

Editor-Owner Relationship in Press in the Kuwaiti Law: A Legislative Perspective

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Abstract

The freedom of the press relies on multiple factors, and editorial independence is one of them. It is particularly important in terms of the protection of editorial independence in editor-owner relationships, and it is frequently threatened by various pressures, including economic and political ones.

While Kuwait does have the legislation that postulates the importance of the free press, it does not directly address the topic of editorial independence. In this study, Kuwaiti legislation is examined and compared to those of four other countries to determine if editorial independence can be enforced with the help of the law.

Based on the analysis of primary sources, as well as secondary ones, it is determined that modern governments have the experience of legally protecting editorial independence, and Kuwaiti legislation does recognise the significance of independent press that produces reliable information. Therefore, a law ensuring editorial independence could assist Kuwait in that endeavour.

However, the majority of the studied legislative efforts do not award separate acts to editorial independence, including relevant considerations in communications acts, which implies that specifically editorial independence acts are not a requirement. All things considered, there are arguments for and against an editorial independence law, but the development of legislative protection for this major element of the freedom of the press appears to be a worthwhile endeavour.

Keywords: editors, owners, independence, press, legislation

Introduction

Editorial independence refers to the independence of editorial decisions, and the term is typically used with regard to the relationship between editors and owners (editor-owner relationship)⁽¹⁾. If editorial independence is applicable to a newspaper, its owner cannot interfere with the work of editors and any other content producers for any reasons, including those related to economic or political pressure⁽²⁾.

Instead, editors, who are supposed to be impartial or at least disclose their engagement in various political or other movements, determine the content irrespective of the preferences of owners⁽³⁾.

The main reason for the attention to editor-owner relationship is that owners have sufficient power to enforce their preferences through economic pressure and by holding the right to get editors hired and fired⁽⁴⁾. The principle of editorial independence is meant to prevent owners from being able to pressure editors into publishing biased and untruthful information⁽⁵⁾.

Newspapers are a major source of news in many countries, including Kuwait⁽⁶⁾. Ensuring the truthfulness of newspapers is a major concern for the country.

(1) Organization for Security and Co-operation in Europe, 'Principles for Guaranteeing Editorial Independence' (Organization for Security and Co-operation in Europe, n.d.), para. 1, accessed 2 February 2019; see also José Florencio Lapeña, 'Editorial independence and the editor-owner relationship: good editors never die, they just cross the line' (2009) 50 *Singapore Medical Journal* 1120, 1120-1121; Jerome P. Kassirer, 'Editorial independence' (1999) 340 *The New England Journal of Medicine* 1671, 1671; Jan Odom-Forren, 'Editorial Independence and the Society Editor' (2017) 27 *Nurse Author & Editor* 4, 4; Richard Smith, 'Editorial independence at the BMJ' (2004) 329 *BMJ* 7457, 7457.

(2) Organization for Security and Co-operation in Europe, *supra* (n 1) para. 1; see also Alessio Cornia, Annika Sehl and Rasmus Kleis Nielsen, 'We No Longer Live in a Time of Separation: A Comparative Analysis of How Editorial and Commercial Integration Became a Norm' (2018) *Journalism* 1, 2; Manuel Goyanes and Marta Rodríguez-Castro, 'Commercial Pressures in Spanish Newsrooms' (2018) *Journalism Studies* 1, 17; Kari Karppinen and Hallvard Moe, 'What We Talk About When Talk About "Media Independence"' (2016) 23 *Javnost - The Public* 105, 113; Andrea Ceron, Sergio Splendore, Thomas Hanitzsch and Neil Thurman, 'Journalists and Editors: Political Proximity as Determinant of Career and Autonomy' (2019) 24 *The International Journal of Press/Politics* 487, 493; Ignatius Haryanto, 'Collaborating with corporations while preserving editorial independence' (2018) 45 *Media Asia* 28, 28; Smith *supra* (n 1), 7457.

(3) Organization for Security and Co-operation in Europe, *supra* (n 1), para. 1; see also Lapeña, *supra* (n 1), 1120-1121.

(4) Lapeña, *supra* (n 1), 1120-1121; Smith *supra* (n 1), 7457.

