



# Book and Media Censorship in Selected Countries

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## I. Introduction

Freedom of the press, freedom of expression, and freedom of the arts are well-known concepts in United States law. The following report provides brief overviews of the treatment of these concepts, with a lens on book and media bans, in 22 different countries. The report covers the primary laws related to censorship, and when available or relevant, includes notable cases and other instances of book or media censorship. Countries were chosen to represent major regions of the world and include countries from the Americas, Europe, Asia, and Africa. **Brazil, China, Cuba, Germany, Egypt, Eritrea, Ethiopia, France, The Gambia, Georgia, Israel, India, Kenya, Liberia, Russia, Sweden, the United Kingdom, Malawi, Trinidad and Tobago, Uzbekistan, Venezuela, and Vietnam** are included in the study. This selection was based on a finding that these jurisdictions had laws aimed at censorship or expression based on historical, cultural, and political traditions.

Each country has either constitutional or legislative protections in place for freedom of speech, however, many of the surveyed countries also have legislation to regulate matters such as obscenity and incitement. Most countries also contain exceptions for censorship of materials. In some countries, censorship is targeted more toward materials that may fall into the hands of children. Countries such as **Malawi** and **Trinidad and Tobago** limit materials that may be targeted toward children. Some countries have restrictions based on national security concerns, such as **Israel, Russia, and Uzbekistan**.

Some countries have restrictions based on language that speaks against the government. **China, Cuba, Egypt, and Vietnam** have laws with provisions against materials that could be construed as critical of the government. **Egypt** also has laws pertaining to materials that are adverse to Islam, Christianity, or Judaism. Some countries have more severe criminal penalties for distribution of materials. In **The Gambia**, trafficking in obscene publications is a felony criminal act. Some countries have seen recent changes in law regarding censorship and media bans. In **India**, old British colonial laws regarding censorship were replaced by provisions in recently enacted criminal procedure and penal codes, and in **France**, laws that totally prohibit certain books or media have been repealed, although courts can restrict the distribution of a book on a case-by-case basis if it is deemed contrary to French law.

This report was prepared in time-limited circumstances and should not be considered a comprehensive treatment of this topic for these jurisdictions. Additional relevant information is available in prior Law Library multijurisdictional reports.<sup>1</sup>

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<sup>1</sup> E.g., Law Libr. of Congress, LL File No. 2020-019277, *Freedom of Expression During COVID-19* (Sept. 2020), <https://www.loc.gov/item/2020714999/>; Law Libr. of Congress, LL File No. 2019-017632, *Restrictions on Freedom of Expression* (June 2019), <https://www.loc.gov/item/2019668149/>; Law Libr. of Congress, LL File No. 2017-014533, *Blasphemy and Related Laws in Selected Jurisdictions* (Jan. 2017), <https://www.loc.gov/item/2016590066/>.

## II. Country Surveys

### Brazil

In Brazil, there is no agency charged with the responsibility of banning books. The courts have jurisdiction to decide, for example, on publications that may contain child pornography, which infringe the Statute of Children and Adolescents,<sup>2</sup> or publications that involve slander, insult, or defamation, which are criminalized under the Penal Code.<sup>3</sup>

According to article 5 of the Brazilian Constitution, everyone is equal before the law, with no distinction whatsoever, guaranteeing to Brazilians and foreigners residing in the country the inviolability of the rights to life, liberty, equality, security, and property, on the following terms:

II - no one shall be compelled to do or refrain from doing something except by force of law;

IV - manifestation of thought is free, but anonymity is forbidden;

V - the right of reply is assured, in proportion to the offense, as well as compensation for pecuniary or moral damages-or damages to reputation;

IX - expression of intellectual, artistic, scientific, and communication activity is free, independent of any censorship or license;

X - personal intimacy, private life, honor and reputation are inviolable, guaranteeing the right to compensation for pecuniary or moral damages resulting from the violation thereof;

XIII - exercise of any job, trade or profession is free, observing the professional qualifications that the law establishes;

XIV - access to information is assured to everyone, protecting the confidentiality of sources when necessary for professional activity.<sup>4</sup>

Article 220 further determines that the expression of thoughts, creation, speech, and information, through whatever form, process, or vehicle, must not be subject to any restrictions, observing the provisions of the Constitution.<sup>5</sup> No law shall contain any provision that may constitute an impediment to full freedom of the press, in any medium of social communication, observing the provisions of article 5, sections IV, V, X, XIII, and XIV.<sup>6</sup>

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<sup>2</sup> Estatuto da Criança e do Adolescente, Lei No. 8.069, de 13 de Julho de 1990, art. 240, <https://perma.cc/5NP4-SG6T>.

<sup>3</sup> Código Penal, Decreto-Lei No. 2.848, de 7 de Dezembro de 1940, arts. 138-140, <https://perma.cc/Y8TZ-U6UN>.

<sup>4</sup> Constituição Federal art. 5, <https://perma.cc/RK8F-EPVZ>.

<sup>5</sup> Id. art. 220.

<sup>6</sup> Id. art. 220 § 1.

## China

Article 35 of the Constitution of the People's Republic of China (PRC or China) declares that the citizens of the PRC "shall enjoy freedom of speech, the press, assembly, association, procession and demonstration."<sup>7</sup> Publishing activities, which broadly include publishing, printing, reprinting, importation, and distribution of publications, are primarily governed by the Administrative Regulation on Publication (ARP).<sup>8</sup> "Publications" under the regulation include not only books, but also newspapers, periodicals, audiovisual products, and electronic publications.<sup>9</sup>

While requiring governments at all levels to protect citizens' right to freedom of the press, the ARP states that when exercising that right, citizens must "abide by the Constitution and the law, and shall not oppose the basic principles established by the Constitution or prejudice the interests of the State, the society or the collective, or the lawful freedom and rights of other citizens."<sup>10</sup>

Under the ARP, no publication may contain the following contents:

1. those opposing the basic principles established in the Constitution;
2. those endangering the unification, sovereignty and territorial integrity of the State;
3. those divulging secrets of the State, harming national security, or impairing the honor and interests of the State;
4. those inciting the enmity, discrimination of nationalities, jeopardizing the unity among the various ethnic groups, or violating the customs and habits of minority nationalities;
5. those spreading cults or superstitions;
6. those disturbing social order and destroying social stability;
7. those inciting pornography, gambling, violence or instigating a crime;
8. those insulting or libeling others, violating the lawful rights and interests of others;
9. those endangering social moralities or fine national cultural traditions; or
10. other contents which are prohibited by laws and administrative regulations or by the State.<sup>11</sup>

In addition, the ARP prohibits publications targeting minors that contain content inducing minors to imitate behaviors contravening social ethics, violating laws, or committing a crime. Horror, cruelty, or other content harming the physical and mental health of minors is also

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<sup>7</sup> PRC Constitution (1982, as amended Mar. 11, 2018) art. 35, <https://perma.cc/QF3J-FVU8> (in Chinese), <https://perma.cc/Y7QP-6QYD> (English translation).

<sup>8</sup> Regulation on Publication Administration (promulgated by State Council on Dec. 25, 2001, last amended Nov. 29, 2020) art. 2, <https://perma.cc/3GUJ-KM84> (in Chinese).

<sup>9</sup> Id.

<sup>10</sup> Id. art. 5.

<sup>11</sup> Id. art. 25.

prohibited in publications targeting minors.<sup>12</sup>

Publishing, importing, printing, reprinting, or distributing any publications that contain the prohibited contents is punishable by a fine, confiscation of the publications and illegal gain, and license revocation. In serious cases, the perpetrators may be criminally prosecuted.<sup>13</sup>

The ARP stipulates that the competent publication administrative department of the State Council is responsible for the supervision and administration of publishing activities.<sup>14</sup> Under China's 2018 party and state institutional reform plan, the press and publication administration functions are now exercised by the Publicity Department of the Communist Party of China (CPC), which is externally known as the National Press and Publication Administration when exercising such functions.<sup>15</sup>

## Cuba

Under Cuban law, published works must comply with several requirements, including conformity with socialist principles as determined by the Cuban State.<sup>16</sup> The government has broad powers over communications media and content produced by them, both in print and electronically. Such powers include

- cancelling operation permits for the entity that authors or distributes materials deemed to be in contravention to guidelines established by the government;<sup>17</sup> and
- prosecuting those who incite agitation against the socialist state through propaganda published in any medium.<sup>18</sup>

Freedom House has recently published analyses on censorship matters in Cuba.<sup>19</sup>

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<sup>12</sup> Id. art. 26.

<sup>13</sup> Id. art. 62.

<sup>14</sup> Id. art. 6.

<sup>15</sup> CPC Cent. Comm., *Plan to Deepen the Reform of Party and State Institutions* § 11 (Mar. 21, 2018), <https://perma.cc/2EQ3-YUF7> (in Chinese).

<sup>16</sup> Ley No. 162 De Comunicación Social, arts. 13, 100-107, Disposición Especial Cuarta, Gaceta Oficial, June 5, 2024, <https://perma.cc/VKG9-XT6R>.

