

Media in North Africa: Obstacles and Challenges

Final Report

The Cairo Institute for Human Rights Studies

The Cairo Institute for Human Rights Studies, in collaboration with the UN Economic Commission for Africa, the International Media Support Forum, the British Broadcasting Corporation (BBC) and the African Media Development Initiative, held a consultative meeting on January 13 and 14, 2007 in Cairo. The meeting centered around a discussion of the obstacles and challenges faced by media in North Africa. This meeting is the latest in a series of regional media consultations held throughout the African continent. The aim of these consultations has been to increase awareness and understanding among African media personnel and their international partners, concerning the status of the media sector within Africa. Furthermore, participants of the meetings are encouraged to identify specific short and long term priority issues concerning challenges for the media sector of their region, as well as the areas that need to be developed in order to maintain free and independent media in Africa.

The regional meeting held in Cairo brought together a group of editor-in-chiefs, journalists and other media professionals representing 14 newspapers, 6 TV channels and several radio stations, from six North African countries, namely Egypt, Libya, Tunisia, Algeria, Morocco and Mauritania. In addition, a number of international organization representatives, legal experts and regional human rights activists were in attendance.

The participants deliberated on a number of key issues including the following:

A. The status of the press. Especially the effect that ongoing state hegemony over press-related regulations and severe restrictions imposed on the freedom of publication and ownership of newspapers has on the press.

B The status of video and audio broadcasting under the state monopolization of this type of media, including the chances of developing the state-owned broadcasting sector, and the obstacles encountered by private and independent broadcasters

C. The challenges faced by e-media on the internet in North African countries.

D. The role of civil society in developing the media sector in North Africa, with special focus on how civil society can promote the capabilities of media professionals to assess, control and advance media performance. In particular, the lessons learned from the role civil society played in monitoring media performance during the Egyptian elections.

E. Trade-union related issues: In particular, the role of trade unions in protecting media personnel, and the ability of a trade union to promote higher standards of professional performance through the enforcement of press and media codes of ethics.

Several main conclusions came out of the two-day meeting including:

A. The Arab World in its entirety, including North Africa, is been impervious to the waves of democratic dissemination and transformation experienced by other parts

in the world. The despotic regimes ruling the Arab World still make frequent use of freedom-curbing tools, in spite of all international pressures and internal demands/pressures for democratic reform..

Media freedoms in the region have witnessed some relative or temporary tolerance due to social pressures, or as a natural outcome of globalization, and the revolutionary forms of communication provided by satellite T.V. and the internet. These media forms make absolute state monopolization over the means of mass media distribution highly difficult. A reflection of such tolerance has been witnessed in Egypt and Morocco. During recent years certain red circles and lines, which were unapproachable, have been overstepped in these two countries, especially regarding the ability of the media to criticize ruling figures or reveal cases of corruption and/or serious human rights violations. Furthermore, the prominence of the role of the private press, and the acceptance, in Egypt, of private space broadcasting initiatives has aided press freedom. This diversification of media outlets has created broader vistas for the expression of different opinions, and for the acceptance of political and cultural pluralism within the society.

Morocco has, also, accomplished significant progress as regards the reduction of custodial penalties in press and publication crimes. Such penalties, however, are still a large threat for people working in the field of media in North Africa, including Egypt, where custodial penalties are still adopted in a number of clauses in the Penalty Code, even after its amendment, or the Printed Material Law, as well as other relevant laws. This, indeed, comes in contravention of official conventions to abrogate this penalty.

In this regard, the participants warned that the chances of assault on the permitted margin of media freedoms, even in countries witnessing more relative openness, will persist so long as the legislative structure continues to maintain the features of the autocratic regime and its ability to control media structures and freedoms. Following are the most prominent limitations on press freedom imposed by these autocratic regimes:

1. Restricting the right to publish newspapers by requiring a license as a precondition, instead of accepting a notification, as is the case in Egypt, or according to the prior license condition adopted in Tunisia, Algeria and Morocco, which does not significantly differ from the prior license system. This means that no newspaper may be published before obtaining the license and printing houses may not print any newspaper without presenting an official receipt evidencing the license. The legislative structure in North Africa prevents the ownership and publication of newspapers by individuals. In the majority of these countries, public ownership of newspapers is attached to that of private entities, press corporations and cooperatives, in addition to partial newspapers in countries which tolerate one form or another of partial plurality.