(5) Lapeña, *supra* (n 1), 1120-1121; see also Kassirer, *supra* (n 1), 1671; Odom-Forren, *supra* (n 1), 4; Smith, *supra* (n 1), 7457.

(6) Media Sustainability Index, 'Kuwait' (Media Sustainability Index, 2009), at 156.

For example, Law No. 3 of 2006⁽⁷⁾ directly states that editors should do their best to seek out accurate information. However, the Kuwaiti media legislation does not directly highlight the importance of editorial independence.

This study is going to consider the case of Kuwait and its media legislation, compare it to those of other countries, and determine if introducing editorial independence into Kuwaiti laws is reasonable.

The following research questions are proposed.

1. Based on a literature review, how important editorial independence (editor-owner separation) is?
2. Based on a literature review, how can legislation be used to ensure editorial independence?
3. Based on the findings, what can be recommended for Kuwait in terms of adopting the legislation that would ensure editor-owner separation?

Value of the Study

The value of the presented study is predominantly practical, although some theoretical outcomes can also be proposed. Thus, it is meant to produce an overview of the currently existing legislation in five countries while determining the worldwide perspective on editorial independence, which means that the resulting information is contributing to the ongoing research of the specifics of international law, as well as those related to editorial independence.

It should be pointed out that editorial independence is not an understudied topic (at least as connected to scientific publications)⁽⁸⁾, which means that editor-owner relationships are also sufficiently researched⁽⁹⁾.

However, Kuwaiti legislation is not very well-studied, which is why this paper can be considered a contribution that helps to cover a research gap. Practically, the current research demonstrates the legislative possibilities of protecting editorial independence in editor-owner relationships, which is why it can produce insights and recommendations into potential future legislative developments in Kuwait and other countries.

(7) Kuwait, Law No. 3 of 2006, art. 17.

(8) Organization for Security and Co-operation in Europe, *supra* (n 1), para. 1; see also Lapeña, *supra* (n 1), 1120-1121; Kassirer, *supra* (n 1), 1671; Odom-Forren, '*supra* (n 1), 4; Smith, *supra* (n 1), 7457.

(9) Lapeña, *supra* (n 1), 1120-1121; see also Haryanto, '*supra* (n 2), 28; Smith *supra* (n 1), 7457.

Methodology

The primary approach of this research is a case study; specifically, a multiple case study⁽¹⁰⁾. A short literature review was conducted to contextualise the research and answer to the first research question. The process used books, articles, and recommendations of various organisations associated with the freedom of the press.

For the second question, the legal documents that regulate the press in five countries were researched and analysed; each of these countries were considered the cases for this case study. Qualitative content analysis⁽¹¹⁾ was used to determine the patterns within the literature and documents and respond to the first two research questions. The third question was answered through the analysis of the results of both methods.

It should also be mentioned that Kuwait was chosen because it is the country of interest to the study. The US and Canada were selected for their position on the freedom of the press⁽¹²⁾ that is associated with a lack of newspaper editorial independence legislation. In turn, France and England were chosen because they have adopted legislation that guarantees editorial independence. These four legal systems have been chosen to identify whether common law and civil law have different ideas regarding editorial independence.

Thus, the common law principles are represented by the English, US, and Canadian legal systems, while the Kuwaiti and French systems introduce civil law ideas. The difference between them is that common law relies on case law, while civil law provides codified statutes with a predominant role.

Findings

The given section will present the information that is found regarding the research topic. This section will be formatted to highlight the research questions that have been proposed in the Introduction. This step is necessary to ensure that the findings are grouped together, which will be useful for readers to follow the author's argument and logic. This information denotes that three subheadings will be used in the given section.

(10) Paivi Eriksson and Anne Kovalainen, *Qualitative Methods in Business Research* (SAGE 2015) at 133; see also Tim May, *Social Research: Issues, Methods and Research* (Open University Press 2011) at 220-227; Joseph Hair, Mary Celsi, Arthur Money and Michael Page, *Essentials of Business Research Methods* (Routledge 2015) at 196.

(11) Eriksson and Kovalainen, *supra* (n 10) at 121-126; see also May, *supra* (n 10) at 220-227; Hair et al., *supra* (n 10) at 196.

