

# Freedom of Expression in the Gulf Region

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Judges and the court systems in the Arabian Gulf countries do little protect freedom of expression, ruling nearly always with government security forces and their narrow perspectives of allowable speech.

In the aftermath of the Arab Spring, the boundaries of acceptable speech have narrowed with more and more judges sending speakers to prison in cases that involve mere criticism and dissent.

In many nations, courts are seen as an independent arbiter of government actions. Judges examine the actions of police and prosecutors and ensure that due process has been exercised or that constitutional guarantees have not been infringed. But, such judicial independence is rarely seen in the Gulf Cooperation Council countries—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

In February, a United Nations official [noted](#) that judiciaries in the United Arab Emirates are under the “de factor control of the executive branch.” She noted that Qatar faces similar problems.

All of the GCC countries—except Saudi—feature a guarantee of freedom of speech in their constitutions. However, this researcher has never seen a case in which a judge invoked the constitution to overrule a prosecution.

One problem in Gulf countries is the preponderance of expatriate judges. Because of a shortage of citizens to fill the judiciary, these countries bring in jurists from other Arabic-language countries such as Jordan, Egypt or Morocco. These judges don’t receive any guarantees and could be deported at any time. This situation leads to a judiciary that isn’t likely to rule in favor of freedom of expression or otherwise challenge the status quo.

Judges often uphold prosecutions that stifle freedom of speech. The following is a list of the five types of cases most often used to squelch freedom of expression in the Gulf.

## **Cybercrime law convictions**

All of the GCC countries feature cybercrime laws that govern legitimate crimes such as identity theft and hacking, but these laws often target online speech as well.

In Saudi Arabia, the cybercrime law was [used](#) to sentence a blogger to 7 years in prison and 600 lashes for “insulting Islam” in 2013. The blogger’s website posed religious questions and criticized the religious police in Saudi Arabia.

In the UAE, a cybercrime law has been [used](#) against a variety of online speakers including a group of people who posted a parody video on YouTube in 2013. The speakers were accused of damaging the image of the country.

The use of cybercrime laws—which are only aimed speech posted via electronic outlets such as Twitter, Facebook or YouTube—show the increased attention Gulf governments are paying to online speech. The local press in these countries practice extreme self-censorship, so residents have increasingly turned to social media to receive unfiltered information.

The prosecutions don’t leave much room for legitimate dissent and criticism. Article 29 of the UAE cybercrime law, for instance, makes it illegal to “damage the reputation, prestige or stature of the state.” Such wording gives prosecutors wide latitude to prosecuting many types of legitimate speech and leaves judges with little reason to rule in favor of defendants.

### **Insult charges**

Judges across the GCC have sentenced speakers for insults—either against rulers or public officials. The nebulous nature of what constitutes an insult makes such prosecutions particularly effective in squelching criticism and other forms of dissent.

This approach toward insults differs greatly with other countries. The European Court of Human Rights, for instance, just [overturned](#) an insult conviction in France that attempted to protect former president Nicholas Sarkozy. The judges in that decision ruled that the conviction violated the European Convention on Human Rights’ guarantee of freedom of expression.

“Insulting the ruler” is illegal in most Gulf countries. (Saudi Arabia, oddly, doesn’t have an official prohibition). And in four countries—Bahrain, Oman, Saudi Arabia, and the UAE—insulting any public official is a crime.

In Kuwait, judges convicted dozens of Twitter users in 2013 for “insulting the Emir.” They had questioned government decisions via the online platform. The Emir later [pardoned](#) most of the convicted offenders. In Bahrain, a judge [sentenced](#) a prominent activist to three months in jail for “insulting a public official.” An appeals court judge overturned her earlier acquittal.

In Oman, a judge [convicted](#) two journalists who reported on corruption in the oil ministry with insulting public officials. In Qatar, a judge [sentenced](#) a poet to 15 years in prison for a poem deemed to insult the Emir. Referring to the Arab Spring, part of the poem read, “We are all Tunisia in the face of the repressive elite.”

And in the UAE, a judge [sentenced](#) several online activists to 2 to 3 years in prison for “insulting top officials” among other charges. They had hosted an online discussion forum where democracy reform had been discussed. The president later suspended the sentences.

