Hany Abu-Assad and Bero Beyer, produced by Hany Abu-Assad, and released in 2005.

138 Written and directed by Annemarie Jacir and released in 2008.

139 George Hale, "Palestinian media clampdowns spreads to the Web," Maan News, 26 May 2012, accessed 1 October 2012, <http://www.maannews.net/eng/ViewDetails.aspx?ID=478726>.

140 "Palestinian Authority blocks critical websites," Committee to Protect Journalists, 24 April 2012, accessed 1 October 2012, <http://cpj.org/2012/04/palestinian-authority-blocks-critical-websites.php>.

141 "Gaza filmmakers decry Hamas censorship," Ynet News, 19 August 2011, accessed 5 October 2012, <http://www.ynetnews.com/articles/0,7340,L-4102960,00.html>.

political difficulties<sup>142</sup>. It is likely that CSOs' concentration on such long-term goals, while providing more short-term assistance has prohibited the development of mid-term strategies and actions that will support the creation of a state based on cooperation between the three sectors (public, private, and civil society). It is important for the Palestinian civil society sector to be conscious of the obstacles its own leadership poses to its development and in turn to organize around that.

## **CHAPTER V- THE ROLE OF CIVIL SOCIETY IN HUMAN RIGHTS PROTECTION: COMPARATIVE REVIEW**

Evaluating the role that civil society plays in human rights protection in the Levant should be based on an individual assessments and a comparative analysis of legal frameworks and reality. To examine one without the other would leave a gap in the findings and obscure the analysis of civil society on a national and regional basis. Individual assessments also enable activists to find possible linkages across the different contexts that will eventually enable them to start and support regional initiatives of a sustainable nature. In assessing weaknesses, this chapter will focus on those most instrumental to the existence of an independent and functional civil society sector composed of CSOs and media.

### **Legal framework**

Underlying trends are found in the regulatory framework of civil society and media sectors outlined in the previous chapters. A comparative analysis of the different legal frameworks allows human rights activists and political analysts to better identify legal obstacles and opportunities. Connections can also be made to legal trends visible in the wider MENA region.

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142 This includes the split between Fatah and Hamas, corruption, and abuse of power.

Despite being old, the Lebanese legislation governing charitable associations or CSOs is more progressive than its counterparts in Jordan and the oPT. Article 2 of the 1909 Ottoman Law of Associations<sup>143</sup> requires organizations to notify the government of their existence rather than requiring registration. This provision makes it compliant with the field's best practices as opposed to its Jordanian and Palestinian counterparts. Jordan's Associations Law (51) of 2008 as amended by Law 22 of 2009<sup>144</sup> requires organizations to register with the MoSD, as does the oPT's Law of Charitable Associations and Community Organizations (2000)<sup>145</sup>. The preference for notification is based on registration's requirement of government approval in order for organizations to function. This is seen as an intrusion into the independence of civil society thus making the notification procedures (and thus Lebanon) compliant international best practices.

Registration is also tied to the supervising authority for registrations and notifications. In Jordan, the contact office for CSOs lies within the MoSD while that same authority lies with the MoI in the oPT. It is important for the supervising bodies to be as independent as possible. This need is heightened by the existence of a registration requirement. These bodies should be set up as commissions answerable to elected officials rather than appointed ones. The presence of the registration body under the MoI is particularly problematic since it is the same body responsible for internal security rather than social development.

The Jordanian and Palestinian laws require coordination between CSOs and relevant

143 <http://www.icnl.org/research/library/files/Lebanon/ottoman.pdf> (Arabic) or <http://www.icnl.org/research/library/files/Lebanon/ottomaneng.pdf> (English translation) (last accessed 15 March 2012).

144 The law is available on the MoSD website at [www.mosd.gov.jo/images/files/SOS/law%20associations%20%20updated%202009.pdf](http://www.mosd.gov.jo/images/files/SOS/law%20associations%20%20updated%202009.pdf) (last accessed 2 March 2012) and <http://www.icnl.org/research/library/files/Jordan/51-2008-En.pdf> (last accessed 10 March 2012).

145 Law No 1 for the year 2000, <http://www.moi.gov.ps/downloads/law/19> قانون رقم 1 لسنة 2000 م بشأن الجمعيات الخيرية والهيئات الأهلية (last accessed 25 September 2012).

ministries. In addition to forcing cooperation, these provisions add a substantial bureaucratic burden on CSOs thereby making them (and therefore the sector) less effective. Such a provision does not exist in the Lebanese legislation and reflects a more mature understanding of civil society, as well as a more limited interest in controlling organizations within the sector. The additional burden created by mandated coordination is due to the extra time and resource commitment involved, as well as the confusion around the necessary lines of communication and reporting. In some cases, it can substantially slow down the work of organizations<sup>146</sup>.