Indeed, the Libyan Jamahiriya constitutes a unique exception of the North African countries, where no form of private ownership of newspapers is detected. Libya also is under absolute prohibition of establishing any political party. Therefore, the Libyan press and media in general remain to the most tangible manifestation of a single-voiced media and press. However, this is not meant to ignore the tools and means used and/or owned by the executive authority in other countries whereby it can influence the orientations and content of newspapers, either by

using the authorities and powers which allow for the suspension or ban of newspapers or the power vested upon the executive authority to appoint the editor-in-chiefs of state-owned newspapers, or through certain forms of prior censorship that legally obligate newspapers to submit a number of copies of the newspaper edition for approval before placing it for sale. Such procedure is considered, in Tunisia, as a prior license for each edition of opposition or non-governmental newspapers. The Tunisian government is also practicing its hegemony by issuing periodical instructions to the managers of newspapers and magazines on prohibited issues or on issues that should be dealt with. This results in similar and/or identical Tunisian newspapers.

Breaching these instructions often results in the deprivation of the "renegade" newspapers from the governmental ads quotas monopolized by governmental bodies. This in turn causes the newspaper to stop publishing due to a lack of financial resources. Moreover, the monopoly of the printing and distribution sector by state-owned bodies or bodies favored by the state, places undesired newspapers under the pressure practiced by those bodies.

2. Press-related legislation in North Africa vests the executive authority with broad power regarding administrative arrest or the banning of newspapers. Legislation is rather strict when it comes to foreign newspapers, which are subject to in-advance censorship prior to circulation. Furthermore, the list of pretexts under which foreign newspapers could be banned is rather long including: (1) infringement of the principles of Islam, (2) causing damage to public interests, (3) violation of general ethics, (4) violation of freedom of belief, and (5) threats to public order. Administrative decisions banning the circulation of newspapers do not, in most cases, fall under judicial control.

It is also worth mentioning that local newspapers published in Egypt under foreign licenses, as a way to evade the rigorous restrictions imposed on the publication of newspapers, are subject to the same treatment received by foreign newspapers.

3. Legislation throughout North Africa permits detention of journalists pending investigation in publication crimes. This procedure is used as a tool to intimidate journalists. Although Egypt has prohibited detention pending investigations in publication crimes, it has maintained this procedure if the publication contains an insult to the President of the Republic.

4. The scope of prohibitions is rather broad in the legislation of North African countries. Such legislation, also, usually tends to enlarge the scope of criminalization in a way that far exceeds the acceptable restrictions on freedoms of media and expression. At the moment, relevant legislation tends to use inaccurate expressions that can always be interpreted in a way that causes the ban of circulation of opinions, ideas and information, whether via press or video and audio means of mass media, and even through non-traditional means of mass media such as the "Internet".

A host of media-related crimes come within this scope, such as disturbing the state's relationship with other friendly countries, or impairing the national sensibilities, or circulating false or exaggerated information, or information that might dampen the spirits of the nation, or disturb public peace, in addition to the

crimes of provocation or incitement to committ crimes, as well as crimes of disparagement, contempt, degradation, calumny, insult and derogation.

This scope also contains penal clauses that criminalize the publication of news that impairs the state's prestige or financial status or shakes confidence in its economy, in addition to crimes related to the disparagement of religions.

Over and above all of these restrictions, there is the wide net of prohibition, restriction and criminalization of anything that might cause disturbance of public security or national security or public order or that might infringe national unity or territorial integrity.

The seriousness of such legislative restrictions of all means of mass media and personnel working in the field of media is aggravated by the lack of judicial independence and neutrality. This is due to the hegemony of control over the judicial authority by the executive authority, in one way or another, including the intervention by the executive authority in the management of justice-related affairs. Eventually, this minimizes the guarantees of securing justice for people working in the field of mass media.

There is also the fragility or weakness of the role played by parliaments and the excessive impact and control exercised on them by the executive authority under the so called imbalance between authorities in Arab countries in general. These parliaments are almost always willing to accept the bills proposed by the executive authority to curtail the scope of freedoms.

5. Exceptional emergency laws continue to be enforced for long periods in Egypt and Algeria, with all the broad powers accompanying them and which permit the breach of constitutional guarantees of public freedoms, and the censorship and confiscation of newspapers and printed material. These laws also permit eavesdropping, control of messages and telephones, interference in the application of justice, the constitution of exceptional courts and deprivation of citizens of their right to trial by an independent judge. In this context, reference could be made to a number of cases where journalists, authors and people working in the field of media in Egypt have been put on trial before the state security "emergency" courts, which have their own exceptional nature **or before martial courts for reasons related to opinions or ideas or information they have published.**

Furthermore, additional exceptional legislation has been increasingly enacted of late under the pretext of combating terrorism in Egypt, Algeria, Morocco and Tunisia. Such legislation tends to extend its impact to cover peaceful activities and opinions, if considered by the authorities in those countries to constitute "incitement to terrorism."