<sup>17</sup> Id.

<sup>18</sup> Código Penal, art. 124, Gaceta Oficial, Sept. 1, 2022, <https://perma.cc/P5DM-VMGE>.

<sup>19</sup> *Freedom in the World 2024: Cuba*, Freedom House, <https://perma.cc/F4ND-NBC5>. *Freedom on the Net 2023: Cuba*, Freedom House, <https://perma.cc/X9XN-Y65K>.



## Egypt

Egypt has two pieces of legislation banning not only books, but all types of written publications under specific circumstances: Law No. 58 of 1937 on the Penal Code, as amended,<sup>20</sup> and Law No. 180 of 2018 on the Press and the Media and the Supreme Council for Media.<sup>21</sup>

Under Law No. 58 of 1937, any person who promotes, whether in writing, verbally, or by any means proposals that call for a change in the provisions of the Egyptian constitution, social norms, or economic system is punishable by a term of imprisonment not exceeding five years and a fine if the use of force or any other illegal means is noticeable in these proposals.<sup>22</sup> The law imposes the same punishment for possession or possession with an intent to reprint or copy any forms of written materials that call for such a change in the provisions of the Egyptian constitution, social norms, or economic system.<sup>23</sup>

Furthermore, Law No. 58 of 1937 on the Penal Code makes punishable by imprisonment for between six months and five years or a fine any person who promotes, whether verbally, in writing, or by any other means ideas that are considered a provocation of sedition or defaming or showing contempt for Islam, Christianity, Judaism, or sects contained within them, or a harm to the national unity of the country.<sup>24</sup>

Likewise, the penal code states that anyone who intentionally broadcasts by any means false news or statements that disturb the public security, create terror among people, or harm the public interest of the country will be punished by a term of imprisonment. It imposes the same criminal sanction for possession or possession with the intent to print, reprint, or copy any written materials that include false news or statements that disturb the public security, create terror among people, or harm the public interest of the country.<sup>25</sup>

Lastly, in accordance with article 4 of Law No. 180 of 2018 on the Press and the Media and the Supreme Council for Media, for considerations required by national security, the Supreme Council for Media has the authority to ban publications, newspapers, or any written materials issued or disseminated abroad from entering, circulating, or displaying in Egypt. Additionally, the Supreme Council has the right to ban any written materials concerning religions or religious sects that would disturb the public peace.<sup>26</sup>

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<sup>20</sup> Penal Code, Law No. 58 of 1937, as amended by Law No. 95 of 2003, vol. 25, al-Jarīdah al-Rasmīyah (Official Gazette), 19 June 2003, <https://perma.cc/4PXY-FCTH> (in Arabic).

<sup>21</sup> Law No. 180 of 2018, al-Jarīdah al-Rasmīyah, vol. 34(bis)(h), 27 Aug. 2018, <https://perma.cc/E3NY-RG2S> (in Arabic).

<sup>22</sup> Law No. 58 of 1937, art. 98(b).

<sup>23</sup> Id. art. 98(b)(bis).

<sup>24</sup> Id. 98(f).

<sup>25</sup> Id. art. 102(bis).

<sup>26</sup> Law No. 180 of 2018 art. 4.

## Eritrea

The country's 2015 Penal Code criminalizes "obscene or indecent publications," with an exception for private and artistic expressions. It states that

(1) A person who publicly distributes, displays or traffics in writings, images, posters, films, objects or other communications that are obscene or grossly indecent,

is guilty of obscenity, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas [about US\$167].

(2) It is not an offence under sub-Article (1) where the conduct takes place in private, or where the material is artistic, literary or scientific in character.<sup>27</sup>

The Eritrean Transitional Penal Code includes a similar provision criminalizing "obscene and indecent publications," with similar exceptions. It states that

(1) Whosoever:

(a) makes, imports or exports, transports, receives, possesses, display in public, offers for sale or hire, distributes or circulates writing images, posters, films or other objects which are obscene or grossly indecent, or in any other way trafficks or trades in them; or

(b) advertises, indicates or makes known, by any means, how or from whom such objects may be procured or circulated, either directly or indirectly,

is punishable with simple imprisonment or fine, without prejudice to the forfeiture and destruction of the incriminating material.

(2) Simple imprisonment shall be for not less than one month, and the fine, according to the circumstances, shall not exceed ten thousand dollars, where the offender:

(a) habitually engages in or carries on such traffic; or

(b) knowingly exhibits, hands over or delivers such objects to an infant or young person for a consideration.<sup>28</sup>

The Transitional Penal Code includes an exception for "lawful works," stating, "Works or objects purely artistic, literary or scientific in character which are not calculated to inflame erotic feelings or lust, are not held to be obscene or indecent."<sup>29</sup>

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<sup>27</sup> Penal Code of the State of Eritrea, 2015, art. 313 (May 15, 2015), <https://perma.cc/S987-G9YG>. It appears that this law has yet to take effect.

<sup>28</sup> Transitional Penal Code of Eritrea, art. 609 (The Transitional Penal Code consists of the Ethiopian Penal Code of 1957, No. 158 of 1957 (July 23, 1957), <https://perma.cc/WYW3-T8CE>, and the Transitional Penal Law of Eritrea Proclamation, No. 4 of 1991, 1 Gazette of Eritrean Laws, No. 1 (Sept. 15, 1991), <https://perma.cc/8JRV-HR34> (issued only in Tigrinya, one of Eritrea's local languages).

<sup>29</sup> Id. art. 611.

## Ethiopia

The Ethiopian Criminal Code includes an “obscene or indecent publications” clause. This clause states that

(1) Whoever:

- a) makes, imports or exports, transports, receives, possesses, displays in public, offers for sale or hires, distributes or circulates writings, images, posters, films or other objects which are obscene or grossly indecent, or in any other way traffics or trades in them; or
- b) advertises, indicates or makes known, by any means, how or from whom such objects may be procured or circulated, either directly or indirectly,

is punishable with simple imprisonment for not less than six months, and fine, without prejudice to the forfeiture and destruction of the incriminating material.

(2) Simple imprisonment shall be for not less than one year, and the fine shall not exceed ten thousand Birr [about US\$173], where the criminal:

- a) habitually engages in or carries on such traffic;
- b) knowingly exhibits, hands over or delivers such objects to a minor; or
- c) for this purpose displays a simulation of sexual intercourse by minors or exhibits their genitals,[sic]<sup>30</sup>

However, the code makes an exception in which “[w]orks or objects purely artistic, literary or scientific in character, which are not calculated to inflame erotic feelings or lust, are not held to be obscene or indecent.”<sup>31</sup>

## France

Freedom of the press has deep roots in French cultural, political, and legal history.<sup>32</sup> Article 11 of the 1789 declaration of the rights of man and of the citizen, a foundational human civil rights document containing the principles that inspired the French Revolution, states: “The free communication of thoughts and opinions is one of man’s most precious rights: every citizen may therefore speak, write and print freely, subject to liability for abuse of this freedom in cases determined by law.”<sup>33</sup>

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<sup>30</sup> Criminal Code of the Federal Democratic Republic of Ethiopia, 2004, art. 640 (May 9, 2005), <https://perma.cc/66QX-Q2RS>.

<sup>31</sup> Id. art. 642.

<sup>32</sup> La Constitution et la liberté de la presse, Conseil Constitutionnel, <https://perma.cc/36JM-9XFM>.

<sup>33</sup> Déclaration des Droits de l’Homme et du Citoyen de 1789, <https://perma.cc/3Y7T-DREJ>.

Since 2004,<sup>34</sup> there have been no laws totally prohibiting the publication, sale, or possession of a book. However, courts can restrict the distribution of a book on a case-by-case basis if it is deemed contrary to French law. This includes laws on defamation, incitement to racial hatred, child pornography, and invasion of privacy, or if the book represents a danger to young people, or a risk of disturbing public order.