The monitoring mechanisms applied are also reflective of the government's attitude towards the work of NGOs and its relationship with them. The Jordanian and Palestinian laws require NGOs to submit annual reports on activities and finances, while the Lebanese law requires that associations maintain three ledgers with details of the operations to be presented to the judicial and civil government as requested (Article 7). Administrative requirements imposed by the Jordanian law are both resource intensive and intrusive. In addition to full programmatic and financial reporting, this law requires associations to notify the MoSD of General Assembly meetings two weeks in advance and includes the possibility of appointing a delegate from the Ministry to attend the meeting (Article 14 (a)(3)). The Palestinian law, on the other hand, requires organizations to submit annual programmatic and audited financial reports within four months of the year's end (Article 13). In comparison to its two counterparts, the Jordanian law seems rather regressive in this respect.

Another clear sign of government interference is their ability to appoint temporary boards of

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<sup>146</sup> These provisions subject CSOs to bureaucracy invented through administrative arrangements not identified in the legal framework such as the case of INGOs working with Iraqis in Jordan. These INGOs need to be registered with MoSD, but need to get approval from the MoPIC for each project. MoPIC's approval is contingent on the approval of the coordination body comprised of representatives from at least five different ministries (MoE, MoH, MoI, MoPIC, MoSD, etc.)

directors. This provision exists in Jordan and the oPT. Regardless of justifications, this allows for blatant meddling in the sector and compromises its independence. Interference under the pretext of this policy has been used several times in Jordan. Examples outlined in Human Rights Watch's report *Shutting Out the Critics: Restrictive Laws used to Suppress Civil Society in Jordan*<sup>147</sup> are the General Union of Voluntary Societies<sup>148</sup> and the Islamic Center Society<sup>149</sup>, two of the larger national NGOs in Jordan.

Governmental attitudes towards freedom of association are generally indicative of their approach to freedom of assembly. The laws governing media also reflect the value a government places on freedom of thought, its stability and its comfort with criticism. In some cases, the government's discomfort is codified within the legal framework for print media. In other cases, this may be witnessed through state practices and administrative policies. A comparison of print media laws is essential to locating each country on the spectrum of freedom of speech and expression.

In each country, an oversight body is delegated to oversee the implementation of the press and publications law. In Jordan, main oversight is given to the Cabinet of Ministers while Lebanon places it in the hands of the GDPS. The oPT gives this power to the Ministry of Information. As with CSOs, the regulatory body should ideally be an independent one. The current laws place the bodies under the auspices of persons appointed by the head of government (Lebanon and the oPT) or the whole cabinet itself (Jordan). There is often more than one source of oversight. For example, the Ministry of Information in Lebanon is also involved in oversight of the sector, but in a more secondary role. As previously mentioned,

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147 "Shutting Out the Critics: Restrictive Laws Used Against Civil Society in Jordan," Human Rights Watch (2007), accessed 15 October 2012, <http://www.hrw.org/sites/default/files/reports/jordan1207web.pdf>.

148 Ibid, 26-29.

149 Ibid, 29-33.



this is reflective of the level of control each country wishes to exercise with regards to the media sector.

Restrictions on editorial staff and even owners of media companies are also found in the Jordanian and Palestinian laws. In the oPT, the law places several requirements of editors in chief including holding no other job within the publication, to actually hold residence in Palestine, and not subject to legal immunity (Article 11). The Jordanian law requires editors in chief to be journalists with no less than a four-year membership history in the Journalists' Union (Article 23 (a) (1)), Jordanian citizens currently residing in the Kingdom (Article 23 (a) (2)), and not working in any other publication (Article 23 (a) (3)). Editors in chief for publications issued by a political party are exempt from the requirement of Article 23 (a) (1) to be a journalist in the union (Article 23 (b)).

A trend among all three laws is the requirement for owners to be citizens of the country. The Palestinian and Jordanian laws also require actual residency and that the owner not be charged with a felony or misdemeanor involving moral turpitude and public morality. The Palestinian one allows for special permission from the MoI. The Lebanese law requires sole owners to be over twenty-one years of age and with the minimum qualification of a secondary school education<sup>150</sup>. There is also an existing prohibition<sup>150</sup> on connection to foreign sources is present in different parts of the three legislations. The prohibition in Lebanon relates to any foreigners owning any shares in a media company. In Jordan this prohibition is on journalists (Article 9), while in Palestine it is on regular publications to receive foreign funding (Article 9) as well as journalists (Article 10). Although this legislation may have been made irrelevant by the internet, the move to include internet-based publications highlights the governments interest

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150 "Media Report Lebanon (Arabic)", The Arab Center for the Development of the Rule of Law and Integrity, accessed 25 October 2012, [http://www.arabruleoflaw.org/Files/PDF/Media/Arabic/P2/MediaLebanonReportP2S2\\_AR.pdf](http://www.arabruleoflaw.org/Files/PDF/Media/Arabic/P2/MediaLebanonReportP2S2_AR.pdf), 30-31.

in pursuing a policy of control.