(12) Constitution of the US, 1787, amended, first amendment; US, Communications Act of 1934, amended, sec. 310, 335, 615.

The Importance of Editorial Independence

Based on the literature review, the following conclusions can be made. The significance of editorial independence is widely supported by the journalist community. It is a commonly accepted ethical principle in journalism⁽¹³⁾ and recommendations to uphold editorial independence are offered by multiple organisations dedicated to the freedom of the press⁽¹⁴⁾. Furthermore, editorial independence is one of the criteria used to determine the freedom of the press and speech⁽¹⁵⁾.

Finally, editorial independence can be legally enforced, which can be done to protect the freedom of speech⁽¹⁶⁾. Examples can include France and England, all of which are discussed in greater detail below.

Unfortunately, editorial independence is threatened by multiple issues, including funding and economic pressure, political pressure, especially from the government, and, eventually, corruption⁽¹⁷⁾. Specifically in editor-owner relationships, the most common concerns are the editors demanding to publish the materials that are in line with their own perspectives, including political ones, as well as the perspectives that are perceived as “safe” or profitable, while using the pressure of being in control of who becomes an editor⁽¹⁸⁾. As a result of these issues, which threaten editorial independence, it is important to ensure its protection.

Legislation Ensuring Editorial Independence

In response to the suggestion of legislative protection of editorial independence, a question arises about the appropriateness and possibility of using legislation to regulate the press. This research finds that it is very common for legislation to regulate certain aspects of the press. For example, Kuwaiti Law No. 3 of 2006 details the regulations of the press, including the licencing procedures.

(13) Stephen Ward, *Disrupting Journalism Ethics*, (Routledge 2018), at 6; see also Cornia, *supra* (n 2), 2; Kassirer *supra* (n 1), 1671.

(14) Organization for Security and Co-operation in Europe, *supra* (n 1) para. 1, accessed 2 February 2019; see also Media Sustainability Index, *supra* (n 6) at 157, accessed 2 February 2019; European Federation of Journalists, ‘How to Ensure Editorial Independence in the Newsroom?’ (European Federation of Journalists, 2017), para. 1, accessed 2 February 2019.

(15) Media Sustainability Index, *supra* (n 6) at 157.

(16) *Ibid.*

(17) Organization for Security and Co-operation in Europe, *supra* (n 1) para. 1; see also Cornia et al., *supra* (n 5) at 2; Goyanes and Rodríguez-Castro, *supra* (n 2), 17; Karpinen and Moe, *supra* (n 2), 113; Ceron et al. *supra* (n 2), 493; Haryanto, *supra* (n 2), 28; Smith *supra* (n 1), 7457.

(18) Lapeña, *supra* (n 1), 1120-1121; Smith *supra* (n 1), 7457.

Even though Article 1⁽¹⁹⁾ guarantees the freedom of press, print and publishing, it does not mean that any organisation, person or group of individuals can obtain a license. That is why Article 10⁽²⁰⁾ offers the leading conditions that should be satisfied by an applicant.

They stipulate that the applicant must be a Kuwaiti national, have a good reputation, specific education level (at least, the general secondary diploma) and own a suitable location to host the newspaper facilities.

If a business entity wants to obtain a license, all its founders must be Kuwaiti nationals, while the person who will be responsible for leading a newspaper only have to meet all the other criteria.

Articles 19-21⁽²¹⁾ of Law No. 3 of 2006 describe what cannot be published in a newspaper, for instance, insults to Islam, messages that can disrupt public order, and confidential information. In an attempt to explain the significance of the given issues for Kuwaiti society, it is reasonable to consider how they are presented in the state's Constitution. Firstly, Article 2 stipulates that "the religion of the State is Islam, and the Islamic Shari'a shall be a main source of legislation"⁽²²⁾.

That is why it is evident that the laws regulating the press should address this essential topic. Secondly, Article 49⁽²³⁾ explains that all the inhabitants of Kuwait are responsible for maintaining and respecting public order. This claim denotes that any message that calls for social unrest is the violation of the nation's Constitution. Thirdly, Article 7⁽²⁴⁾ highlights that equality is one of the leading pillars of Kuwaiti society.