*Freedom of the Press Act of 1881 (Loi sur la Liberté de la Presse)*

The French Freedom of the Press Act of July 29, 1881, defines the freedoms and responsibilities of the French press. It imposes a legal framework on all publications.<sup>35</sup>

Article 24 of the 1881 Freedom of the Press Act prohibits publications inciting hatred, violence or racial, religious, or other discrimination. Article 24 provides penalties of five years' imprisonment and a €45,000 (around US\$49,000) fine for those who publicly incite the commission of serious offenses such as deliberate attacks on life, sexual assault, theft, or destruction dangerous to persons, even if this incitement is not acted upon. It provides the same penalties for those who glorify crimes against humanity, war crimes or crimes of collaboration with the enemy, and for those who incite discrimination, hatred, or violence against people on the grounds of their origin, religion, sex, sexual orientation, gender identity or disability. Penalties are increased to three years' imprisonment and a fine of €75,000 if the acts are committed by a person acting in an official capacity or entrusted with a public service mission.<sup>36</sup>

*The 1949 Law on Publications Intended for Young People (Loi sur les publications destinées à la jeunesse)*

The 1949 Law on Publications Intended for Young People allows the minister of the Interior to ban publications that contain content dangerous to young people. This includes pornographic material or content that incites discrimination, hatred, offenses against human dignity, drug use or trafficking, violence, or acts qualifying as crimes or offenses. It also covers content likely to harm the physical, mental, or moral development of children or young people.<sup>37</sup>

Under the 1949 Law, the Ministry of Justice has set up a commission to monitor and control publications aimed at children and adolescents.<sup>38</sup> The commission is also responsible for proposing any measures likely to improve publications aimed at young people. Every three years, it must submit a report on its activities and opinions to the m of Justice.<sup>39</sup> Each copy of a publication intended for young people must bear the words "Loi n° 49-956 du 16 juillet 1949 sur

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<sup>34</sup> Décret n°2004-1044 du 4 octobre 2004 portant abrogation du décret-loi du 6 mai 1939 relatif au contrôle de la presse étrangère, <https://perma.cc/5XPL-UJSP>. See also Other Measures, *infra*.

<sup>35</sup> Loi du 29 juillet 1881 sur la liberté de la presse, <https://perma.cc/B3KZ-QDTW>.

<sup>36</sup> *Id.* art. 24.

<sup>37</sup> Loi n° 49-956 du 16 juillet 1949 sur les publications destinées à la jeunesse art. 2, <https://perma.cc/LTZ4-TWSB>.

<sup>38</sup> *Id.* art. 3.

<sup>39</sup> La commission de surveillance et de contrôle des publications pour la jeunesse, <https://perma.cc/TJ6M-U6B7>.

les publications destinées à la jeunesse,” followed by the month and year of deposit with the Commission.<sup>40</sup>

#### *Other Measures*

- Until 2004, the minister of the Interior had the power to prohibit the sale and import of foreign publications that could not be prosecuted in France. This provision has since been definitively repealed.<sup>41</sup>
- Article 421-2-5 of the French Penal Code states that directly provoking acts of terrorism or publicly advocating such acts is punishable by five years’ imprisonment and a fine of €75,000.<sup>42</sup>
- The 1990 law to suppress racist, anti-Semitic, and xenophobic acts, known as the Gayssot Law, makes it an offense to deny the existence of any crime against humanity.<sup>43</sup>

### **Gambia**

The Gambia criminalizes trafficking in obscene publications. The country’s Criminal Code states that

(1) A person who-

(a) sells, lets to hire, distributes, or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation makes, produces or has in his or her possession an obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever;

(b) imports, exports or conveys an obscene object for any of the purposes aforesaid, or knowing or having reason to believe that any such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation;

(c) takes part in or receives profits from any business in the course of which he or she knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited, or in any manner put into circulation;

(d) advertises or makes known by any means whatsoever that a person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through a person; or

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<sup>40</sup> Décret n°50-143 du 1 février 1950 portant règlement d’administration publique pour l’exécution de la loi n° 49-956 du 16 juillet 1949 sur les publications destinées à la jeunesse art. 20, <https://perma.cc/D6GS-JBMJ>.

<sup>41</sup> Décret n°2004-1044 du 4 octobre 2004 portant abrogation du décret-loi du 6 mai 1939 relatif au contrôle de la presse étrangère, <https://perma.cc/5XPL-UJSP>.

<sup>42</sup> Code pénal art. 421-2-5, <https://perma.cc/GNV6-ZL8J>.

<sup>43</sup> Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xenophobe, <https://perma.cc/4F2P-LZJY>.

(e) exhibits any indecent show or performance in a public place,  
commits a misdemeanour.

- (1) A person committing a misdemeanour as aforesaid forfeits to the State all obscene books, pamphlets, papers, drawings, paintings, representations or figures or any other obscene objects whatsoever connected with the committing of the misdemeanour.<sup>44</sup>

A person convicted on charges of trafficking in obscene publication is subject to “a fine or with imprisonment for a term not exceeding two years or with both the fine and imprisonment.”<sup>45</sup>

Significantly, the Criminal Code accords the minister responsible for the administration of the Criminal Code and the president the authority to prohibit the importation of publications, stating:

- (1) If the Minister is of opinion that the importation of any publication would be contrary to the public interest, he or she may, in his or her discretion, by Order published in the *Gazette* prohibit the importation of the publication, and in the case of a periodical publication may by the same or a subsequent Order prohibit the importation of any past or future issue of the publication.
- (2) If the President is of opinion that the importation of publications published by any company, institution, firm or person of whatsoever kind or in or emanating from any country or place would be contrary to the public interest he or she may, by Order published in the *Gazette* prohibit the importation generally of any or all such publications:  
Provided that the President may at any time by the same or a subsequent Order provide generally or specially for the exclusion from the provisions of the Order of any particular publication or publications, on the application of a person resident in The Gambia, and for any conditions appropriate to the exclusion and for any matters connected therewith or relating thereto.<sup>46</sup>

The Gambia has, through a prohibited publications order, banned the importation of the following two books:

- (a) “Zionism: Instrument of Imperialist Reaction, Soviet Opinion on Events in the Middle East and the Adventures of International Zionism”; and
- (b) “Guinee Perspectives Nouvelles.”<sup>47</sup>

## Germany

The German Basic Law (*Grundgesetz*, GG), the country’s constitution, guarantees freedom of speech and freedom of the press, and prohibits censorship.<sup>48</sup> These rights may be limited by general law provisions, provisions for the protection of young persons, and the right to personal

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<sup>44</sup> Criminal Code No. 25 of 1933, § 165 (rev. ed. 2009), <https://perma.cc/R293-TFQT>.

<sup>45</sup> Id. § 34.

<sup>46</sup> Id. § 47.

<sup>47</sup> Criminal Code: Prohibited Publications Order, 1975, § 2 (rev. ed. 2009).

<sup>48</sup> Grundgesetz [GG], May 23, 1949, Bundesgesetzblatt [BGBl.] I at 1, as amended, art. 5, para. 1, <https://perma.cc/F7UW-AKGT> (original), <https://perma.cc/3SSR-F4L6> (English translation).

honor.<sup>49</sup> Freedom of the arts is also guaranteed and may only be limited by other constitutional law norms, such as youth protection or the general right of personality.<sup>50</sup> Book bans impose limitations on these rights and are mainly regulated in the German Youth Protection Act (Jugendschutzgesetz, JuSchG).<sup>51</sup> They are enforced by the Federal Agency for the Protection of Children and Young Persons from Harmful Media (Bundeszentrale für Kinder- und Jugendmedienschutz, BzKJ) as the competent authority.<sup>52</sup> The German Federal Constitutional Court (Bundesverfassungsgericht, BVerfG) has held that these limitations do not conflict with freedom of speech or freedom of the arts.<sup>53</sup>

According to section 18, paragraph 1 of the Youth Protection Act, media that are likely to endanger the development of children or young persons, or prevent them from becoming responsible and socially competent individuals, are added to a “list of media harmful to minors.”<sup>54</sup> Such media include, in particular, obscene media that incite violence, crime, or racial hatred, as well as media that have a brutalizing effect, or that advocate vigilante justice as the only proven means of enforcing supposed justice.<sup>55</sup> In addition, if a court has held that a book fulfills the conditions of certain enumerated criminal law norms, such as when it contains emblems of unconstitutional and terrorist organizations, child pornographic content, or incites the masses, the book will also be put on the list.<sup>56</sup> A request to add a book or other media to the “list of media harmful to minors” may be submitted only by specifically authorized bodies, such as the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, or youth welfare services.<sup>57</sup> The distribution of books on the list is subject to extensive restrictions, including limitations on the manner in which the books are distributed, presented, sold, and advertised.<sup>58</sup>

It should be noted that, contrary to popular belief, Adolf Hitler’s book “Mein Kampf” has never been banned. After World War II, the Bavarian Free State held the copyright to the book and prohibited the publication of new editions.<sup>59</sup> However, the copyright expired in 2015. To educate

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<sup>49</sup> Id art. 5, para. 2.

<sup>50</sup> Id. art. 5, para. 3. In 2007, the German Federal Constitutional Court (BVerfG) banned the distribution of a book that infringed the intimate sphere of personality of the applicant, see BVerfG, June 13, 2007, docket no. 1 BvR 1783/05, <https://perma.cc/LYS8-HANM>.

<sup>51</sup> Jugendschutzgesetz [JuSchG], July 23, 2002, BGBl. I at 2730, as amended, <https://perma.cc/CH7D-3W9P>; see also *Indizierung*, BzKJ, <https://perma.cc/Q563-JRYY>.

<sup>52</sup> JuSchG, § 17, para. 1; § 17a, para. 1.

<sup>53</sup> BVerfG, Oct. 20, 2022, docket no. 1 BvR 201/20, para. 17, <https://perma.cc/Y6N2-Y5T8>.

<sup>54</sup> Id. § 18, para. 1, sentence 1.