Other major obstacles found in the Lebanese and Palestinian laws are the secondary barriers to registering a publication. In the case of Lebanon, the financial amount needed to register a political publication in Lebanon is 500,000 LBP<sup>151</sup>. The policy of limiting publications to 25 daily and 20 political or periodical publications<sup>152</sup> has driven the actual cost of registering a publication to over to 800,000 USD for a daily newspaper<sup>153</sup> shutting smaller players out of the market. The Palestinian law has a similar provision that requires daily publications to have a capital of 25,000 JOD<sup>154</sup> and non-daily publications to have a capital of 10,000 JOD<sup>155</sup>. Although an exception is made for publications issued by political parties, this makes it incredibly difficult for smaller publications and independent persons to establish and register publications.

Censorship is another important factor in freedom of expression. The language used in the different laws ranges from indirect to clear control. In some cases, the charges used to censor expression and media are found in the penal code as opposed to press and publications laws. In Lebanon, this includes harming the dignity of national and foreign heads of states (Article 23 of Decree 104). In Jordan, Article 195 of the Penal Code<sup>156</sup> punishes verbal and written offences against the King. The oPT's law provides a wider list of information prohibited from publication (Article 37 (1)) that focuses more on the dealings of the government than on particular members of the government as is the case in Lebanon and Jordan.

While print media is the main point of comparison, another vital indicator is electronic media.

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151 Approximately \$332 based on an exchange rate of (1 USD = 1504 LBP).

152 *Supra* n.150, 29.

153 *Ibid*, 38.

154 Approximately \$35,310 based on an exchange rate of (1 USD = 0.708 JOD).

155 Approximately \$14,138 based on an exchange rate of (1 USD = 0.708 JOD).

156 Penal Code (Law 16- 1960) amended by Temporary Law 12-2010.

Regulation of electronic media in the Middle East has become more of a concern since the beginning of the Arab Spring. Although attempts have been made in different countries outside the region, Jordan's amendment to the Press and Publications Law (Law 32 of 2012) is among the first successful changes in the MENA region and the only one among the Levant countries. Draft legislation has also been proposed in Lebanon, but no legal amendments have resulted yet.

The Jordanian law incorporates electronic media under the same umbrella governing print media, requiring licensing, regulation, and oversight. This also makes website owners liable for comments posted by readers, documented in logs, and then approved by site administrators in another instance of censorship. The law also extends its scope to foreign registered sites requiring them to comply with Jordanian laws or face the possibility of being blocked.

### **Civil-society organizations**

Historic differences and experiences have a major role in shaping the development and growth of the civil society sector. From conflict to reconciliation and from self-regulation to government control, these conditions continue to evolve as local and regional political developments unfold. These past histories are today being balanced against the imminent changes now taking place in the region, thus causing a tension between sectors defending their existence and governments exercising increasing control.

The current intrusion into the work of the civil society in Jordan through governmental regulation and intelligence agencies draws a very grim picture of the operating environment there. National security issues help to conceal this truth while the declining regional

conditions help to cast a comparatively brighter light. The regressing situation is not just found in the law, but also in the administrative complications and bureaucracy that is now also being imposed on CSOs. The on-going concern regarding security and the governmental attitude of control that has characterized its approach to civil society has previously hindered the growth of the sector and will continue to do so by limiting its space for development.

Palestinian governmental policies towards the civil society sector have also started to take a turn for the worse. The legal framework is being compromised through the use of restrictive administrative regulations, policies based on the Fatah-Hamas tensions, and a clear government interest in gaining more control. It is possible and likely that the conditions of the civil society sector in the oPT become more like its counterpart in Jordan if the PA continues to limit dialogue, expression, and assembly.

In comparison, the Lebanese landscape remains the most permissive of the three. In fact, it is likely that the organic growth of CSOs and their interest in influencing politics will continue alongside their work on protecting human rights. The one exception within the Lebanese context is those CSOs working with Palestinian refugees. The existence of separate and additional regulations for these organizations is one of the few signs of a restrictive system. It enforces a double standard of rights between Palestinian refugees and other members of Lebanese society, leaving the sector with a sizeable weakness to overcome.