This claim demonstrates that no person or business entity may distribute discriminatory ideas by any means. Thus, one can confirm that Kuwait is governed by adequate laws that try to ensure that separate activities do not violate the Constitution.

Similarly, in England, harassment and discrimination legislation can apply to the press⁽²⁵⁾. Moreover, in France, certain types of opinions or information may

(19) Kuwait, Law No. 3 of 2006, art. 1.

(20) Kuwait, Law No.3 of 2006, art. 10.

(21) Kuwait, Law No. 3 of 2006, art. 19-21.

(22) Constitution of Kuwait, 1962, art. 2.

(23) Constitution of Kuwait, 1962, art. 49.

(24) Constitution of Kuwait, 1962, art. 7.

(25) UK, Equality Act 2010, ch. 5, p. 8, para. 31.

be illegal based on the negative impacts that they might have. For instance, the French press cannot encourage discrimination⁽²⁶⁾. In the US, multiple cases exist to govern libel and defamation laws, which incorporate those that specifically focused on newspapers and magazines.

Examples include *New York Times Co. v. Sullivan*⁽²⁷⁾, which required proving malicious intent when libel was concerned, and *Hustler Magazine v. Falwell*⁽²⁸⁾, which protected parody. Also, the amended US Communications Act of 1934⁽²⁹⁾ requires paying attention to harassment, stalking and discrimination, prohibiting them, as well as regulating “offensive” and “unethical” material.

Finally, in Canada, there exist defamation and libel laws (see the Criminal Code of Canada), regulations meant to prevent offensive and discriminatory materials in the media, as well as specific requirements for reporting the cases related to court proceedings, which may be considered restrictive with respect to the press⁽³⁰⁾. In other words, all the cases considered in this paper have some form of legislative control over the media.

That said, as can be seen from the examples, the goal of legislative regulation of the press is to protect the population from harassment, discrimination and defamation. At this point, it is essential to justify the importance of defamation and libel laws. The modern world is characterised by a high speed of information sharing, meaning that a deteriorated reputation can imply adverse consequences for a person.

That is why different countries do their best to protect the reputation and honour of individuals⁽³¹⁾. Appropriate regulations and punishment options are suitable to make people and business entities refrain from engaging in unlawful behaviours.

Despite mentioning the information above, legislation commonly acknowledges the importance of the independence of the press. For example, in Kuwait, Article 8 of Law No. 3 of 2006 prohibits any advance censorship

(26) France, Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xénophobe (version consolidée au 05 février 2019).

(27) U.S. Supreme Court, *New York Times Co. v. Sullivan*, 376 U.S. 254

(28) U.S. Supreme Court, *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988)

(29) US, Communications Act of 1934, amended, sec. 223; sec. 230.

(30) Canada, Criminal Code (R.S.C., 1985, c. C-46), art. 297-310.

(31) Richard Bradshaw and Caitilin Walkington, should defamation laws be updated in the digital age? (2020) 42(5) *Bulletin (Law Society of South Australia)* at 16

of newspapers⁽³²⁾.

In England, editorial independence is recognised by the Communications Act of 2003⁽³³⁾. In France, editorial independence is directly acknowledged as an element of the freedom of communication by Loi n° 86-1067⁽³⁴⁾. In Canada, the Canadian Charter of Rights and Freedoms⁽³⁵⁾ specifies the importance of protecting the freedom of speech, and in the US, the First Amendment to the Constitution⁽³⁶⁾ performs the same role. Overall, the independence of the press is recognised in international legislation.

The information above demonstrates that all the countries under analysis draw significant attention to the issue of censorship. It is so because the presence of this phenomenon undermines democratic principles. This thought is supported by the claim that media censorship is typical for authoritarian regimes throughout the world⁽³⁷⁾.

Consequently, Kuwait, France, Canada, the United States and the United Kingdom try to ensure that their media is free and accessible since they follow the democratic requirements. However, it is challenging to mention that Kuwait has coped with the task.

It is so because the Kuwaiti government offers specific criteria for editors and chief editors, which eliminates the possibility that many newspapers will want to express information that could undergo censorship procedures.

Since the following section will comment in detail on the criteria, it is rational to suppose that Kuwait tries to ensure that editors and newspapers are close to the ruling family.