<sup>55</sup> Id. § 18, para. 1, sentence 2.

<sup>56</sup> Id. § 15, para. 5; Strafgesetzbuch [StGB], Nov. 13, 1998, BGBl. I at 3322, as amended, §§ 86, 130, 130a, 131, 184, 184a, 184b, 184c, <https://perma.cc/3CJG-HMC3> (original), <https://perma.cc/FJ4D-QMNY> (English version, updated through Nov. 22, 2021.)

<sup>57</sup> Id. § 21, para. 2.

<sup>58</sup> Id. § 15, para. 1.

<sup>59</sup> *Hitler, Mein Kampf. A Critical Edition*, IfZ, <https://perma.cc/RAB5-H42V>.

the public, the Leibniz Institute for Contemporary History (Institut für Zeitgeschichte, IfZ) republished an annotated critical edition in 2016.<sup>60</sup>

## Georgia

No provisions establishing book censorship have been found in the current Georgian legislation. However, on June 27, 2024, the Parliament of Georgia adopted in the first reading the draft Law on Family Values and Protection of Minors, which, if adopted, would prohibit providing minors with information, including published literature, or creating opportunities for them to access information, that promotes self-identification as the opposite gender, same-sex relationships, or incest. This would include information in book, online, and film format (art. 8).<sup>61</sup>

Also, a draft constitutional law proposing amendments to the Constitution of Georgia has been introduced in the legislature. The proposed amendment states “[i]t is prohibited to distribute any work, program, or material that promotes same-sex family or intimate relationships, incest, adoption or foster care of a minor by a same-sex couple or a non-heterosexual person, medical interventions related to sex change, or the non-use of gender-specific concepts.”<sup>62</sup> Mechanisms for implementing the book banning procedure have not been introduced yet.

## India

Under Article 19(1)(a) of the Constitution of India, “[a]ll citizens shall have the right to freedom of speech and expression,”<sup>63</sup> which is subject to the limitation that a law “imposes reasonable restrictions on the exercise of the right” in the “interests of the sovereignty and integrity of India, the security of the State, friendly relations with Foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.”<sup>64</sup>

In India, the law that was typically used to “ban books/ prevent sale and production of certain books”<sup>65</sup> is Section 95 of the Code of Criminal Procedure,<sup>66</sup> which granted state governments the power to declare certain publications forfeited if the contents were punishable under certain sections of India’s penal code. However, in 2024, a new criminal procedure code, the Bharatiya Nagarik Suraksha Sanhita, 2023,<sup>67</sup> and a new penal code, the Bharatiya Nyaya Sanhita, 2023, came into force that replaced the British colonial-era laws.

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<sup>60</sup> Id.

<sup>61</sup> *Anti-LGBT Legislation Passed in First Reading*, Civil.ge (June 27, 2024), <https://perma.cc/KV44-4RU5>.

<sup>62</sup> Draft Law N07-3/432 of April 3, 2024 on Constitutional Amendments, Apr. 3, 2024, <https://perma.cc/L28L-X862> (in Georgian).

<sup>63</sup> Constitution of India art. 19(1)(a), <https://perma.cc/CW53-V925>.

<sup>64</sup> Id. art. 19(2).

<sup>65</sup> *Read Me Not: List of Banned Books in India*, Software Freedom L. Ctr., India (Dec. 18, 2018), <https://perma.cc/THZ2-7ZML>.

<sup>66</sup> Code of Criminal Procedure, 1973, § 95, <https://perma.cc/TX9D-KN7H>.

<sup>67</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 98, <https://perma.cc/WG38-TBZ6>.



Similar to its predecessor, section 98 of the new criminal procedure code has a provision allowing a state government to declare certain publications forfeited if they contain any matter the publication of which is punishable under the following sections of the new penal code:

- 152 - act endangering sovereignty, unity, and integrity of India,
- 196 - promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony,
- 197- imputations, assertions prejudicial to national integration,
- 294 - sale, etc., of obscene books, etc.,
- 295 - sale, etc., of obscene objects to child, or
- 299 - deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.<sup>68</sup>

Under section 99, a declaration of forfeiture can be reviewed and set aside by a high court on application of a person on the grounds that “the book or other document, in respect of which the declaration was made, did not contain any such matter” as is referred to by specific sections of India’s penal code.<sup>69</sup>

Section 11 the Customs Act, 1962,<sup>70</sup> allows the central government to prohibit the import of any goods, including books, on certain grounds including “the maintenance of the security of India” and “the maintenance of public order and standards of decency or morality.”<sup>71</sup>

## Israel

Publication of pornographic material is regulated under section 214 of the Penal Law, 5737-1977.<sup>72</sup> The legal provisions, however, have rarely been enforced because of the wide scope of the prohibition, which does not coincide with public opinion.<sup>73</sup> The National Library of Israel collects and preserves a collection of pornographic books.<sup>74</sup>

More generally, while freedom of expression has been recognized as a basic constitutional right in Israel, it may be restricted in certain circumstances, including to avoid significant harm to

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<sup>68</sup> Bharatiya Nyaya Sanhita, 2023, <https://perma.cc/T76A-RCG2>.

<sup>69</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 99.

<sup>70</sup> Customs Act, 1962, <https://perma.cc/RYY6-DRLW>.

<sup>71</sup> Id. § 11(1)-(2).

<sup>72</sup> Penal Law, 5737-1977, as amended, Nevo Legal Database, <https://perma.cc/L4DM-GLK2> (in Hebrew, by subscription).

<sup>73</sup> Ram Rivlin, *Pornography: Morality, Liberty and Equality* 124 (Israel Democracy Inst. Position Paper, Aug. 2003), <https://perma.cc/9B3H-NA9F>.

<sup>74</sup> Sharon Cohen, *The National Library for Adults Only*, Hasafranim [Librarians] (Aug. 14, 2019), <https://perma.cc/SSF5-6V4K> (in Hebrew).

public safety; where it violates statutory prohibitions on incitement to racism, terrorism, violence, or denial of the Holocaust; and in cases of defamation.<sup>75</sup>

In the context of the war in Gaza, Israel enacted a law governing foreign broadcasters,<sup>76</sup> under which the government has temporarily shut down broadcasting in Israel by the Al Jazeera network after finding it substantially harmed national security.<sup>77</sup>

## Kenya

The Kenyan Penal Code criminalizes trafficking in obscene publications, stating that:

- (1) Any person who—
  - (a) for the purpose of or by way of trade or for the purpose of distribution or public exhibition, makes, produces or has in his possession any one or more obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films or any other obscene objects, or any other object tending to corrupt morals; or
  - (b) for any of the purposes above mentioned imports, conveys or exports, or causes to be imported, conveyed or exported, any such matters or things, or in any manner whatsoever puts any of them in circulation; or
  - (c) carries on or takes part in any business, whether public or private concerned with any such matters or things, or deals in any such matters or things in any manner whatsoever, or distributes any of them, or exhibits any of them publicly, or makes a business of lending any of them; or
  - (d) advertises or makes known by any means whatsoever, with a view to assisting the circulation of or traffic in any such matters or things, that a person is engaged in any of the acts referred to in this section, or advertises or makes known how, or from whom, any such matters or things can be procured either directly or indirectly; or
  - (e) publicly exhibits any indecent show or performance or any show or performance tending to corrupt morals,

is guilty of a misdemeanour and is liable to imprisonment for two years or to a fine of seven thousand shillings [about US\$54].<sup>78</sup>

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<sup>75</sup> A fuller discussion of the right to free expression in Israel is provided in Law Libr. of Congress, LL File No. 2019-017632, *Restrictions on Freedom of Expression* 39-48 (June 2019), <https://www.loc.gov/item/2019668149/>.

<sup>76</sup> Prevention of Foreign Broadcasting Entity Harm to State Security Law (Temporary Order–Iron Swords), 5774-2024, <https://perma.cc/PK3D-WPPZ>.

<sup>77</sup> Ruth Levush, *Israel: Government Authorizes Temporary Shutdown of Al Jazeera's Broadcasting in Israel*, Global Legal Monitor, Law Libr. of Congress (May 7, 2024), <https://perma.cc/SY38-77UM>; Ruth Levush, *Israel: Tel Aviv District Court Upholds but Shortens Duration of Temporary Shutdown of Al Jazeera*, Global Legal Monitor, Law Libr. of Congress (June 14, 2024), <https://perma.cc/882E-DY8X>.

<sup>78</sup> Penal Code of Kenya § 181 (1930), <https://perma.cc/93EP-F8KZ>.

