

Emirates Press Law

Issue 9, Fall 2009

By Dana El-Baltaji

When the UAE's draft media law was ready for release in January 2009, journalists were genuinely excited. The existing Press and Publications Law of 1980 is archaic at best. It lists 16 punishable offences, among them insulting Islam and the royal family.

For years the UAE government exercised a fear campaign against journalists, jailing, fining, detaining and interrogating reporters and editors for breaking ambiguous laws.

One month, it would be permissible for journalists to report on the sex-trade in the northern emirate of Ras Al Khaimah; the next they could be summoned for suggesting prostitution is alive and well in the UAE.

Ambiguity is, in many ways, a principal characteristic of the UAE's current media law. It suggests everything and nothing, giving the government the liberty to make statements like "the country's mass media enjoys substantial freedom" (as stated on the UAE's official government website), while blocking websites and news content it deems inappropriate, like www.uaetorture.com and Flickr.com.

The late American diplomat and President of Yale University, Kingman Brewster, Jr. said "If I take refuge in ambiguity, I assure you that it's quite conscious." I suspect the former employees of the Ministry of Information and Culture, which was dismantled in 2006 and replaced by the National Media Council (NMC), would agree.

Indeed, the country is due a new law.

Journalists never expected the draft media law to alleviate those ambiguities entirely, but to provide a clearer understanding of what the government considered to be "substantial freedom."

The long-awaited draft media law was published in January 2009, and rather than be lauded for its advancements in press freedom, journalists and activists accused the NMC of stifling the media with a law that gave the government considerable power over the industry.

Specific articles in the law drew media attention, such as article 32, which penalizes journalists up to AED5 million for 'disparaging' government officials, members of the royal family or Islam, and article 33, which fines journalists up to AED500,000 for harming the nation's image and reporting 'misleading' information on the economy.

The law also gives the NMC the right to ask for an unspecified security deposit from media houses to help pay potential fines incurred by the company. The deposit can be as high or low as the government body chooses, and can potentially weed out small to medium publishing houses. The law also gives the government power to influence hiring decisions within media organizations.

Furthermore, the draft media law will only apply to journalists and publishing houses based outside of the nation's numerous free zones, marking an inexplicable divide between journalists working in the same industry, in the same country, and more often than not, on the same stories.

The latter point is a particularly sore issue for Emirati activist, Ahmed Mansoor: "This is in itself is a way of stating that the law is a double standard law; it treats those outside free zones worse than others," he told me in April 2009.

"We [activists] will continue to fight the law. We will never compromise our freedom."

The law, however, has taken steps to improve media freedom in the UAE. For instance, it explicitly states that journalists cannot be jailed for doing their jobs, which abides by a decree issued by Dubai's ruler, Sheikh Mohammed bin Rashid Al Maktoum, in 2007.

The draft law had high profile supporters, many of whom wrote opinion pieces backing its 'developments'. Najla Al Awadhi, a member of the Federal National Council, Deputy CEO Dubai Media Incorporated and General Manager of Dubai One TV, wrote a commentary for Dubai-based daily *Gulf News* entitled *Media law is in line with UAE's needs*, where she explains that "[the new law supports the role of the media. It solidifies the principle and practice of access to information, freedom within the law, and does not contain any clause that leads to imprisonment, which was the opposite of the law of 1980."

"The wheels will keep turning in the path towards greater progress, political support for the media and the proactive role of the media practitioners and civil society will contribute to this drive forward."



From Menassat under a Creative Commons License

On the whole, however, the pending media law wasn't well received by anyone, save for government agencies. A number of Emirati journalists declined to comment for this article. The UAE Journalists Association submitted a petition signed by 100 journalists to the NMC, asking the government to reconsider the law. The Doha Center for Media Freedom in Qatar issued a statement, Google Analytics, the law, and Human Rights Watch (HRW) jumped all over it.

In April, HRW published a report aptly titled *Just the Good News, Please: New U.A.E. Media Law Continues to Stifle Press*, outlining why the law is an infringement on press freedom, and how the government can improve it.

The report said: "[The pending media law] includes troubling content-based restrictions on speech, draconian fines, and harsh registration requirements. The content-based restrictions are aimed at stymieing criticism of the government: in ambiguous, overbroad provisions, the pending law prohibits communication that misleads the public and "harms the national economy," or "disparages" government officials. This insulation of public officials from criticism violates the fundamental principle in international human rights law that press freedoms should be wider, not narrower, with respect to speech about politicians and government officials."

HRW presented its report at a press conference in Dubai, causing a stir in the media industry. Journalists worldwide relished the chance to rip into the UAE's idea of press freedom.

At the time, I spoke with Samer Muscati, a New York-based senior researcher with HRW, who described the new draft law as "ironic."

"It's ironic because it undermines the reform mentality," he explained. "You can't have a free media when you have such exorbitant fines and punishments based on content."