Several interventions have stressed the concerns and risks threatening freedom of expression and media in Egypt. Such concerns find ground in the anticipated constitutional amendments, intended to be made within the coming months in Egypt. These amendments will include the enactment of new anti-terrorism clauses and shielding them against unconstitutionality appeals by amending certain relevant constitutional clauses related to personal freedom guarantees, inviolability of private life, and guarantees of trial by the natural judge.

6. All Arab countries in North Africa still retain absolute control over radio and television broadcasting, especially land broadcasting. The states also control the powers of granting licenses to establish satellite transmission corporations or stations, in addition to the censorship of all that is transmitted. These countries, in their entirety, lack legislation that guarantees plurality and diversity in the ownership of means of audio and video mass media. This caused participants of the meeting to note a deliberate ambiguity in the legal rules, whereby a license will be granted to certain private satellite channels, as a face-saving procedure. Thus licenses are given in a highly selective manner..

Indeed the long-term monopoly of video and audio mass media by the state has contributed to the consecration of a one-sided media which fundamentally serves official view points. Such types of media would eventually render the conveyed content or message rather far from expressing political plurality or cultural diversity within the society. Under the ongoing hegemony and monopoly, the opportunities for competition that might develop media performance, and the diversity and plurality of media outputs, diminish and almost vanish.

Morocco has developed a law in 2003 to put an end to the state's monopoly of radio and television broadcasting. Yet, the enforcement of this law is conditional upon laying down clear legal rules for the licensing requirements of radio and television stations. Furthermore, the King and the executive authority control the selection of the chairman as well as the majority of members of the Supreme Authority for Audio and Video Communication, which has been established by virtue of a royal decree and which has the power to grant licenses, study applications for licenses and execute penalties for the offenses committed.

The experienced in Algeria is similar. In this country a supreme council for media was established. The constitution of this council is mainly controlled by the executive authority, to ensure its control over audio and video press and media.

Tunisia has announced in 2003 the opening up of private audio and video space for individuals. However, no law has been enacted to lay down the foundations for licensing and regulating this sector. Therefore, obtaining a license remains conditional upon the consent of the executive authority, which is not required, in the meantime, to justify its dismissal. In Egypt, the Radio and Television Union, whose members are appointed by the executive authority, still holds its grip of monopoly over audio and video broadcasting. This union is exclusively empowered to establish and own stations, and is the only body authorized to perform transmission, supervision and censorship of audio and video materials.

In Egypt, private initiatives in the field of audio and video media are subject to the provisions of the Companies and Investment Laws. This gave way to incompetent bodies which have nothing to do with media, such as the General Authority for Free Zones and Investment (GAFI), to play their role in facilitating or hindering the license to such initiatives. These bodies also exercise a supervisory role to ensure the abidance by the owners of those initiatives of the terms and conditions of the contract made with the body concerned. They also deprive private satellite channels of live transmission on air from the spots where the incidents take place, unless they get a prior permission to this end. Participants at the meeting pointed out that funding problems diminish the chances for competition with Gulf satellite

channels, whose tremendous funding paved the way for polarizing various media efficiencies.

7. North African countries continue to practice their hegemony over the information infrastructure, and monopolize, in one way or another, the distribution of Internet services. Those countries also seek to restrict the flow of information through several means of technology, by using various forms of web content control. In some countries, there are increasing concerns that e-mails are subject to control, especially in Tunisia. Also, a number of internet sites are blocked in Tunisia, Algeria and Egypt. Furthermore, many bloggers, who have been rather active in recent years, are increasingly prosecuted. Those bloggers have played significant roles, either in disclosing human rights violations, or the media coverage of several proceedings and forms of political and community movements.

B. Discussions focused on the weakness or absence of the role of media trade-union organizations. Trade union can have a positive influence on the professional performance of the mass media, either as regards resisting the pressures performed on the freedom of media, or promoting the professional performance, and ensuring abidance by the professional ethics, or by working for improving the work conditions in various media organizations.

In this regard, reference was made to problems related to the deprivation of broad sectors of journalists in Egypt of a trade-union protection umbrella, especially professionals working in private newspapers, and newspapers published by licenses granted abroad. Meanwhile, broadcasters do not enjoy any trade-union protection. A reference was also made to the pressures and prosecutions experienced by trade unionists in Tunisia.