Having convicted a person for this offense, a court may order the destruction of “any matter or thing made, possessed or used for the purpose of that offence.”<sup>79</sup> Notwithstanding that a person was not convicted for this offense, on the application of the director of public prosecutions, the solicitor general, a state counsel, or a police superintendent, the court may order the destruction of any obscene matter or thing.<sup>80</sup>

## Liberia

Under the Liberian Penal Law, “dissemination of obscene material” is a crime. The Penal Law states that

A person has committed a first degree misdemeanor if he disseminates **obscene material**, or such person produces, transports, or sends **obscene material**, with the purpose that it be disseminated, unless the dissemination is carried on in such a manner as to minimize risk of exposure to children under sixteen years of age and to persons who had no effective opportunity to choose not to be so exposed. “Disseminate” means sell, lease, advertise, broadcast, exhibit, or distribute. Material is “obscene” if, taken as a whole, it:

- (a) Has as its exclusive theme an appeal to prurient interest in sex of the average person, or in the case of material designed for or disseminated to special groups, to the prurient interest in sex of the members of that group; and
- (b) Is utterly without social value to the persons to whom the dissemination is addressed.

Advertising and manner of distribution may be considered, where relevant, in determining the social value of the material.<sup>81</sup>

A first degree misdemeanor is punishable on conviction by “a definite term of imprisonment to be fixed by the court at no more than one year.”<sup>82</sup> However, a “defendant convicted of a misdemeanor of the first degree may be sentenced as for a felony of the third degree [custodial sentence not exceeding three years] if the court is satisfied that there is an exceptional need for rehabilitative or incapacitative measures for the protection of the public in view of the fact that this is the third conviction against the defendant within five years for misdemeanors of the first degree or more serious crimes.”<sup>83</sup>

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<sup>79</sup> Id.

<sup>80</sup> Id.

<sup>81</sup> Penal Law § 18.7 (Apr. 3, 1978), <https://perma.cc/QCK4-ZVNQ>.

<sup>82</sup> Id. § 50.7.

<sup>83</sup> Id. §§ 50.5, 50.7.

## Malawi

In Malawi, “[a]ny person who, with intent to commit an offence, shows, sells, or exposes offensive material to a child, shall be guilty of an offence and shall be liable to imprisonment for seven years.”<sup>84</sup> The Penal Code defines the term “offensive material” as material that

- (a) describes, depicts, expresses, or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty or violence, or revolting or abhorrent phenomena, in a manner that is likely to cause offence to a reasonable adult;
- (b) depicts a person (whether engaged in sexual activity or otherwise) who is, or who is apparently, a child under the age of sixteen years in a manner that is likely to cause offence to a reasonable adult;
- (c) describes, depicts, expresses, or otherwise deals with sexual activity of any kind between a human being and an animal;
- (d) promotes, incites, or instructs in matters of crime or violence, and includes a publication, the publication or importation of which is prohibited under this Code or under any other written law.<sup>85</sup>

The Penal Code also includes a provision criminalizing activities around “obscene matters or things.” This provision states that

- (2) Any person who—
  - (a) makes, produces or has in his possession any one or more obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, photographic negatives or prints, cinematograph films, gramophone records or other contrivances for the reproduction of sound or any other obscene objects or any other objects tending to corrupt morals; or
  - (b) imports, conveys or exports, or causes to be imported, conveyed or exported, any such matters or things, or in any manner whatsoever puts any of them in circulation; or
  - (c) carries on or takes part in any business, whether public or private, concerned with any such matters or things in any manner whatsoever, or distributes any of them, or exhibits any of them publicly, or makes a business of lending any of them; or
  - (d) advertises or makes known by any means whatsoever, with a view to assisting the circulation of, or traffic in, any such matters or things, that a person is engaged in any of the acts referred to in this section, or advertises or makes known how, or from whom, any such matters or things can be procured either directly or indirectly; or
  - (e) publicly exhibits any indecent show or performance or any show or performance tending to corrupt morals,

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<sup>84</sup> Penal Code of Malawi, 1930, § 160D (updated through 2014), <https://perma.cc/62HH-UKFF>. Although Malawi amended the Penal Code in 2023, this provision has remained the same. Penal Code Amendment Act 8 of 2023 (Feb. 18, 2023), <https://perma.cc/P94E-6Y47>.

<sup>85</sup> Penal Code of Malawi § 160A.

is guilty of an offence and shall be liable to a fine of K500,000 and to imprisonment for a term of two years.<sup>86</sup>

Once a court convicts a person for this offense, it “may order to be confiscated or destroyed any matter or thing made, possessed or used for the purpose of such offence.”<sup>87</sup> The court may also order the cancellation of the convict’s license, if it is “satisfied that the offence arose out of, or was committed in the course, or furtherance, of any trade or business carried on by him and in respect of which he holds a licence issued under any written law.”<sup>88</sup> Regardless of whether a person was convicted for this offense, the court may, in response to an application from the public prosecutor, “order the destruction of any obscene matter or thing.”<sup>89</sup>

It is important to note that Malawi recently repealed provisions of the Penal Code that criminalized the printing, publishing, selling, offering for sale, distributing, reproducing, or importing of a seditious publication.<sup>90</sup> A seditious publication was defined as a publication with seditious intention.<sup>91</sup> The code defined seditious intention as an intention

- (a) to bring into hatred or contempt or to excite disaffection against the person of the President, or the Government;
- (b) to excite the subjects of the President to procure the alteration, otherwise than by lawful means, of any other matter in the Republic; or
- (c) to bring into hatred or contempt or to excite disaffection against the administration of justice in the Republic; or
- (d) to raise discontent or disaffection amongst the subjects of the President; or
- (e) to promote feeling of ill-will and hostility between different classes of the population of the Republic.<sup>92</sup>

## Russia

Freedom of thought and speech is guaranteed by the Russian Constitution, and censorship is constitutionally prohibited.<sup>93</sup> The Constitution prohibits speech that may arouse ethnic, national, and religious hatred and enmity. Some other restrictions on freedom of expression and publications can be imposed in line with legislation countering extremist and terrorist activities. The Federal Law on Countering Extremist Activities bans the production, publication, and distribution of materials, which

call for extremist activities or justify the necessity of such activities, including works of the leaders of the National Socialist Workers Party in Germany, Fascist Party in Italy, other

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<sup>86</sup> Penal Code § 179.

<sup>87</sup> Id.

<sup>88</sup> Id.

<sup>89</sup> Id.

<sup>90</sup> Penal Code Amendment Act §§ 3, 4 & 5.

<sup>91</sup> Penal Code § 45.

<sup>92</sup> Id. § 50.

<sup>93</sup> Constitution of the Russian Federation, art. 29, <https://perma.cc/YE3S-Z9JE>.

publications justifying racial or national superiority, or justifying the commitment of war crimes or other crimes aimed at full or partial elimination of an ethnic, racial, national, or religious group.<sup>94</sup>

The Federal Service for Financial Monitoring maintains the national list of individuals deemed terrorists or extremists. If these people appear to be authors of literary works, their works become subject to content review by government-appointed experts and might be included in the federal list of extremist materials compiled by the Ministry of Justice if extremist content is found. This list includes titles recognized as extremist materials by courts in locations where the materials were reported. Court decisions are made upon receipt of an expert opinion about the existence of extremist content in a particular work.<sup>95</sup> The list includes books, specific issues of periodicals, and materials in other formats. The list is published on the website of the Russian Ministry of Justice<sup>96</sup> and includes about 6,000 titles.

The production or storing of materials with the purpose of distribution is recognized as an extremist activity and is punishable by fines or arrest lasting up to 15 days.<sup>97</sup> Criminal prosecution is possible if the publisher is accused of conducting public calls to commit extremist activities or inciting hate and enmity.<sup>98</sup> While the law does not punish reading the banned materials, access to these publications is restricted. Such materials are allowed in three national libraries solely for business or research purposes if a special authorization is received.<sup>99</sup>

Further restrictions on the publication and distribution of books were introduced in 2022.<sup>100</sup> These laws prohibit the access of minors to literature authored by individuals recognized as foreign agents by the Ministry of Justice and outlaw propaganda promoting nontraditional sexual relations, pedophilia, as well as the distribution of information about the LGBT community and gender change.<sup>101</sup> As explained by the legislature, materials of foreign agents should be marked

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<sup>94</sup> Federal Law of the Russian Federation No. 114 of July 25, 2002 on Countering Extremist Activities, art. 1.3, <https://perma.cc/8ZZF-RSZP>.

<sup>95</sup> Anatoliy Obroskov, *Russian Library on the Seizure of Books*, Proza.ru (Dec. 25, 2023), <https://perma.cc/BNV5-K5E7> (in Russian).

<sup>96</sup> Federal Law on Countering Extremist Activities, *supra* note 94, art. 13. The Ministry of Justice website is <https://minjust.gov.ru/ru/extremist-materials/>, but it is not currently accessible from the United States.

<sup>97</sup> Code of Administrative Violations of the Russian Federation, art. 20.29, <https://perma.cc/ZD38-YU89>.

<sup>98</sup> Criminal Code of the Russian Federation, arts. 280, 282, <https://perma.cc/7CX6-QXZU> (in Russian).

<sup>99</sup> Instruction for Work with Documents Included in the Federal List of Extremist Materials, approved by the Director of the State Public Historic Library, Jan. 14, 2017, <https://perma.cc/E6EV-4H75> (in Russian).