Jordan's approach to Palestinian refugees is relatively better than the Lebanese approach. Although a lot of Palestinians in Jordan live in refugee camps, many live outside as well. CSOs serving Palestinian refugees in Jordanian camps face additional bureaucracy, as is the case in the oPT and Lebanon, but for those working outside the camps, access is considered

easier and the issues of Palestinians in general are more integrated into the broader civil society discourse.

In examining the Levant, it can be found that the existence of social resistance, conflict, and the absence of government have been crucial to the development of a strong civil society. While these conditions have posed hardships in some regard, they have also limited governmental interference in the third sector allowing it to thrive based on locally influenced factors such as need, capacity, and direction. It is likely that organizations functioning in these conditions are more responsive to local needs as opposed to donor interests. Despite a serious shortcoming in the field of Palestinian refugees, it is clear that the Lebanese sector is leader both in the Levant and in the MENA region.

## Media

An important starting point for comparing the media landscape is assessing the stability of the current contexts in the three places. This allows us to gauge whether the current reality is a permanent or perhaps more temporary arrangement. The current political situation also provides indicators as to which particular direction the right to freedom of thought and expression will take and in what manner (if any) new policies will affect media involvement in human rights protection.

The SKeyes Center for Media and Cultural Freedom's monthly reports on press and cultural freedoms for August 2012<sup>157</sup> and September 2012<sup>158</sup> reflect an increased number of violent incidents in Lebanon targeting media personnel by both state and non-state actors. Many of

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157 [http://www.skeyesmedia.org/extensions/pdf/SKeyes\\_Monthly\\_report\\_-\\_August\\_2012\\_-\\_EN.pdf](http://www.skeyesmedia.org/extensions/pdf/SKeyes_Monthly_report_-_August_2012_-_EN.pdf) (last accessed 19 October 2012),1.

158 [http://www.skeyesmedia.org/extensions/pdf/SKeyes\\_Monthly\\_report\\_-\\_September\\_2012\\_-\\_EN.pdf](http://www.skeyesmedia.org/extensions/pdf/SKeyes_Monthly_report_-_September_2012_-_EN.pdf) (last accessed 19 October 2012),1.

the activities involved political statements such as support Syrian revolution, as well as expressions of solidarity for detained or abducted journalists and missing persons in Syria<sup>159</sup>. This is a concerning step backwards, which places Lebanon closer to Jordan and the oPT in terms of regressive practices. It represents a shift in the Lebanese reality and points to a decline in media freedoms already visible in Jordan and the oPT.

Media in Jordan has faced constant challenges over the years, particularly when acting as watchdogs or reporting on issues related to democracy, civil liberties or democratic reform. Although August and September reports by the SKeyes Center for Media and Cultural Freedom's point to decreased violations of media freedoms, these actions remain a central part to Jordan's silencing of criticism and prevention of dialogue. Practical challenges and outright censorship are likely to increase in the face of the amendment of the press law passed by the Jordanian parliament making it easier for the government to sanction and prosecute journalists in a legal fashion<sup>160</sup>.

The deterioration in the oPT is based on the use of administrative decision-making and police action rather legal frameworks. The recent actions reflect a regression in freedoms<sup>161</sup>, as well as an attempt by Fatah and Hamas to consolidate and display political power each in its own territory. Whether perpetrated by non-state actors or disguised as a political power struggle, the infringement on the right to free expression is growing more serious and seems to be part of a broader state policy of distrust and control of the third sector.

The direct correlation between media freedoms and political stability in the Levant is clear.

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159 *Supra* n.147, 1-2.

160 As opposed to its previous dependence on censorship, intelligence, and police brutality to limit freedom of expression.

161 *Supra* n.157, 3; *Supra* n. 158, 2-3; and

[http://www.skeyesmedia.org/extensions/pdf/SKeyes\\_Monthly\\_report\\_-\\_July\\_2012\\_-\\_EN.pdf](http://www.skeyesmedia.org/extensions/pdf/SKeyes_Monthly_report_-_July_2012_-_EN.pdf) (last accessed 19 October 2012),.2-3.

The deteriorating situation makes it hard to draw a consistent comparison between the violations in all three locations. The one remaining certainty is that these freedoms are being eroded, as is the role of media in protecting human rights. Despite the many violations outlined above, Jordan at this point provides the most restrictive media environment because of the legalization of excessive censorship, an act that is viewed as the culmination of years of suppressing both speech and expression.

## Conclusion

Analyzing the legal status of the three jurisdictions is slightly easier with regards to civil society law. The legislative framework of Lebanon, despite being old, is a lot more permissive of a functional and independent civil society sector. The Palestinian law proves itself less restrictive in comparison to its Jordanian counterpart. Even so, an accurate assessment depends both on the legal framework and a reality represented in the practical implementation of laws, regulations, and administrative decisions. Possibilities for improving all three legal codes will be discussed in the following chapter.