He added: "The fines are indeed exorbitant; AED5 million is a lot of money. What kind of journalist has AED5 million stashed in his or her bank account? I'm either underpaid, or the NMC knew that journalists could never pay fines that hefty. Or both."

"What happens if a journalist can't pay a fine?" I asked Muscati. "Journalists will most likely be jailed," he said. "The NMC says "we won't imprison anyone, but we'll impose this fine. And if you can't pay the fine, you'll be in prison. But you won't be in prison because you're a journalist; you'll be there because you can't afford to pay your fines." It's a way of removing imprisonment from the journalism field to the business field. It's a novel approach, but the effect is the same."

Soon after the conference, the NMC published its response to the HRW report in WAM or the Emirates News Agency, the UAE's official news agency.

The council's statement said: "The National Media Council welcomes informed discussion and debate on the content of the draft Media Law, whether this comes from within the United Arab Emirates or from external bodies. It expresses its appreciation of the acknowledgement by Human Rights Watch that the draft media law is a step forward in terms of press freedom in the UAE. At the same time, it would like to note its view that some of the remarks made in the HRW report show either a real lack of understanding of the situation in the Emirates or an attempt to promote concepts and/or procedures that are not compatible with the laws of the UAE and its value system."

The NMC also said that it "continues to take the view that the new draft law represents a significant step forward in terms of press freedom in the UAE"

In short, the council's response was a verbose, though diplomatic 'thanks, but no thanks'.

Within two weeks of publishing the HRW report, the UAE's level of press freedom was tested. In mid-April, US-based ABC News broadcast a segment of a 45-minute long torture tape featuring a member of the UAE royal family, Sheikh Issa bin Zayed al Nahyan, allegedly torturing an Afghan businessman, Mohammed Shah Poor in 2004. A man dressed in a UAE police uniform also appears in the tape.

The tape was supplied by Bassam Nabulsi, a Lebanese-American and Sheikh Issa's former business partner. The video was reportedly filmed by Nabulsi's brother by order of the Sheikh.

Bassam Nabulsi has filed a lawsuit against Sheikh Issa in Houston, Texas, where he is based. He he claims he was falsely arrested by Abu Dhabi police on narcotics trafficking charges when he allegedly refused to give the government the torture tapes. He claims he was incarcerated for three months **in the UAE** and was tortured regularly by the UAE police), according to the **ABC News broadcast**.

"They would stick a finger up his anus and say, 'this is from Sheikh Issa, are you going to give us the tapes,'" Nabulsi's Houston lawyer, Tony Buzbee said on his website, <http://www.txattorneys.com/news-141.html>

"They would keep him from sleeping, deny him his medications, tell him they were going to rape his wife, kill his child. They made him pose naked while they took pictures," the lawyer alleges.

While the rest of the world was busy tearing the story about, media agencies in the UAE kept quiet.

The UAE was subject to criticism from journalists, activists, and in some cases, politicians, all of whom demanded to know what the Emirates was going to do to rectify the situation. In response to the global outcry, the UAE said: "...all rules, policies and procedures were followed correctly by the police department. The review also concluded that the incidents depicted in the videotapes were not part of a pattern of behavior."

The world media pounced. The local media watched.

On April 30, WAM reported that the UAE government had a change of heart: "The Public Prosecution Office has officially launched a

criminal investigation into the events depicted on video and detained Sheikh Issa bin Zayed Al Nahyan pending the outcome of this investigation," WAM reported, quoting a statement by the Judicial Department.

Google Analytics

"This is to ensure that all human rights obligations are met and enforced, that all national laws are applied equally and with transparency to all."

This time, the Abu Dhabi-based daily *The National* reported on the story, although the article was understandably vague, and it avoided the subject of torture. The paper published a follow-up story in July confirming that the Abu Dhabi government's investigations into the allegations against Sheikh Issa are ongoing.

The article did not report on what the government had uncovered thus far. But there's no use in complaining about a scanty report; at least *The National* reported on it.

Other journalists in the UAE, however, were stifled by two crippling hindrances: first, the knowledge that any story regarding UAE royals is considered sensitive, and may get them into trouble; and second, jittery publishers with friends in the government who warned them against reporting on the story.

Frankly, however, even if I had wanted to take the risk of researching and publishing the story, no one I spoke to was willing to comment. Not even activists.

That's how sensitive it was. I imagine the articles on Sheikh Issa in *The National* were edited countless times before they were published. And even then, I suspect they needed to be approved by the big boys in Abu Dhabi Media Company (which owns *The National*), who happen to have close ties with Abu Dhabi's ruling family.

I interviewed Samer Muscati again recently to discuss the draft media law in light of how UAE journalists covered Sheikh Issa's story. He said: "What's surprising to me is that even after WAM made a statement, no one covered it."