Discussions also stressed the significance of activating the press and media codes of ethics to diminish the pressures practiced by ruling regimes, as well as the elite media professionals, and to avoid community pressures which are hostile to the freedom of exchange of opinions, ideas and information.

Several participants noticed the lukewarm solidarity actions between media professionals, especially at the regional level. They condemned the silence of certain means of mass media as regards the violations practiced by certain governments against media and human rights, and the readiness by certain media platforms to delude public opinion, or publish government propaganda in order to secure government funds. This becomes manifest, in particular, in the concealment of the shameful status of the freedom of media and human rights in Tunisia.

C. Discussions also underscored the significance of the role that could be played by human rights and civil society organizations for the advancement of media in North Africa. This could be achieved either through joint activities between political and trade-union frameworks, for the review and amendment of the oppressive legislative structure in general, or by disseminating a culture of human rights and democracy, and promoting the values of plurality, diversity, tolerance, the right to differ, the renunciation of the values of fanaticism, and the exclusion and denial of the other.

The discussions have, also, pointed out the necessity of cooperation between trade-union organizations, media institutions and civil society institutions for the development of professional performance in the various fields of mass media, especially, in the light of the impact of long years of action in an environment characterized by political despotism and a culture where various forms of fanaticism and hostility to the freedom of expression are embraced. There was also special reference to the deteriorating levels of wages, education and professional qualifications. In this regard, the discussions referred to the lack of sufficient attention, either on the part of media entities or trade-union organizations, to the arrangement of appropriate training courses that target the promotion of professional performance.

It was noted from the discussions that the activation of the role of civil society organizations in supporting the freedom of media is extensively conditioned upon the termination of the legal, administrative and bureaucratic restrictions on non-governmental action, performed in one way or another in a number of countries.

The discussions stressed the significance of the role that could be played by these institutions in the development of skills and expertise of young journalists and media professionals, the encouragement of media entities and employees to cling to professional principles and codes of ethics and the promotion of the values of human rights. The discussions also underpinned that training courses should be tailored so as to tackle the significant deficiency in legal awareness of the rights and duties of journalists and media professionals, with special reference to addressing issues that deal with public figures or civil servants and state officials, in order to draw the demarcation lines between permissible criticism on the one hand, and the crimes of libel, calumny, and slander on the other, as well as the limits of dealing with private life, in addition to issues related to hate crimes and disparagement of religions and beliefs. Training courses should also be provided in the field of international mechanisms related to the protection of freedom of expression.

The discussions unveiled the need for preparing training manuals and guidelines and distributing them over a wide scope of people working in press and media institutions. As regards the advancement of professional efficiency, the discussions alluded to the significant lack of press liberalization techniques, as well as the art of press and media action. Furthermore, there is need for specific TFL (Teaching Foreign Languages) programs and training courses on the practical usage of computer and software in press and media, as well as Internet applications for saving, distributing, exchanging, and developing information, including the establishment of online interactive sites.

The discussions have also highlighted the significance of the investment of electronic media by civil society institutions, as this type of media is characterized by features of cross-border outreach, interaction with events, and immediate response to them. Not to mention the interaction allowed by this means between communicating parties. Therefore, such investment could provide civil society organizations with a more flexible and less costly means of communication, education programs and dissemination of the culture of democracy.

The discussions also demonstrated the importance of civil society initiatives for observing and assessing the performance of mass media. This will eventually encourage media organizations to promote their performance and observe the professional and objective criteria, as well as promoting the values of democracy and human rights, and using the criteria of neutrality when covering elections.

Final Recommendations:

The participants stressed, at the conclusion of their debates, that the problems and challenges faced by media in North Africa, clearly demonstrate that the chances for promoting media freedom are conditional upon the adoption and promulgation of serious reform programs, as well as the governments political will to achieve political, constitutional and legislative reform. This would eventually secure the balance between authorities and put an end to the control by the executive authority of the legislative and judicial authorities. Thus, the rule of law and judicial independence will be promoted, and the right to intellectual, political and partial plurality will be consecrated, as well as the right of civil society organizations to practice their roles, without governmental intervention.

In this context, the participants called for the following:

1- Elimination of the restrictions imposed on the freedom of publication of newspapers. Instead, newspapers should be published upon notification systems. All forms of prior control on newspapers should be abolished, and banning newspapers without a court judgment should be prohibited.

2- Putting an end to the state of emergency laws used in certain countries, and revising the anti-terrorism exceptional legislation, in a way that would prevent the usage thereof in the incrimination of opinions, ideas and circulation of information.