The press and publications laws in the three countries reflect the level of maturity of the state. None of the laws are compliant with best practices. This is particularly worrying as governments move towards further restricting freedom of expression. In assessing the three laws, it is possible that the Palestinian law is the most progressive of the three. It still leaves a lot to be desired and allows for too much government intervention in the freedom of speech and expression. It is evident that each of the laws has found its own way to limit access to the media market therefore making smaller, unlicensed voices illegal.

Based on the above comparison, Jordan has placed itself in the forefront of limiting basic

rights such as expression, assembly, and thought. These limitations are symptoms of both political turmoil and unsound policies that are not unique to Jordan alone. In the current explosive environment of the Levant and the broader MENA, such policies tend to have the opposite effect than intended.



## **CHAPTER VI- ENABLING THE ROLE OF CIVIL SOCIETY IN HUMAN RIGHTS PROTECTION: RECOMMENDATIONS**

Enabling the development of civil society through the creation of a conducive climate is a difficult task. It involves the adjustment of legal frameworks, governmental policies, and social understandings in a way that allows the sector to efficiently and effectively protect human rights on the local and national levels. Based on international best practices and considering the current realities in the three jurisdictions, the recommendations below strive to provide responsive solutions with both immediate and longer-term effects. These recommendations may not address all the shortcomings previously mentioned, but rather focus on those where change is most urgent.

### **Civil-society organizations**

#### **i) Jordan**

The shortcomings of the Jordanian law governing the civil society sector are those provisions that leave space for substantial government intervention. The first recommendation for legal change is changing the requirement from registration of CSOs to notification. In addition to easing up the bureaucratic burden, this would also allow organizations to function more freely. Although unlikely<sup>162</sup>, such a measure would also support the government by freeing up the MoSD's already limited human resources. Staff would be able to re-focus its efforts on human resource development (both for themselves and members of the civil society sector), supporting the functioning of CSOs, or providing more consistent financial oversight needed for compliance.

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<sup>162</sup> Due to an evident culture of fear and control.

The second important recommendation is amending the restrictions on receiving foreign funding from approval to a submission of annual accounts that list income. Removing the need for prior authorization of funding will ease a substantial hardship that currently faces both compliant and non-compliant CSOs. Putting in place and enforcing a requirement for submission of annual accounts will encourage a higher level of financial transparency by removing the need to conceal funding sources.

Another aspect of limiting government interference is removing their ability to assign temporary boards of directors. This represents a serious violation of the sovereignty of organizations and the integrity of the sector. The provision should be removed in its entirety, and if needed supplemented with new practical and comprehensive set of financial guidelines for organizations. This should be accompanied by the elimination of the need for CSOs to give two-week notification prior to General Assembly meetings and the right of the government to send delegates to attend these meetings.

The existence of forced coordination with governmental counterparts through the legal frameworks should be canceled altogether. Realistically, this has not served the purpose of coordination, but instead has supervision and impeded on the work of the sector. Those CSOs interested in coordination with relevant governmental counterparts will do so without the existence of this provision. This provision serves to place more authority in the hand of governmental institutions to affect the work of CSOs in different thematic sectors. Even under the guise of aid effectiveness, this measure has failed because it has encouraged one-way, vertical coordination as opposed to a more collaborative vertical and horizontal cooperation among actors.

Outside of the legal framework, the most important measure that needs to be taken is a reduction in the involvement the GID. This involvement has had the effect of intimidating both CSOs and beneficiaries particularly from those most marginalized groups such as refugees. Overcoming this problem requires a conscious political decision to allow the sector to operate with less security-based supervision. Removing this element would also eventually allow organizations to publically challenge governmental decisions and advocate to change those policies with the most detrimental effect<sup>163</sup> supporting Sameer Jarrah's argument that "the notion that free political discussion is, in itself, a threat to national security"<sup>164</sup>.

As a sector, effective coordination needs to be introduced and properly adopted. This will improve their ability to meet the needs of different communities without duplicating efforts, thus reflecting a higher level of maturity and professionalism. The responsible use of funds could eventually be used to tackle major problems such as the contrast in development levels around the Kingdom.

Other necessary measures that must be applied include capacity building, strategic planning based on a collaborative approach, good governance, and professionalism within the Jordanian civil society sector. This is best accomplished through governmental and civil society partnerships, consultations with experts, and engaging beneficiaries. It is here that governmental institutions can have a big role, by mobilizing resources, spearheading the process and ensuring that it meets its objectives. The required outcome at the end of the day is a public and third sector that can constructively collaborate together in reaching their goals.

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163 Examples include the withdrawal of Jordanian citizenship or the administrative decision not to accept Palestinian refugees coming from Syria.