<sup>100</sup> Federal Law of the Russian Federation No. 255 of July 14, 2022 on Control for Activities of People Under Foreign Influence, <https://perma.cc/PC2R-BFSS> (in Russian); Federal Law of the Russian Federation No. 478 of Dec. 5, 2022 on Amending the Federal Law on Information, Information Technologies, and Protection of Information and Other Legislative Acts of the Russian Federation, <https://perma.cc/NY6H-57MA> (in Russian).

<sup>101</sup> Federal Law on Amending the Federal Law on Information, Information Technologies, and Protection of Information and Other Legislative Acts of the Russian Federation arts. 1, 7.

“for use by people aged 18+ only,” have a non-translucent cover, and not be present in organizations for children.<sup>102</sup>

The Russian Book Union, a professional organization of book sellers and publishers, established an expert center to assess whether books published in Russia are in conformity with current legislation. The Center includes representatives of the Russian Military Historic Society, the Association of Russian Lawyers, and representatives of three major religious denominations. Official, regulatory, and educational publications are exempt from this review.<sup>103</sup>

Journalists have confirmed the existence of several lists of books whose circulation is restricted. These lists were prepared by major book sellers and publishers, and include titles which

- have been removed from open shelves in public libraries to closed stocks;
- have not been offered for sale by major book sellers;
- have been seized from private possessions during criminal investigation, house and office searches, customs inspections at border crossing points; and
- include books whose launches, presentations, and other public or promotional events were cancelled.<sup>104</sup>

The Russian Association of Online Retailers confirmed the existence of such lists in the past but stated that they were of a recommending rather than obligatory nature and that there is no need to have them now.<sup>105</sup> To avoid liability under the law against LGBT propaganda, Russian publishers blacken out pages which may contain LGBT-related content in newly published books.<sup>106</sup>

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<sup>102</sup> State Duma of the Russian Federation, Press Release, Amending Legislation to Regulate Activities of Foreign Agents, Nov. 24, 2022, <https://perma.cc/J6WZ-PBUU> (in Russian).

<sup>103</sup> Dmitriy Ignatiev, *An Expert Center to Review Books's Alignment with Law Has Been Created in Russia*, *Vedomosti.ru* (Apr. 23, 2024), <https://perma.cc/X9HL-FSPR> (in Russian).

<sup>104</sup> Viktoria Artemyeva, *Fahrenheit-List*, *Novaya Gazeta* (Jun. 18, 2024), <https://perma.cc/273F-3SUJ> (in Russian).

<sup>105</sup> AKIT Does Not Need the List of Banned Books with Dostoevsky and Wilde, *RBC.ru* (Feb. 21, 2024), <https://perma.cc/XA8S-CYC7> (in Russian).

<sup>106</sup> *Pasolini's Biography is Published with Several Blackened Pages*, *Meduza.io* (Apr. 25, 2024), <https://perma.cc/T2NM-R25K> (in Russian).

## Sweden

### *Constitutional Rights to Freedom of the Press and Prior Censorship Rules*

Sweden guarantees freedom of the press and freedom of speech in its Constitution.<sup>107</sup> This applies to both print and video.<sup>108</sup> The public censorship of printed books ended in 1766.<sup>109</sup> Prior to this date, a public censor read all manuscripts prior to publication.<sup>110</sup> Public censorship of movies ended in 2011.<sup>111</sup> Prior to 2011, the Svenska Statens biografbyrå (Swedish National Cinematic Bureau) reviewed all movies, including movies for adult audiences, set age limits, and made changes to movies by cutting out material not deemed appropriate for public view.<sup>112</sup> Today, movies played in public are subject to age recommendations, but are not censored or cut. However, these age recommendations can be overcome if the minor attends in the presence of an adult.<sup>113</sup> Minors aged seven years old can watch movies rated 11 and minors aged 11 can watch movies rated 15, in the presence of an adult.<sup>114</sup> Movies that are broadcast in public to an audience younger than 15 years old still require preapproval by the Mediemyndigheten (Swedish Agency for the Media).<sup>115</sup>

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<sup>107</sup> Regeringsformen (RF) [Instrument of Government] (SFS 1974:152), <https://perma.cc/2ZBR-N7U6>; Tryckfrihetsförordning (TF) [The Freedom of the Press] (SFS 1949:105), <https://perma.cc/76EA-CQLE>; Yttrandefrihetsgrundlag (YGL) [The Fundamental Law on Freedom of Expression] (SFS 1991:1469), <https://perma.cc/FBT3-5Q8Q>.

<sup>108</sup> 1:1-2 §§ TF; 1:1-2 §§ YGL.

<sup>109</sup> Sweden Press Freedom Act 1766 Kongl. Maj:ts Nådige Förordning, Angående Skrif- och Tryckfriheten Gifven Stockholm 2. December 1766. [His Royal Majesty's Gracious Ordinance Relating to Freedom of Writing and of the Press, Delivered at Stockholm on December 2, 1766.] For a summary, see Elin Hofverberg, *250 Years of Press Freedom in Sweden* (Dec. 19, 2016), <https://perma.cc/83JH-RBCD>.

<sup>110</sup> See Riksarkivet, *Censur i Sverige*, <https://perma.cc/NLH6-CV5X>.

<sup>111</sup> Förordning om ändring i förordningen (2007:1182) med instruktion för Statens biografbyrå (SFS 2010:403), <https://perma.cc/QU4S-KG5L>

<sup>112</sup> See Förordning med instruktion för statens biografbyrå, (SFS 1965:748), <https://perma.cc/ESB8-F9YY>; Förordning med instruktion för statens biografbyrå (1988:675), <https://perma.cc/PM7L-H8FZ>; Förordning med instruktion för Statens biografbyrå (1990:994), <https://perma.cc/YKE4-TUET>; Förordning med instruktion för Statens biografbyrå (2007:1182), <https://perma.cc/76SM-FRHT>; Förordning om ändring i förordningen (2007:1182) med instruktion för Statens biografbyrå (SFS 2010:403), <https://perma.cc/QU4S-KG5L>; Förordning med instruktion för Statens medieråd (SFS 2010:1923), <https://perma.cc/4R7T-A977>.

<sup>113</sup> 5 § Lag om åldersgränser för film som ska visas offentligt [Act on Age Limits for Movies that are Broadcasted in Public] (SFS 2010:1882), <https://perma.cc/CU5W-XV5L>.

<sup>114</sup> Id. 6 §.

<sup>115</sup> Id. 3 §. See also Förordning om åldersgränser för film som ska visas offentligt [Regulation on Age Limits for Movies that are Broadcasted in Public] (SFS 2010:1925), <https://perma.cc/9MQS-LVVM>.



*Breaches of the Freedom of the Press (tryckfrihetsbrott)*

Publication of certain texts or other media are nevertheless subject to prosecution.<sup>116</sup> This includes speech (in any form of media) that constitutes a threat against others,<sup>117</sup> slander,<sup>118</sup> insults,<sup>119</sup> incitement against public authorities,<sup>120</sup> hate crimes (*hets mot folkgrupp*),<sup>121</sup> and different types of crimes against the state (e.g., espionage and crimes against the security of the state).<sup>122</sup> In addition, child pornography is not protected by the Swedish Constitution and is criminalized in the Criminal Code.<sup>123</sup>

*Industry Rules*

While there is no government censorship, the journalist association has published press ethics rules for publication.<sup>124</sup> Specifically, the rules place limits and requirements in the areas of providing factually-accurate news, providing the opportunity to comment, being restrictive with pictures, hearing both sides, and being restrictive with the publication of names.<sup>125</sup> They also provide that gender, sexual orientation, and cultural background should not be included in certain cases.<sup>126</sup>

*Public Access to Published Speech*

Swedish law requires that all schools (grades K-9, and 10-12) have a library.<sup>127</sup> However, the law does not specify what books or other material the library must purchase.

All physical books and electronic material published in Sweden are deposited with the National Library. The National Library collects every published book under the Act on Mandatory Deposits of Documents.<sup>128</sup> In addition, the National Library also collects all electronically

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<sup>116</sup> 7 ch. 2-22 § TF; 5 ch. 1 § YGL.

<sup>117</sup> 7 ch. 2 TF §.

<sup>118</sup> Id. 7 ch. 3 §.

<sup>119</sup> Id. 7 ch. 4 §.

<sup>120</sup> Id. 7 ch. 5 §.

<sup>121</sup> Id. 7 ch. 6 §.

<sup>122</sup> Id. 7 ch. 12-19 §§.

<sup>123</sup> 16 kap. 10a § Brottsbalken [Criminal Code] (SFS 1962:700), <https://perma.cc/VX6F-LTHM>.

<sup>124</sup> Journalistförbundet, Publicitetsregler, <https://perma.cc/2DH4-M5F6>.

<sup>125</sup> Id.

<sup>126</sup> Id.