3- The necessity of abrogating custodial penalties in press and publication crimes, acting for a comprehensive review of media legislation, adjusting such expressions and terms, whose inaccurate wording allows for the incrimination of media freedoms, and prohibiting the ban or detention pending investigation in press and publication crimes.

4- Press and media legislation should secure for people working in this field the right to have access to sources of information. Meanwhile, appropriate penalties should be enforced against officials or bodies that impede access by journalists and media professionals to sources of information. This legislation should also secure effective protection of media professionals as regards any aggressions that they might experience during the performance of their professional duty.

5- Laying down clear bases and criteria to guarantee that the financial support or governmental facilities granted to press institutions will not be subject to the selective criterion which is measured, in certain countries, by the loyalty of newspapers to the governmental official orientations, and acting toward the termination of the state's control over and monopoly of institutions operating in the field of printing, distribution and advertisement.

6- Advocating the establishment of funds to support the role of independent press institutions and satellite channels.

7- Transforming state-owned means of mass media into independent public service institutions; terminating the state monopoly of the audio and video field; and placing official radio and television organizations under the supervision of independent representative councils according to bases that guarantee plural representation of the diversity of opinions. The council members should be secured by levels of immunity that would allow these councils to perform their role represented in controlling the performance of these institutions and regulating their action in a way that would promote plurality, competitiveness and objectivity.

8- Vesting audio and video media national councils with the power to license private video and audio means of mass media. Those councils should enjoy independence and be totally shielded from the interventions and pressures of the executive authority. They should also be granted the right to establish private channels for audio and video transmission.

9- Eliminating legal restrictions on the freedom of trade-union organization; and securing the right of media professionals to form trade-union organizations, lay down their by-laws without any governmental intervention, and reconsider any legal or regulatory restrictions that might deprive media professionals of trade-union protection.

In this context, the participants appealed to trade-union organizations to:

Promote the status of media professionals and their work conditions, to ensure that they will not be influenced by economic pressures and administrative interventions, and control the conformity by media institutions with workers legal guarantees and contractual terms and conditions, and the fairness thereof.

- Develop coordination mechanisms and joint action with human rights organizations and civil society institutions to face the pressures and violations experienced by media professionals.
- Act toward the activation of press and media codes of ethics, and the role of competent trade-unions in the development and promotion of professional performance; and to promote the values of free media by adopting effective workers training programs and polishing their skills and experiences.
- Work jointly with trade unions and civil society institutions to crystallize the media code of ethics at the Arab regional level.

10- Appealing to civil society institutions to develop effective training programs for journalists and media professionals, especially among youth, in coordination with trade union organizations and press and media institutions. In the meantime, it is necessary, while devising these programs, to ensure that trainees accomplish knowledge accumulation. More attention should be attached to application-based trainings which help promote professional performance and deepen the legal

awareness of media professionals of the space of freedom and the ethical responsibilities required by such freedom.

Training plans and programs should integrate to meet the actual needs of people working in media institutions, especially in the following main fields:

The intellectual shaping of journalists and media professionals, a matter which would help lay the foundations for critical thinking based on the principles of freedom and democracy.

- The professional formation of journalists and media professionals, which comprises the acquisition of professional skills and the advanced professional means which help them perform their work in a better way.
- The legal information of journalists and media professionals, which comprises the acquisition of legal knowledge relevant to their job; briefing them on the civil bodies and organizations that could provide legal assistance to media professionals; and spreading knowledge of the international mechanisms and committees concerned with the protection of the freedom of expression and freedom of media.

11- Encouraging the efforts of civil society organizations to influence and assess media performance, and acting toward the development of qualitative and quantitative approaches that promote access to objective indices as regards the control of media performance, whether during the periods of public elections or in the promotion of the values of human rights and democracy. Acting toward the wording and phrasing of the code of ethics to be generalized on all media platforms, in order to adjust the criteria that should be abided by on the part of these platforms as regards the coverage of public elections.

Considering the preparation and announcement of a list of the names of media professionals and organizations which often delude public opinion, and which connive against the publication of the truth about the physical violations practiced by the most despotic regimes in the region.

12- Exerting more effort on the part of civil society organizations and mass media to organize the public by encouraging the establishment of organizations for readers, publishers and audience; and to assess the performance of mass media on the basis of the principles of democracy and respect of the values of human rights.

13- Promoting the efforts exerted by civil society organizations in the field of generalizing media-related positive international and regional experiences, through the launch of ambitious translation programs of comparative media legislation and the rules laid down by European courts to promote the freedoms of expression and media, as well as the adoption of programs for exchanging visits and expertise among people working in the field of media.