164 *Supra* n.40, 13.

## **ii) Lebanon**

As previously discussed, Lebanon's legal framework despite being the oldest is most in agreement with international best practices. The one serious shortcoming of this framework is placement of organizations working with Palestinian refugees outside its auspices. For Lebanon to improve its standards and promote civil society development bringing these NGOs out from under the umbrella of the MoI and included in the same set of legal expectations as other CSOs is vital.

On the practical level, national organizations need to remain focused in their struggle to overcome confessionalism making it easier for the sector to take on serious human rights issues both on the national and local levels. Despite the difficulty of this path, especially as tensions continue to flare up, advocating from a joint human rights platform focused on civil development is the most promising path available in Lebanon<sup>165</sup>.

Coordination across organizations on a local level and to help mainstream NGOs working with Palestinian refugees and refugee rights into main Lebanese discourse is also important, despite the difficulties this could pose. Otherwise, it is impossible to talk about a sector that is successful in human rights protection when it has supported the continued marginalization of one of its most-at-risk groups.

## **iii) oPT**

Proposals for improving the Palestinian civil society sector include legal reform, change in governmental policies, and suggestions for action by members of the civil society community. The first amendment in the legal system is to change the registration system to a notification system making Palestinian law more compliant with international best practices. Another

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<sup>165</sup> This is not as easily applied or used in Jordan or the oPT because of overwhelming religious majorities or political splits.

change is the removal of Article 37(2), a restrictive provision that states that organizations that have not started their actual activities within the first year of registration will be dissolved by the government. The suggestion is to either extend the period by at least a year or better yet to strike it altogether.

Moving the Registration Department for Charitable Associations and Community Organizations from being under the auspices of the MoI and to an independent commission that coordinates with the government is necessary. Legally limiting governmental interference, particularly one that is security focused, plays an important role in allowing the development and growth of civil society in any context. Article 2 (1) that gives the MoI or specialized ministry the right to review any documents reports or papers and Article 2 (2) gives them right to follow the activities of the organization to ensure that the money is spent on achieving its objectives should be canceled. If cancelation is not possible, it should be amended to include the need for a judicial decision in the case of Article 2 (1). In the case of Article 2 (2), the amendment should include more safeguards for organizations from governmental interference.

Realistically, the Palestinian civil society sector is well developed, but seems to currently be experiencing growing pains. Several measures need to be taken to ensure the sustainability of the sector. The first is building the capacity of the younger workforce that currently staffs the sector through training them in emergency response and human resource mobilization for emergencies. The political climate experienced by the senior generation of civil society activists was characterized by war and actual occupation. This created the ability to organize and mobilize based on instinct, one that is lost on the younger generation that came of age during of after the first Intifada.

Another important need of CSOs to developing policy influencing and watchdog skills that can engage LOs and government in policy change so that they better able to meet human rights standards. In addition to capacity building, this requires improved coordination among the civil society sector actors so that they are able to respond more effectively to local needs and capacities. This also includes the need to strategically consider the needs of Palestinians and find ways to meet these needs through local and national interventions.

## **Media**

Changes affecting media may prove to be more difficult than those in the civil society realm. The current practices reflect a low level of respect for freedom of speech and expression. This is tied into a bleak reality that will make it almost impossible for legal reform to occur, particularly as the different governments are considering introducing more restrictive laws that will further control the media landscape. The recommendations below represent basic suggestions for bringing the countries closer to respecting freedom of expression and thought. Even if implemented, the frameworks will require a considerable amount of additional work to meet with international standards for best practices.

### **iv) Jordan**

Jordan's latest amendment to its Press and Publications Law leaves no doubt of the government's stance on control and oversight of media institutions and outlets. Several changes are necessary in order to improve the provisions. The first suggestion is to remove the taxing requirements placed on persons working in the media and publications industry. Considering the diverse composition of residents in Jordan, it is important to consider removing the requirement for Jordanian nationality therefore creating a space and perhaps giving a voice to marginalized communities such as refugees and foreign laborers. This will

ultimately allow more human rights issues rise to the surface and hopefully to the forefront of political dialogue and social discourse.

The second suggestion is to remove the regulations placed on electronic or internet publications. Although this is unlikely considering the recent amendment, it is crucial for CSOs and youth to engage in constructive dialogue around this and lobby for change as soon as the next parliament is elected<sup>166</sup>. The need for this collaboration comes after years of CSOs shying away from the topic of freedom of speech and expression. This consolidated approach must also include an attempt to highlight police related action and use of violence against media workers in during protests, as well as the ongoing crackdown on youth activists.