Moreover, the legislation of the named countries also recognises the significance of editors. Thus, in Kuwait, Articles 16-17 of Law No. 3 of 2006 establish who can be a chief editor and their responsibilities.

Article 17 states that “chief editor must search for accuracy and truth in

(32) Kuwait, Law No. 3 of 2006, art. 8.

(33) UK, Communications Act 2003, Part 4A, 368G.

(34) Loi n° 86-1067 du 30 Septembre 1986 Relative à la Liberté de Communication (version consolidée au 05 février 2019), art. 14-1.

(35) Canada, Charter of Rights and Freedoms.

(36) Constitution of the US, 1787, amended, first amendment.

(37) Yuyu Chen and David Yang, ‘The Impact of Media Censorship: 1984 or Brave New World?’, (2019), 109(6), *American Economic Review* at 2294.

everything that he publishes of the news, information, or data”⁽³⁸⁾. Since this person is responsible for the supervision of the newspaper, it is not a surprise that they should also meet specific criteria. Article 16⁽³⁹⁾ enumerates these points, and it is worth mentioning that the conditions are mainly identical to those that should be met to obtain a newspaper license. The only difference refers to the fact that a chief editor should have full-time employment in addition to their title.

Considering the information above, one can admit that Kuwaiti legislation is designed to make it multiple individuals and entities to run a newspaper. However, when it comes to practice, it is revealed that the activity is expensive, meaning that not many people can afford to obtain the license.

This state of affairs results in the fact that few people in Kuwait have possibilities to run newspapers. It is typical that many of them have a direct relation to the ruling family, meaning that the government has some effect on the print media in the country.

In England, editorial responsibilities or freedoms are often mentioned in the legislation that is related to media⁽⁴⁰⁾. In addition to that, it is necessary to comment on the balance between freedom of expression and a prohibition against hate speech. On the one hand, the European Convention on Human Rights (ECHR) is the leading document that supports freedom of speech.

Article 10 stipulates that every person has the right to freedom of expression, including “freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers”⁽⁴¹⁾. This freedom is one of the leading characteristics of a democratic society.

It is so essential that Article 10 can even protect expression that offends others. Different legal cases, including *Handyside v United Kingdom*⁽⁴²⁾, show that the UK draws much attention to abiding by the international conventions. The court said that freedom of expression is one of the essential phenomena that support the democratic world.

On the other hand, it is not reasonable to consider the given article absolute.

(38) Kuwait, Law No. 3 of 2006, art. 16-17.

(39) Kuwait, Law No. 3 of 2006, art. 16.

(40) UK, Communications Act 2003, Part 4A, 368G; UK, Equality Act 2010, ch. 5, p. 8, para. 31.

(41) European Court of Human Rights, European Convention on Human Rights, 2010, art. 10.

(42) European Court of Human Rights. *Handyside v United Kingdom*, 5493/72 (1979).

For example, Article 17⁽⁴³⁾ of the same Convention stipulates that no person, group or entity may utilise a right in a manner that will destruct the rights and freedoms of others.

In addition to that, England relies on the International Covenant on Civil and Political Rights to ensure that the nation combats incitement to racial hatred. Article 20(2)⁽⁴⁴⁾ states that any advocacy of racial, religious or national hatred should be prohibited by law.

In addition to that, the International Convention on the Elimination of All Forms of Racial Discrimination expand the existing legislation on the topic. Article 4⁽⁴⁵⁾ shows that the expression of ideas regarding racial superiority or hatred should be considered a punishable offence. This information demonstrates that the press should do its best to balance between the freedom of expression and the stipulated prohibitions.

In France, Loi n° 86-1067⁽⁴⁶⁾, which is devoted to the freedom of communication, focuses on editors in multiple instances. In the US, the Communications Act of 1934⁽⁴⁷⁾ highlights the importance of editorial control not being awarded to the providers of broadcasting services, cable operators, State and other authorities.

In Canada, editors are mentioned as one of the potentially guilty parties in the cases of libel and defamation⁽⁴⁸⁾. Therefore, the fact that editors are an important element of the media are recognised by the stated legislation.

