

## Judges Rarely Limit Security Forces, Prosecutors in Arab Countries

by Dr. Matt J. Duffy, Berry College

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In 2014, Arab judges issued no exceptional rulings that helped embolden freedom of expression. Courts in the Gulf countries and nearby Arab states (Lebanon, Jordan and Iraq) largely upheld the authoritarian status quo. While many government prosecutors charged media outlets, journalists and social media speakers with violations, no judges ruled in favor of free speech.

Perhaps the Arab region's biggest shift regarding free speech in 2014 involves legislation rather than any judiciary actions. Several countries embraced the use of anti-terrorism legislation to target journalists and social media speakers.

Two Arab governments revised their counterterrorism laws with broad, vague definitions of speech that can now be considered "terrorism." In Saudi Arabia, the government [updated](#) the law to label as terrorism any act that seeks to "insult the reputation of the state." Reporting on the flogging of liberal blogger Raif Badawi could be labeled "terrorism" under the new law's broad definition.

In neighboring Jordan, security forces [arrested](#) 14 staffers at an Iraqi television station in Amman and later charged them using the anti-terrorism laws (revised in 2013). No judges have yet publicly ruled on that case. And in the UAE, the government [updated](#) their anti-terrorism law in August 2014 to define "terrorism outcomes" as speech engaged in "antagonizing the state." Judges haven't yet sentenced anyone using the updated counterterrorism law. With detentions continuing around the region, we're likely to see many judges in 2015 issue "terrorism" convictions because of their critical speech.

The region is also seeing an increased use of cybercrime legislation to squelch speech. In most countries these laws are generally used to target online fraud, hacking and copyright violations. But, in the Arab region prosecutors and judges have used the laws to penalize dissenting digital speech.

In the United Arab Emirates, prosecutors used the cybercrime law (updated in 2012 after protests swept the region) against an Emirati who was publishing accounts of a sedition trial online. In November, the Federal Supreme Court [sentenced](#) Osama al-Najer to three years in prison for "damaging the reputation of UAE institutions."

In Lebanon, a “cybercrime bureau” regularly [detains](#) citizens for social media “sharing crimes.” One many was held for sharing an article that criticized a public official. (It’s unclear if judges are actually sentencing anyone for crimes, but the detentions alone send a speech-chilling message.) And in Qatar, the government [updated](#) its cybercrime law in September to also include vague speech-related prohibitions. The updated law now criminalizes speech that violates “any social values or principles.” These laws produce the same result: Acute discouragement of critical or dissenting speech.

Judges continued to use Insult charges to send critical speakers to prison. In Bahrain, a judge sentenced blogger Ali Maaraj to 30 months in prison for “insulting the king” and “improper use of information technology.” His blog [criticized](#) of the monarchy and reported on protests. In April, the king [signed](#) a law to increase the penalties for “lese majeste” to 7 years in prison, a move surely designed to discourage anyone else from offering criticism of the monarchy.

Bahrain and other countries also protect their public officials from “insult.” A judge sentenced blogger Nabeel Rajab to six months in prison for his criticism that state security forces were a radicalized Islamists. In Lebanon, a television journalist was [charged](#) with insulting the Lebanese Army after he noted their lack of accomplishments. Of course, a judge in Saudi Arabia [sentenced](#) the aforementioned liberal blogger Raif Badawi to 1,000 lashes for “insulting Islam” through his website that questioned the religious police. Critics complain that insult laws tend to be vague and used by powerful figures against people engaged in dissenting speech. Most countries with robust press freedoms have eliminated or no longer employ insult charges.

Judges have also used defamation laws to clamp down on freedom of expression in the Arab world. In Lebanon, judges have issued several harsh penalties against media outlets that appear aimed at stifling freedom of the press. For instance, a court [fined](#) journalist Mohamed Nazzal about \$6,400 in February over his article that reported judicial corruption. The court also fined Al Akbar, the newspaper for which Nazzal works. The judge found both defendants guilty of defamation despite the fact that the report led to an investigation and demotion of the judge in question. In jurisdictions with robust press freedoms, truth is always a defense in defamation cases.

In January 2014, prosecutors in Iraq [arrested](#) the judge who convicted Saddam Hussein and a journalist critical of the government on charges that they libeled Iraq’s premier. Both speakers appeared to be simply criticizing the government’s performance during TV interviews. The current status of the case is unclear.

Finally, judges have liberally used charges of “public order” and “false news” to sentence media outlets and social media speakers. In the UAE, courts in 2014 [sentenced](#) two speakers for criticisms on Twitter of a sedition trial. The Emiratis--accused of spreading false news and upsetting public order--will serve three years in prison and pay a fine of \$125,000. In many jurisdictions, judges have dismissed laws banning false news as an impediment to a free press.

In Bahrain, the aforementioned Nabeel Rajab [got](#) out of prison in 2014 after serving 2 years on charges of disturbing the public order by calling for protests and criticizing the government. In Kuwait, prosecutors had charged many bidoon (stateless people who live without documents in the country) with disturbing public order for their protests. In September, judges [acquitted](#) 67 members of the group.

The Kuwait decision to acquit the bidoon protesters is an extremely rare occurrence -- a judicial decision that disagrees with the security forces and prosecutors. Many judges in the Arab world--particularly in the Gulf countries--seldom act with any independence. Instead of providing a check on the executive branch, many judges simply agree with prosecutors on charges and ignore balancing decisions against factors such as human rights or the country's constitution. Charges involving "sensitive" issues--such as arresting activists or other critical speakers--are often the least likely to face judicial resistance. In February 2014, a United Nations official criticized the UAE's judicial system on this issue. The UN special rapporteur on the independence of judges and lawyers [described](#) the UAE's judicial system was "under the de facto control of the executive branch of government."

One observation from reviewing the free speech events of 2014 points to an interesting phenomenon in media and NGO reporting on freedom of expression issues. Perhaps because of the rarity of judicial independence, most reports on free speech in the Middle East fail to note the name of the justice who presides over convictions or appeals. The lack of specificity helps create the murky cloud that hangs over the Arab judicial system. NGOs and journalists would do well to make an effort to find the names of the judges at the center of any case involving freedom of expression. Perhaps more transparency on their role will help persuade some judges to exercise more independence.