Jordan's recent history indicates a descent into a security state not unlike other countries in the region. Despite its excellence in foreign affairs and public relations, this trend is becoming easier to see. Therefore, there is a pressing need for local actors to collaborate on changing the existing conditions and to work towards developing an environment where different voices are heard and respected. Only then will social and political stability be possible.

#### **v) Lebanon**

Several changes need to be made to Lebanon's legal framework. The first is the need to remove the limitation on the number of licenses provided to publications. Removing this limitation will level the playing field allowing independent publications and those with fewer resources to enter the market. The second is the removal of all existing methods of censorship. This starts by removing the oversight of the GDPS on publications found in Article 1, Decree 1, 1977 and followed by canceling the Decree related to harming the dignity

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<sup>166</sup> As of November 2012, the upcoming parliamentary elections are set for late January 2013. Sulaiman Al-Khalidi, "Jordan sets Jan. 23 for early parliamentary election", *Reuters*, 16 October 2012, accessed 7 November 2012, <http://www.reuters.com/article/2012/10/16/jordan-elections-idUSL5E8LGLEW20121016>.

of heads of state, a clearly restrictive measure used to maintain a status quo regarding criticism of enemies and allies of the government.

One of the biggest practical problems in Lebanon is the threat to and assassination of members of the media. Unfortunately, it is difficult to suggest changes that would help this problem on the practical level. The state of political affairs in Lebanon makes it difficult to find or prosecute those people responsible for violent and sometimes deadly attacks on journalists and other political figures. The best that can be done is for the state to publically state its disapproval and perhaps for civil society organizations to lobby for harsher punishments for those seeking to limit freedom of expression through acts of violence. Realistically, one can only hope that society and its leaders will reach the point where political assassinations are no longer an appropriate option.

#### **vi) oPT**

Some resemblance can be seen between the recommendations for media development in the oPT and those made for Jordan. As is the case with Jordan, there is a need to amend restrictions placed on editors, journalists, and media owners. While it is unlikely that a different law would remove them altogether, it is necessary step is removing the attachment to citizenship and political affiliation. This should be followed by the removal a residency restrictions and the legal requirement for professional qualifications that should be limited to membership in the journalists association/ union. Adjusting Article 16 that requires media owners not to have been convicted of a felony or misdemeanor involving moral turpitude or dishonesty is also necessary but unlikely because of a widespread social bias against persons convicted of such crimes.

Another important area for change is that of the capital required to start up a publication and



equalizing the standards between those publications associated with political parties and regular ones. Ideally, this provision should be removed thus allowing anyone interested in registering publication to do so.

Away from the legal framework, it is important for the PA, Fatah, and Hamas to realize the importance of having journalists and other media workers carry out their role unobstructed. It is not enough for the government to provide a relatively permissive legal framework. There is also a very pressing need it not to impede their work through physical action or use of force. The likelihood of the government coming to this realization on its own is somewhat limited, therefore a strong cooperation between media actors and civil society organizations is important to protect a fundamental right to expression.

## **Conclusion**

The current role of civil society in protecting human rights in the Levant varies with the weakest being in Jordan. Despite possible strengths in Lebanon and the oPT, there is an active undermining of the role of civil society and media that will eventually lead to a substantial weakening of the sector in all three jurisdictions.

Defining the role of civil society in protecting human rights in the current Levant is crucial to identifying the level of the civil society sector's development and its challenges. It allows scholars and activists to understand the current climate in which CSOs and media function. This paper provides an evaluation of the legal framework, the sectors' maturity, and suggests tangible steps for moving forward in Lebanon, Jordan, and the oPT.

This assessment is important because it provides a perspective that is unassociated with an official (governmental) stance or with a request or justification for funding. It examines political issues from a practical human rights protection standpoint by borrowing from the existing standards from international human rights law and using these standards to assess the gap between international best practices and current realities in the Levant. In addition to being a measuring stick, these standards also play a role in identifying next steps that contribute to growth and overall political stability.

The relationship between human rights and political stability may seem clear to many human rights and social justice practitioners, but the connection between the two continues to elude many of the region's governments. The presence of a strong culture of human rights helps to build a harmonious society that in turn contributes to the existence of a political environment where extreme views are not so prevalent and do not threaten the existence of a state. In more simple terms the protection of human rights tends to amplify and sustain moderate voices in the community, as well as assisting in avoiding radical swings in government. Human rights infringement leading to serious political instability and change has been a visible phenomenon in the MENA region over the past two years. This includes conservative Islamic governments in Egypt and the general descent into civil strife in both Libya and Syria. This condition is becoming a more likely scenario particularly as a new wave of unrest starts in the Levant.