"So many journalists have called and explained about the issues they have had about the torture case. There is a serious problem in the UAE, and the new law won't improve the situation," he added. "Ultimately, the media can't be silenced."

Maybe not in the long run, but the government has successfully silenced the media before and since the Sheikh Issa incident.

On May 29, the London-based daily *The Independent* published an article entitled *Dubai property scandal claim emerges amid media blackout*. According to the report, a group of investors who had bought properties in buildings by Al Fajer Group, a company run by Sheikh Maktoum bin Hasher Al Maktoum, held a press conference to accuse the developer of fraud, according to *The Independent*.

The investors allege that the developer showed them photographs of buildings it claimed were Ebony 1, Ivory 1 and Ivory 2, but were in fact buildings belonging to another developer. The investors were demanding a refund totaling GBP86 million.

Unfortunately, the investors didn't get the sort of press they had hoped for. Incidentally, Sheikh Maktoum bin Hasher Al Maktoum is a nephew to the ruler of Dubai, Sheikh Mohammed bin Rashid Al Maktoum, and soon after the press conference finished, Dubai government officials warned news agencies against publishing articles on the press conference.

"I had written half of the article when I was told by my editor to stop," a Dubai-based reporter told *The Independent*. "The investor's group has records of payment, and it's obvious that they have been shafted, but we can't write about it."

Why? Because a member of the royal family is directly involved. To date, we have not received updates from Al Fajer Group regarding the allegations made against the company.

Rather than view Sheikh Maktoum bin Hasher Al Maktoum as a businessman who may have been involved in conning investors out of GBP86 million, the government views him as a royal first, a businessman second.

And herein lies one of the media law's biggest problems: most UAE royals hold government offices and executive positions in companies throughout the Emirates. In fact, most UAE-based companies have some connection, either directly or remotely, to members of the royal family.

How, then, can the media ever hold these individuals accountable for their actions, if stories (albeit negative ones) cannot be published if they involve a royal?

Sadly, the draft media law won't help with this conundrum, and it certainly won't help with future torture tape cases either. Article 32, which makes criticizing government officials and royals illegal, is artfully ambiguous.

According to HWR's report, "[such] a vague law invites self-serving interpretation by the government, and with courts that have proven compliant in harshly regulating speech, the result will be continued anxiety, self-censorship, and arbitrary enforcement of the law in the UAE. It appears designed to insulate the government from public accountability and criticism and would deter investigative journalism and undermine the media's role as public watchdog."

According to Samer Muscati, the HWR is putting together a new report, because "the situation is more dire than we anticipated.

It is dire, especially given that in spite of local restrictions on content, the world press can write and say what they want about the UAE, without ever succumbing to the country's media laws. And the stories the government doesn't want the local media to publicize, are being publicized anyway by journalists around the world.

Due to the Internet, the only way to prevent the press from airing your dirty laundry in public is by not having any dirty laundry in the first place.

Google Analytics

Interestingly, the draft law is still pending approval. One has to wonder why a country that passes laws so quickly compared to other nations has taken its time with this one.

“I’m hoping that the reason why they haven’t signed the law is because they’re going to amend it,” said Muscati. “They need to reevaluate the law and take the recommendations that we’ve given them.”

It is unclear why the draft law hasn’t been passed. Repeated efforts to contact the NMC for an explanation yielded little more than assurances that the government is working on finalizing the law.

However, transparency was never one of the UAE’s strong points, which is ironic given its desire to maintain its status as a regional business hub. Without transparency, and without press freedom to report on political, business-related and social issues, the UAE is unlikely to repair its mired reputation.

Since the financial crisis hit the region in September 2008, bringing the nation’s billion dollar real estate industry to its wobbly knees, the UAE’s credibility as a stable and profitable developing nation was compromised. Dubai, more so than Abu Dhabi, had over stretched its budget. To date, no one knows how much debt the emirate raked up, but occasional disclosures hint at a distressed economy. Earlier this year, Dubai admitted to owing \$80 billion, although analysts suspect the number is higher. Clearly, without the government providing accurate numbers, speculators will assume the worst.

Given Dubai’s drive to raise itself from the economic bog it created running up to the financial crisis, honesty and transparency are tantamount. And without the media’s involvement in reporting information about Dubai and the UAE’s news, any effort to regain investor confidence is slim.

In fact, keeping close tabs on the media, like it does with its companies, will only prove that in spite of the lessons the financial crisis has taught the business world, the UAE hasn’t grasped them yet.

Dana El-Baltaji is the managing editor of Kippreport.com, a news analysis website based in Dubai. Prior to that, she was special projects manager for Trends magazine in Dubai, the destination guides editor for Time Out GCC, and a lecturer at the American University of Dubai and the American University of Beirut. Dana holds an MA in English Literature from the American University of Beirut, an MSc in Writing and Cultural Politics from the University of Edinburgh, and a BA in English Literature from the American University of Beirut.

©2009 Arab Media & Society