There also exist examples of legislation protecting editorial independence. For example, in Kuwait, Article 17⁽⁴⁹⁾ of Law No. 3 of 2006 may be interpreted to indicate that editors should report only objective information without being biased in one way or another (for example, because of financial or other interests).

Also, Articles 36-37 of the Constitution⁽⁵⁰⁾ postulate the freedom of the press

(43) European Court of Human Rights, European Convention on Human Rights, 2010, art. 17.

(44) United Nations, International Covenant on Civil and Political Rights, 1967, art. 20(2).

(45) United Nations, International Convention on the Elimination of All Forms of Racial Discrimination, 1969, art. 4.

(46) Loi n° 86-1067 du 30 Septembre 1986 Relative à la Liberté de Communication (version consolidée au 05 février 2019), art. 14-1.

(47) US, Communications Act of 1934, amended, sec. 310, 335, 615.

(48) Canada, Criminal Code (R.S.C., 1985, c. C-46), art. 297-310.

(49) Kuwait, Law No. 3 of 2006, art. 17.

(50) Constitution of Kuwait, 1962, art. 36-37.

(within the confines of the law), which presupposes editorial independence. However, no direct statements about editorial independence or safeguards for its protection were found in Kuwaiti legislation during this study.

On the other hand, in England, various laws related to media directly state the need for editorial independence and offer appropriate safeguards. For example, the Communications Act of 2003 discusses the possibility of economic pressure and explains that sponsorship should not endanger editorial independence⁽⁵¹⁾.

Similarly, in France, the communication law Loi n° 86-1067⁽⁵²⁾ postulates editorial independence in Article 14-1. Also, a 2016 law introduced safeguards against owner pressure, but soon after its adoption, it was struck down⁽⁵³⁾.

The focus of the US Communications Act⁽⁵⁴⁾ on editorial control can also be included here, although, admittedly, it is not exactly the same as newspaper editorial independence. Specifically, the editorial control sections seem to focus on preventing the parties that might have ability to pressure editors into developing specific materials from doing that; they do not address the different threats to editorial independence, and the legislation seems to be predominantly concerned with telecommunications and not owners but providers. Still, it mentions the issue of editorial independence, which makes it relevant to the discussed topic, although the English and French Acts are more relevant.

The current paper failed to find an equivalent example of Canadian legislation, which shows that editorial independence and especially editor-owner relationships are not always discussed in the legislation of countries of the world using those exact words.

However, as the example of the US shows, certain legislation can be sufficiently concerned with other similar phenomena (in the case of the US, editorial control as related to service providers) to offer protections for editorial independence.

To summarise, editorial independence is most important for the freedom of speech, but it is threatened by multiple problems, most notably economic and

(51) UK, Communications Act 2003, Part 4A, 368G.

(52) Loi n° 86-1067 du 30 Septembre 1986 Relative à la Liberté de Communication (version consolidée au 05 février 2019), art. 14-1.

(53) Freedom House, 'France: Freedom of the Press 2016 (Freedom House, 2017), para. 14. accessed 2 February 2019.

(54) US, Communications Act of 1934, amended, sec. 310, 335, 615.

political pressure, as well as corruption. Kuwaiti legislation acknowledges the importance of the freedom of speech, but it does not pay much attention specifically to editorial independence.

Other countries' legislation may introduce some legal safeguards for protecting editorial independence. England has an experience of announcing sponsorship safeguards, and France attempted to develop extensive legislation dedicated to the problem, even though it was struck down. Thus, there exist governments which use the law to protect editorial independence, and Kuwait might employ their experience in future.

Naturally, it should also be mentioned that little to no legislation on editorial independence exists in the US and Canada. While both countries have protections for the freedom of the press⁽⁵⁵⁾, editorial independence is rarely mentioned in these documents. As a result, the paper has the examples of both clear and direct legislation aimed at editorial independence and the legislation that does not focus on the topic very much.

It is also noteworthy that the studied countries do not appear to have acts that are dedicated specifically to editorial independence; editorial independence is a part of an act dedicated to communications⁽⁵⁶⁾. As a result, for example, the US laws lack the specificity that would ensure the protection of newspaper editorial independence or owner-editor independence; instead, they offer protections from provider editorial control in telecommunications⁽⁵⁷⁾. Overall, it appears that the freedom of the press is clearly a concern of all the five countries studied, but their protections for newspaper editorial independence are not very extensive.