<sup>127</sup> 36 § Skollagen [School Act](SFS 2010:800), <https://perma.cc/Y2QE-Z3HS>.

<sup>128</sup> 24 § Lag om pliktexemplar av dokument [Act on Mandatory Deposits of Documents] (SFS 1993:1392), <https://perma.cc/5Z9J-BB5Q>.

published publications.<sup>129</sup> Other than the national library, and a few additional libraries that serve as repositories of copies from the National library's mandatory deposits, libraries are free to choose which books to include within their collection. The state provides grants to local libraries, subject to certain conditions, that are primarily meant to cover expenses for children's literature.<sup>130</sup>

## Trinidad and Tobago

The Children and Young Persons (Harmful Publications) Act prohibits the publishing or selling of any publication which,

is of a kind likely to fall into the hands of children or young persons and consists wholly or mainly of stories told in pictures (with or without the addition of written matter), being stories portraying –

- (a) the commission of crimes; or
- (b) acts of violence or cruelty; or
- (c) incidents of a repulsive or horrible nature,

in such a way that the work as a whole would tend to corrupt a child or young person into whose hands it might fall . . . .<sup>131</sup>

Criticism of book banning has been made in the context of books featuring LGBTQI+ characters.<sup>132</sup>

## United Kingdom

Freedom of expression is provided for in the European Convention on Human Rights, which was incorporated into the national law of the United Kingdom (UK) by the Human Rights Act 1998.<sup>133</sup> Section 6 of the Human Rights Act provides that public authorities, including libraries, must act in accordance with the rights set out in the European Convention on Human Rights. The Chartered Institute of Library and Information Professionals (CILIP), the UK's library and information association, has stated that "library authorities will consider for purchase any publication which has not incurred penalties under current UK legislation."<sup>134</sup> In considering titles for purchase, libraries must consider the competing interests contained in the legal

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<sup>129</sup> 3 § Lag om pliktexemplar av elektroniskt material [Act on Mandatory Deposit of Electronic Material] (SFS 2012:492), <https://perma.cc/R7SU-C5VL>.

<sup>130</sup> 6 § Förordning om statsbidrag till folkbibliotek (SFS 2018:66), <https://perma.cc/M8Y5-NRDT>.

<sup>131</sup> Children and Young Persons (Harmful Publications) Act, Laws of Trinidad and Tobago ch. 11:17, <https://perma.cc/6QN9-W5A9>.

<sup>132</sup> Paula Lindo, *Booksellers, Authors: No to Book Bans, Yes to Representation*, Trinidad & Tobago Newsday (July 1, 2023), <https://perma.cc/N4Z6-E9DP>.

<sup>133</sup> Human Rights Act 1998, c. 42, <https://perma.cc/7JWP-CY7L>.

<sup>134</sup> Martyn Wade, *CILIP - Standing Up for Intellectual Freedom* (June 1, 2022), CILIP, <https://perma.cc/MQJ7-WCDJ>.

framework of the UK that are designed to prevent the encouragement of terrorism and obscene publications and at the same time aim to prevent discrimination and ensure freedom of expression.

### *Human Rights*

Article 10 of the European Convention on Human Rights provides for freedom of expression and grants individuals the right to hold opinions and to receive and share ideas without state interference. It specifically includes politics and matters of public interest: “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”<sup>135</sup>

Freedom of expression is a qualified right, which means that it may be restricted in certain circumstances, provided it is prescribed by law and necessary in a democratic society to protect a legitimate aim. Article 10(2) specifies that

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, and for maintaining the authority and impartiality of the judiciary.<sup>136</sup>

The European Court of Human Rights has noted that the right does not just extend to information that is “favorably received” but extends beyond that to also cover “those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no democratic society.”<sup>137</sup> The European Court of Human Rights has further determined that whether the restriction on freedom of expression is necessary “requires the existence of a pressing social need, and that the restrictions should be no more than is proportionate.”<sup>138</sup>

### *Other Legislation*

Libraries must balance the competing rights contained in the Human Rights Act with other legal obligations. The Public Libraries and Museums Act 1964 places a duty on library authorities to provide a comprehensive library service for individuals within their area that meets the requirements of adults and children.<sup>139</sup>

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<sup>135</sup> Human Rights Act 1998, c. 42, sched. 1 art. 10(1).

<sup>136</sup> *Id.* sched. 1, art. 10(2).

<sup>137</sup> *Handyside v. UK* (1976) 1 EHRR 737 at 49. See also *Muller v. Switzerland* (1988) 13 EHRR 212 at 33.

<sup>138</sup> Ursula Smartt, *Media & Entertainment Law* 64 (3d ed. 2017), bibliographic information at <https://lcn.loc.gov/2016035810>.

<sup>139</sup> Public Libraries and Museums Act 1964, c. 75, <https://perma.cc/8ZXJ-F288>.

The Terrorism Act 2006 provides that it is an offense to disseminate terrorist publications, defined as those that are likely to be understood as direct or indirect encouragement or inducement to commit, prepare, or instigate terrorist acts, or be useful to achieve these acts.<sup>140</sup>

The Public Order Act 1986 provides that it is an offense to publish, distribute, or display written material that is threatening, abusive, or insulting if the intent of displaying it is to stir up racial hatred, or that this would be likely.<sup>141</sup>

The Equality Act 2006 provides for a public sector equality duty that aims to protect people from discrimination. There are nine protected characteristics under the Equality Act, which include age, gender reassignment, marriage or civil partnerships, pregnancy and maternity leave, disability, race, which includes color, nationality, ethnic or national origin, sex or sexual orientation. The public sector equality duty requires public authorities to consider how their policies or decisions impact people with protected characteristics.<sup>142</sup>

For publishing, the Obscene Publications Act 1959 provides that it is an offense to publish an obscene article for gain. The act sets out a test for obscenity, which provides that

an article shall be deemed to be obscene if its effect or (where the article comprises two or more distinct items) the effect of any one of its items is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.<sup>143</sup>

The act contains the defense of public good, where the publication of material is “justified as being for the public good on the ground that it is in the interests of science, literature, art or learning, or of other objects of general concern.”<sup>144</sup>

### *Library Guidance*

The government commissioned the Museums, Libraries and Archives Council (MLA) to produce guidance on the management of controversial material by public libraries. The guidance provides that “[s]tock should be selected objectively according to the Collection Development Policy, not determined by the personal view of library staff, suppliers or other partners.”<sup>145</sup>

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<sup>140</sup> Terrorism Act 2006, c. 11, § 2, <https://perma.cc/6MCP-9VY8>.

<sup>141</sup> Public Order Act 1986, c. 64, §§ 18-19, <https://perma.cc/7GCW-HD8P>.

<sup>142</sup> Equality Act 2006, c. 3, <https://perma.cc/7LPR-V8J7>.

<sup>143</sup> Obscene Publications Act 1959, 7 & 8 Eliz. 2, c. 66, § 1, <https://perma.cc/33JS-5B3D>.

<sup>144</sup> Id. § 4.

<sup>145</sup> Museums, Libraries, Archives Council, *Guidance on the Management of Controversial Material in Public Libraries*, <https://perma.cc/W5NF-UCYJ>.

CILIP has stated that censorship of library books is less politicized than in the United States, but is not uncommon, as librarians can be asked to remove titles informally, which it has stated can lead to self-censorship becoming a real, but difficult to quantify, issue.<sup>146</sup>

## Uzbekistan

The Constitution of the Republic of Uzbekistan guarantees freedom of thought, speech, and the right to seek, obtain, and share information. Restrictions on these rights are permitted only by law and only as needed to protect the constitutional order, public health, morality, the rights and freedoms of others, public safety, public order, and to prevent the disclosure of state or other legally protected secrets.<sup>147</sup>

The Law on Principles and Guarantees of Freedom of Information states that censorship and monopolization of information are not allowed in the Republic of Uzbekistan.<sup>148</sup> However, dissemination of information about extremist activities (i.e., calls for forcefully changing Uzbekistan's constitutional system, violating its territorial integrity or sovereignty, seizing power, or removing legally elected representatives) together with spreading information promoting war, violence, cruelty, terrorism, and religious extremism is prohibited.<sup>149</sup>

An organization involved in these types of activities can be declared extremist and its activities, including publishing and distribution of publications, must be banned.<sup>150</sup> Production and storing of extremist literature and other prohibited materials is a crime punishable by fines or imprisonment for a term of up to three years.<sup>151</sup> The Code of Administrative Responsibility fines individuals for the illegal production, storage, import, or distribution of banned religious materials. Fines range from 20 to 100 times the minimum monthly wage (equivalent to US\$475 to \$2,400).<sup>152</sup>

The recognition of an organization as extremist is carried out in court.<sup>153</sup> The Agency of Information and Mass Communications, under the presidential administration, oversees the state

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<sup>146</sup> Wade, *supra* note 134.

<sup>147</sup> The Constitution of Uzbekistan, art. 33, adopted by national referendum on April 30, 2023, <https://perma.cc/YJ5V-5YE5> (in Uzbek), <https://perma.cc/6MJV-JSTA> (in English).