### **‘False news’ convictions**

Another troubling law enforced in Gulf countries involves defining “false news.” While journalists always strive to be truthful in their reporting, maintaining 100 percent accuracy is an impossible goal—particularly given the convention of attribution. What journalist can vouch for the authenticity of all of her sources?

A judge in the UAE convicted an Emirati of disseminating “false news” for [tweeting](#) the details of a trial from which foreign news media was prohibited. Given the self-censorship of the local press, many Emiratis had turned to Twitter for information about the 2013 trial and the treatment of the defendants.

In 2013, a judge in Kuwait [sentenced](#) a man to five years in prison for insulting the ruler and spreading “false news.” The appeals court judge actually stiffened the sentence on appeal from a lower court.

In one bright spot, a Bahraini judge in 2013 [acquitted](#) an activist who was charged with spreading “false news” on Twitter but only after he spent one month in jail. The judge found in favor of the defendant who’s only crime had been posting a picture of an injured protester.

### **Defamation convictions**

In GCC countries, defamation laws greatly stifle freedom of expression. In the past few years, few defamation cases have been seen against journalists, mostly because journalists simply don’t engage in the type of critical reporting that might lead to such charges.

Gulf journalists do not enjoy the same defamation protections seen in other parts of the world.

First, defamation charges lead are criminal instead of civil. Any resident may go to the police and make a defamation charge against a journalist or any other speaker. The complaint can likely lead to arrest and even jail.

Second, public figures legally receive more defamation protection than private figures. In other jurisdictions, public officials receive less protection so as to encourage vigorous discussions of public issues. Public officials prosecuting journalists for defamation tends to squelch robust reporting.

Finally, truth is not an absolute defense against a complaint of defamation. This approach allows people to protect reputations they do not deserve.

An emblematic example of the problem with defamation laws was seen in a 2013 incident in the United Arab Emirates. A YouTube video [captured](#) footage of an Emirati man beating an Indian driver after an automobile accident in Dubai. The video went viral and the Emirati was arrested. However, the driver's family filed a defamation charge against the YouTube videographer. He was arrested despite the obvious truth of his video—simply because the Emirati had his reputation injured. The local media never reported on the result of his court case but the impact on citizen journalism in the UAE was clear.

In Oman, an appeals court judge [upheld](#) a 2012 sentence against two journalists who reported a complaint of growing corruption with the ministry of justice. The justice minister and his under-secretary had brought the defamation case against the journalists.

### **Public order convictions**

Judges have also delivered prison sentences to Gulf citizens and journalists for violations of “public order” from their speech. In many countries, public order laws are narrowly tailored to ensure that legitimate critical speech isn't unnecessarily infringed. In the United States, for instance, speech must incite “imminent lawless action” in order to be considered a violation of public order.

In the Gulf, prosecutors have used public order laws to squelch legitimate speech. In 2013, a UAE court [sentenced](#) a man for violating Article 28 of the cybercrime law with his tweets. Article 28 makes it illegal to disseminate “information, news, caricatures or other images liable to endanger security and its higher interests or infringe on the public order.” He had tweeted details of a sedition trial.

In 2012, a judge in Kuwait [shut down](#) a Shiite newspaper, *Al Dar*, on “public order” grounds. The newspaper had reported on security forces from Saudi Arabia entering Bahrain to help suppress riots in that country. The judge also sentenced the editor to three months in prison.

A Saudi judge [sentenced](#) seven activists to 5 to 10 years in prison for posting information about protests on Facebook. They were charged with violating article 6 of the Saudi cybercrime law that prohibits any online posting that “harms public order.”

### **Conclusion**

The judiciary in the Gulf countries rarely—if ever—use their authority to protect freedom of speech. These jurists would be justified in making such rulings since constitutions of five of the six GCC countries (save Saudi) provide a guarantee of freedom of expression.

However, the autocratic nature of these regimes and the preponderance of foreign judges create a severely restricted judiciary body. If reforms are made in freedom of

expression in these countries, they will likely be derived from regulatory changes rather than an empowered judiciary.