In fact, editor-owner relationships as a term does not appear in the studied materials. Editorial independence and editorial control are close enough terms for the legislation to be relevant, but the specifics of editor-owner relationships do not seem to be discussed in detail by any of the countries. Rather, the recommendations about that can be found in the journalist associations and similar organisations that are non-governmental.

It can also be noted that, according to the World Press Freedom Index, Canada ranks the highest out of these five countries (16th place), and the US

(55) Canada, Charter of Rights and Freedoms; see also Constitution of the US, 1787, amended, first amendment; US, Communications Act of 1934, amended, sec. 310, 335, 615.

(56) UK, Communications Act 2003, Part 4A, 368G; Loi n° 86-1067 du 30 Septembre 1986 Relative à la Liberté de Communication (version consolidée au 05 février 2019), art. 14-1; US, Communications Act of 1934, amended, sec. 310, 335, 615.

(57) US, Communications Act of 1934, amended, sec. 310, 335, 615.

ranks the lowest (45th place)⁽⁵⁸⁾. In other words, for the time being, based on the presented data, it is difficult to make conclusions about the correlation between the freedom of the press and the existence of editorial independence legislation.

Naturally, such a comparison would also be complicated by the fact that editorial independence is not the only factor to consider, and it would require quantitative methodologies, but in any case, this observation requires a more extensive exploration that is beyond the scope of this paper. As a result, it is important to pay attention to the paper's limitations.

The limitations of this study are associated with the limitations of its methodology. It consists of a non-systematic literature review and analysis of primary sources for three countries. This approach was sufficient for responding to the research questions, but it carried important limitations.

Thus, a non-systematic literature review may have missed some sources that could have been important for the study. It should be pointed out that the search was stopped once the data saturation was achieved; no new information was being received with new sources⁽⁵⁹⁾. However, this issue needs to be acknowledged as a limitation.

Furthermore, with only five case studies, it cannot be claimed that the research is conclusive. Additionally, it should be pointed out that not all legislation of the selected countries was studied; for Kuwait, it was ensured that all media legislation was reviewed, but for England and France, only the legislation that helped to answer the research questions was included. Finally, it should be highlighted that the effectiveness of the legislation is outside of this research's reach.

The paper did not involve comparing the freedom of press in three countries; it was simply figuring out the importance that was assigned to press legislation and editorial independence legislation in particular with the main question of whether the proposed legislation is possible and could be introduced in Kuwait.

In summary, the research's methodology exists to respond to the research questions, which is why it cannot be used to respond to some other, admittedly also important, questions.

(58) Reporters without Borders, '2020 World Press Freedom Index' (Reporters without Borders, 2020) accessed 7 September 2020.

(59) Eriksson and Kovalainen *supra* (n 10) at 160-170.

Interpreting the Findings for Kuwait

There are several key implications to consider from the presented information. First, it appears that press independence is recognised as an important aspect of democracy worldwide, and it is also well-known that press independence is dependent on editorial independence, which implies that both require some attention from researchers and practitioners⁽⁶⁰⁾.

Editorial independence is threatened by political and economic pressures, as well as corruption, which calls for the protection of the press from such pressures. It is further demonstrated that despite that, government pressure in the form of legislation exists, even though its main goal is ensuring the protection of all parties involved in press-public relationship, which implies that governmental pressures can become a positive force meant to protect editorial independence⁽⁶¹⁾.

It is clearly shown that legislation meant to provide the mechanisms for the protection of editorial independence in editor-owner relationships exists, but it does not exist in Kuwait. The implication is that Kuwait could also implement such a legislation, and it is implied that it could, at the very least, provide an additional mechanism for protecting the independence of the press.

In terms of additional research, a most interesting and important question is, how independent the press in the studied countries is. A quantitative research could conduct an inquiry into correlations between different features of the press legislation in countries and their freedom of press index.

Furthermore, if possible, the effect of editor independence legislation based on the press independence before and after the introduction of one could be interesting to study. Again, that would require quantitative methodology. Other than that, it is possible to expand this research by introducing more countries and studying the different editorial independence legislation in detail to demonstrate similar features and, possibly, provide more detailed recommendations for Kuwait.