In the realm of regulating CSOs, the least regressive laws are found in Lebanon. The oPT and Jordan respectively follow at a considerable distance. Although the assessment of Lebanon and the oPT are not necessarily surprising, that of Jordan is. The increasingly restrictive regulation that allows for considerable government intervention is well disguised by a government that encourages international development and assistance, and viewed as being

pro-Western. There is an overwhelming need for legal reform in Jordan and the oPT. Lebanon, on the other hand, faces one particular problem, which is that of regulating organizations working with Palestinian refugees. These organizations need to be included in the same regulations under which other Lebanese CSOs work.

All three jurisdictions have found “creative” ways to limit the freedom of expression through media related laws. In Lebanon, limiting the number of licenses available for print publications exponentially inflates license prices making it impossible for smaller publications to compete. In the oPT, waivers given to publications associated with political parties as well as the restrictions placed on editorial staff and publication ownership are examples of limited expression. Jordan’s law provides the most updated example of state control historically through its regulation of online websites and its inclusion of online publications in the scope of the Press and Publications Law. The newly introduced requirement for registration, as well as the ability to block sites, takes government control to a higher level, makes Jordan a regional pioneer in the legalization of internet censorship.

The most applicable recommendation is for the governments to change the legislation so that it reflects a fundamental respect for free speech and expression. This should be done through the removal of the above-mentioned restrictions, easing registration and licensing requirements, removing vague provisions that involve safeguarding religion and culture, and eventually building up case law around free speech.

The findings of the realities of CSOs and media are well known to residents of the different jurisdictions, but are not adequately reflected on an international level most likely because they are often put in a comparative light. The governments of Jordan, Lebanon, and the oPT

may have restrictive practical approaches to regulating CSOs and media, but when put in a more regional perspective, these measures do not seem so grave. The worsening conditions in the MENA region continue to provide more leeway for these governments to infringe of freedoms of association and expression without affecting their foreign image or relations.

The recommendations focus on building a culture of trust and cooperation between the public and third sectors in a way that seeks to include marginalized communities into general discourse<sup>167</sup>. Growth points include improved organization on the part of CSOs in both Jordan and the oPT, and the development of a human rights based approach far from sectarian values in Lebanon. In the case of administrative decisions and media, the main recommendation is for governments to stop infringing on media workers<sup>168</sup> and to actively work on providing a protective atmosphere for them.

While these recommendations may not be exactly replicable in other contexts, they do speak to the need for localized and organic solutions. They may also prove to be most surprising to governments and other local actors who view asserting control as the easiest and most effective way of dealing with disenfranchisement and possible instability. Different institutions, including governments and development agencies, may positively view the current conditions or at least consider them a necessity, but the prevailing truth is that the current framework and environment prevent CSOs and media from playing an effective role in protecting or even promoting human rights.

Governments will be quick to dismiss major factors such as confessionalism in Lebanon, restrictive practices in the oPT, and interference in Jordan, all factors are justified a necessity

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167 Such as Palestinian refugees in Lebanon.

168 Infringements are starting to go beyond freedom of expression and fall into the category of physical abuse.

for maintaining national security. Yet this paper focuses on the need for a strong civil society sector so that it can better protect human rights and support the state in fulfilling its responsibility to its citizens.

The findings are also likely to be challenged by local civil society actors as well. In Jordan, this is due to the sector's limited ability for self-criticism and its close relationship with governmental counterparts. A general lack of reflection and planned growth has characterized the Jordanian sector, leaving it disorganized, visionless, void of political engagement, and overshadowed by the government. The findings for oPT will also probably be challenged because they do not focus heavily on the existing state of occupation and rather reflect internally at the sector itself and its capacity. Although there is an existing realization of the issues raised in this paper, it remains somewhat limited. In the case of Lebanon, the findings have already been raised as issues among CSOs as is evident in the legal reforms attempting to engage Palestinians in the labor market to the increasing interest of urban youth to promote human rights based approaches free of sectarian values.

The need for paced structural reform that is compliant to the basic human rights is highlighted throughout the paper. Introducing civil society reform based on a human rights agenda will force nations to deal with their more difficult social and even governance issues through legal reform and policy adjustments. The examination of the current state of civil society in the Levant reveals legal shortcomings and a gradual, but unwavering regression in the approach to civil society as a whole, and media in particular. This reform envisions creating a space for dialogue and action within the civil society sector, and this space is made possible through easing of restrictions and putting in place policies that protect it rather than infringe on it.

Despite its inability to address Syria, this paper adds to the limited pool of literature that is available on civil society, human rights, and current affairs in the MENA region. The research serves to shift to the perspective of both civil society actors and governmental authorities on how to better approach the civil society from a regulatory and policy standpoint. It also acts as a base document that hopes to inspire further detailed research into the relationship between civil society, human rights protection, and eventually political stability in the Levant and in the broader MENA region.

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