<sup>148</sup> Law of the Republic of Uzbekistan No. 439-II of Dec. 12, 2002 on Principles and Guarantees of Freedom of Information, art. 8, <https://perma.cc/U8CH-TRN9> (in Russian).

<sup>149</sup> *Id.* art. 15.

<sup>150</sup> 2023 *Report on International Religious Freedom: Uzbekistan*, US Department of State, <https://perma.cc/6QAG-FGHK>.

<sup>151</sup> Criminal Code of the Republic of Uzbekistan, art. 244<sup>1</sup> (Law No. 2012-XII, in force since Apr. 1, 1995), <https://perma.cc/AL4R-JJXD> (in Russian).

<sup>152</sup> Code of Administrative Responsibility of the Republic of Uzbekistan, art. 184-2, (Law No. 2015-XII, in force since Jan. 1, 1995), <https://perma.cc/6PCG-SW9W> (in Russian).

<sup>153</sup> Law of the Republic of Uzbekistan No. 489 of July 30, 2018 on Countering Extremism, art. 14, <https://perma.cc/5XUY-EMZN> (in Russian).

information policy and regulates mass media, publishing, and library activities.<sup>154</sup> The list of banned organizations and information regarding banning their activities is subject to publication on websites of the Ministry of Justice and the Supreme Court Uzbekistan.<sup>155</sup> A ban on the activities of such organizations entails the prohibition of dissemination of materials from a banned organization.<sup>156</sup>

Another key legal document in regulating banning books in Uzbekistan is the Law on Freedom of Conscience and Religious Organizations.<sup>157</sup> The law criminalizes unregistered religious activity<sup>158</sup> and requires official approval of the content, production, and distribution and storage of religious publications.<sup>159</sup> It prohibits the use of religion to undermine the country's constitutional order, sovereignty, and citizens' rights, to propagate war, or to create panic among the population.<sup>160</sup> Registered religious groups must obtain a license to publish or distribute religious materials. Approval for content, production, distribution, and storage of religious literature is required. Religious literature includes books, magazines, newspapers, brochures, leaflets, CDs, DVDs, and online content covering religious origins, history, ideology, teachings, commentaries, and rituals worldwide.<sup>161</sup>

The Committee for Religious Affairs (CRA) under the cabinet of ministers, oversees activities of registered religious organizations.<sup>162</sup> The CRA reports extremist materials to law enforcement and maintains a list of websites and social media accounts deemed extremist and prohibited by the Supreme Court. The list of prohibited websites, books, videos, and social media accounts deemed extremist or a threat to national security is published by the CRA. This list is frequently revised and is accessible online.<sup>163</sup>

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<sup>154</sup> Information can be found at the official website of the President of the Republic of Uzbekistan, <https://perma.cc/UYZ2-3QNF>.

<sup>155</sup> Law on Countering Extremism, *supra* note 153, art. 14.

<sup>156</sup> *Id.* art. 19.

<sup>157</sup> The Law of the Republic of Uzbekistan No. 699 of July 5, 2021 on Freedom of Conscience and Religious Organizations, <https://perma.cc/54EW-9NJU> (in Uzbek), <https://perma.cc/TC92-U2QT> (unofficial English translation).

<sup>158</sup> *Id.* art. 3.

<sup>159</sup> *Id.* art. 10.

<sup>160</sup> *Id.* art. 4.

<sup>161</sup> *Id.* art. 10. Detailed information can be found in the *2023 Report on International Religious Freedom: Uzbekistan*, *supra* note 150.

<sup>162</sup> *About the Committee*, Committee for Religious Affairs, Cabinet of Ministers of the Republic of Uzbekistan, <https://perma.cc/GA6D-2NWR>.

<sup>163</sup> *Uzbekistan Updates the List of Banned Extremist and Terrorist Materials*, Kun.uz (May 19, 2023), <https://perma.cc/VZ63-K34V>.

## Venezuela

The Constitution of Venezuela establishes that every person has the right to freely express their thoughts, ideas, or opinions verbally, in writing, or by any other form of expression.<sup>164</sup> To express their thoughts, ideas, or opinions, individuals can use any means of communication and dissemination, without censorship.<sup>165</sup> Whoever exercises this right assumes full responsibility for everything expressed.<sup>166</sup> Additionally, the Constitution does not permit anonymity, war propaganda, discriminatory messages, and those promoting religious intolerance.<sup>167</sup> Moreover, the Constitution establishes that there cannot be censorship of matters related to the profession and responsibilities of a public official.<sup>168</sup>

The Constitution states that communication is free and plural, therefore every person has the right to access timely, truthful, and impartial information, without censorship.<sup>169</sup> Individuals have the right to reply and rectify when directly affected by inaccurate or offensive information.<sup>170</sup> In accordance with article 61 of the Constitution, every person has the right to freedom of conscience and to manifest it.<sup>171</sup> The Constitution provides exceptions to the freedom of conscience when it affects the individual rights of others or constitutes a crime.<sup>172</sup>

According to the Venezuelan Penal Code, any individual who distributes, commercializes or displays writings, drawings, or other objects that are obscene to the public must be punished with imprisonment from three to six months.<sup>173</sup> If the offense is committed for profit, the imprisonment is from six months to one year.<sup>174</sup>

Despite the Constitution's provisions on freedom of expression, non-governmental organizations<sup>175</sup> and the U.S. Department of State<sup>176</sup> have described Venezuela's legal and regulatory environment for media as highly restrictive.

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<sup>164</sup> Constitución de la República Bolivariana de Venezuela, Dec. 30, 1999, art. 57, <https://perma.cc/N8QS-E3JG>.

<sup>165</sup> Id.

<sup>166</sup> Id.

<sup>167</sup> Id.

<sup>168</sup> Id.

<sup>169</sup> Id. art. 52.

<sup>170</sup> Id.

<sup>171</sup> Id. art. 61.

<sup>172</sup> Id.

<sup>173</sup> Código Penal, April 13, 2005, art. 382, <https://perma.cc/J6UY-U6VZ>.

<sup>174</sup> Id.

<sup>175</sup> E.g. *Freedom in the World 2024: Venezuela*, Freedom House, <https://perma.cc/5939-J639>.

<sup>176</sup> U.S. Dep't of State, *2023 Country Reports on Human Rights Practices: Venezuela*, <https://perma.cc/8LNZ-Q3VY>.

## Vietnam

In Vietnam, the state controls the publishing business. Publishers and agencies or organizations that publish works and materials must obtain a publishing license.<sup>177</sup> Publishers must have a general director who has good political and moral quality.<sup>178</sup> The state manages publishing activities, including training and fostering the profession; investigating and settling complaints, and handling violations of the law on publishing activities.<sup>179</sup> The Publishing Law states that the government protects the right of dissemination as follows:

1. The State shall ensure the right of dissemination of work in the form of publications through the publisher and protection of copyright and related rights.
2. The State shall not censor works before publication.
3. No agency, organization or individual is allowed to abuse the right to disseminate works to damage the interests of the State, the legitimate rights and interests of agencies, organizations and individuals.<sup>180</sup>

Publications having the following contents are prohibited:

1. Conducting propaganda against the Socialist Republic of Vietnam and destroying the unity of the whole nation;
2. Conducting propaganda and incitement [of] war of aggression, causing hatred between nations and peoples; conducting incitement of violence; spreading reactionary ideology, obscene and depraved lifestyle, criminal acts, social evils, superstition and destruction of habits and customs;
3. Disclosing the state secrets, personal secrets and other secrets prescribed by law; and
4. Distorting historical truth, denying revolutionary achievements; offending nation, well-known persons, national heroes; failing to express or properly express sovereignty; slandering and insulting the reputation of the agency or organization, or dignity of the individual.<sup>181</sup>

The Department of Publishing, Printing and Circulation, which is under the administrative management of the Ministry of Information and Communication,<sup>182</sup> has authority over the withdrawal, expropriation, and prohibition against the circulation of publications.<sup>183</sup>

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<sup>177</sup> Publishing Law, No. 19/2012/QH13, Nov. 20, 2012, art. 4, <https://perma.cc/QMB7-2PX7>.

<sup>178</sup> Id. arts. 13, 17.

<sup>179</sup> Id. art. 6.

<sup>180</sup> Id. art. 5.

<sup>181</sup> Id. art. 10, para. 1.

<sup>182</sup> Decree 48/2022/NDD-CP, Providing the Functions, tasks, Authorities and Structural Organization of the Ministry of Information and Communication, July 26, 2022, art. 3, para. 12, <https://perma.cc/D64V-G7ML>.

<sup>183</sup> Decision 2438/QĐ-BTTTT Providing Functions, Tasks, Authorities, Powers and Structural Organization of Department of Publishing, Printing and Circulation, Dec. 13, 2023, art. 2, para. 2, <https://perma.cc/D64V-G7ML> (in Vietnamese).