Conclusion

The presented paper involved a five-case case study, which responded to three research questions, specifically, whether editorial independence can be

(60) Organization for Security and Co-operation in Europe, *supra* (n 1) para. 1; see also Media Sustainability Index, *supra* (n 6) at 157. accessed 2 February 2019.

(61) Kuwait, Law No. 3 of 2006, art. 8; see also Loi n° 86-1067 du 30 Septembre 1986 Relative à la Liberté de Communication (version consolidée au 05 février 2019), art. 14-1; UK, Communications Act 2003, Part 4A, 368G.

important, whether legislation can be used to enforce it, and whether Kuwaiti legislation should do so.

Based on the presented research, the following conclusions can be made. Editor-owner relationships are an important aspect of press independence, both of which are recognised to be significant in a democratic sense. It can be further argued that despite the importance of the freedom of press, governmental pressure in the form of legislation that introduces some restrictions for press exists.

Most often, those restrictions are meant to protect the population or protect the freedom of the press. As can be seen from the examples of England and France, it is possible to introduce legislation that would govern editorial independence, which implies the possibility of controlling editor-owner relationships.

Even though such a law cannot guarantee improved independence of the press, and even though regulating the press is a sensitive topic, Kuwait could improve the current mechanisms of protections for editors, which currently consist of mostly international recommendations, by introducing a new law. Arguments can be made both for and against the endeavour, especially since the US and Canada do not really discuss the term of editorial independence in relevant laws, but based on the current research, it appears to be appropriate to recommend an introduction of such a law.

Recommendations

In order to give the recommendations, it is important to consider the question of whether an editorial independence legislation is needed. As far as the literature review demonstrates, the following advantages and disadvantages of the solution can be found.

On the one hand, the fact that editorial independence is a crucial element of the freedom of the press has been established⁽⁶²⁾, in which case it follows that governments should make an effort to protect it.

Furthermore, several countries (showcased here with the help of England and France), as well as Kuwait, already regulate the press legislatively, predominantly focusing on ensuring the freedom of the press and protecting the parties that could be harmed by the actions of the press (for example, in the cases of libel)⁽⁶³⁾.

(62) Organization for Security and Co-operation in Europe, *supra* (n 1) para. 1; see also Media Sustainability Index, *supra* (n 6) at 157. accessed 2 February 2019.

(63) Kuwait, Law No. 3 of 2006, art. 8; see also Loi n° 86-1067 du 30 Septembre 1986 Relative à la Liberté de Communication (version consolidée au 05 février 2019), art. 14-1; UK, Communications Act 2003, Part 4A, 368G.

Finally, it should be pointed out that currently, there is no legislation in Kuwait which would govern editorial independence, which means that editor-owner separation cannot be enforced. While there exist recommendations (for example, those of the international organisations), traditions, and ethical principles, they are not always effective.

On the other hand, several arguments can be made against the possibility of developing editorial independence legislation in Kuwait. Firstly, it cannot be claimed, based on the presented information, that the proposed legislation will be effective and protect editorial independence.

It will exist as a mechanism that can provide the means of securing that protection, but its practical effects cannot be determined until it is implemented. Furthermore, an argument can be made that excessive regulation of the press through legislation is inappropriate.

This position can be further supported by the fact that editor-owner relationship as a term does not really appear in the studied legislation; rather, editorial independence or editorial control are being discussed, which implies that the current paper has not located laws that would directly address editor-owner relationships.

However, the existing legislation already regulates the press of Kuwait, and the proposed law would improve the freedom of the press by limiting the opportunities for controlling it. Furthermore, the current paper does offer examples of countries regulating editorial independence, which includes editor-owner relationships. Therefore, the fact that editor independence can be protected by the law has been demonstrated.

In other words, the pro-legislation arguments are more numerous, and the anti-legislation ones can be disputed. As a result, the recommendation, which is based on the response to the research questions, is to introduce statements about the separation of editors and owners into Kuwaiti press legislation.

Following the examples of communications acts of several countries, it is proposed to focus on modifying the existing communication legislation rather than creating a separate act on editorial independence. Further research could be used for additional insights into the preferable features of such legislation.

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