



# Mapping Digital Rights in MENA



# Mapping of Digital Rights

in the Middle East and North Africa (MENA) Region

**Covered Countries:** *Lebanon - Jordan - Tunisia - Morocco*

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## Executive Summary

Digital rights are regarded as human rights according to international law,<sup>1</sup> in its resolution “The Promotion, Protection, and Enjoyment of Human Rights on the Internet”, the United Nations Human Rights Council (HRC) recognized that, “The same rights that people have offline must also be protected online.”<sup>2</sup> Article 19 states, that all people have the right to freedom of expression,<sup>3</sup> including digital platforms.<sup>4</sup> Furthermore, the HRC resolution 2/23 on the role of freedom of opinion and expression in women’s empowerment calls on States to “promote, respect and ensure women’s exercise of freedom of expression and opinion and, on the Internet and beyond, including as activists and members of non-governmental organizations.”<sup>5</sup>

As the state of human rights is reportedly in decline globally<sup>6</sup>, the Middle East and North Africa (MENA) represents a particularly unfavorable portrayal of the state of fundamental rights, with growing constraints on civic space and repressive laws and tactics in use across the region. Human rights defenders in MENA are suffering a wave of arrests and convictions in an escalating attack on their right to freedom of expression. These courageous advocates are particularly at risk due to overly broad and vague laws that are tailored in the government’s favor and facilitate the silencing of dissent and imprisonment of activists.<sup>7</sup>

## Objectives and Motivation for this Mapping

A foundational understanding of this mapping is that there is a highly developed digital infrastructure and a much lesser developed regulatory structure that is leading to a negative correlation between the increased use of digital technology and the protection of citizens’ digital rights and human rights. As a result, citizens are finding themselves afraid to utilize technology, especially when it comes to expressing their opinions online.

The report covers the de facto state in legislation, policies, behavior, developments and the boundaries of digital rights with the time frame from mid-2017 to mid-2020, a three year timespan. Despite the strict time frame, key events, laws

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<sup>1</sup> United Nations Human Rights Council. (2018). 38th session of the UN Human Rights Council, Item 3 - Joint Oral Statement. (38th UN Human Rights Council). Retrieved from:

<https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session38/Pages/38RegularSession.aspx>

<sup>2</sup> Article 19. (2016). UNHRC: Significant resolution reaffirming human rights online adopted. Retrieved from:

<https://www.article19.org/resources/unhrc-significant-resolution-reaffirming-human-rights-online-adopted/>

<sup>3</sup> UN. (1948). Universal Declaration of Human Rights. Retrieved from:

<http://www.un.org/en/universaldeclaration-human-rights/index.html>

<sup>4</sup> Choudhury, Amrita;& AL-Araj, Nadira. (2018, July 6). Views & Perspectives on Gender Rights Online, For The Global South “Redefining Rights for a Gender Inclusive Networked future. Association for Progressive Communication (APC). Retrieved from:

<https://www.apc.org/en/pubs/views-and-perspectives-gender-rights-online-global-south-redefining-rights-gender-inclusive>

<sup>5</sup> Finnegan, Shawna. (2014). United Nations resolutions recognising human rights online. Association for Progressive Communications (APC). Retrieved from: <https://www.apc.org/en/blog/united-nations-resolutions-recognising-human-rights-online>

<sup>6</sup> CIVICUS Monitor. (2018). People Power Under Attack: A global analysis of threats to fundamental freedoms. Retrieved from:

<http://www.civicus.org/documents/PeoplePowerUnderAttack.Report.27November.pdf>

<sup>7</sup> Sayadi, Emna. (2018, June 7). Free expression in MENA: death by a thousand cuts. .Access Now. Retrieved from:

<https://www.accessnow.org/free-expression-in-mena-death-by-a-thousand-cuts/>

and policies would be considered to pre-date this period, for holistic proliferation. Any key changes could happen during this work to be considered.

This mapping is designed to analyze available researches on digital rights policies and practices in Lebanon, Jordan, Morocco and Tunisia. Particular focus is given to identifying the opportunities for development of policies and practices that have a high potential to improve the environment for protecting digital rights and human rights. Furthermore, the mapping also analyzes the gaps in research needed that will help inform a future study at a regional level.

This mapping was implemented with Tamleh–The Arab Center for the Advancement of Social Media- and Innovation for Change MENA in a joint project proposed to build the capacity of regional partners in the Middle East and North Africa region (MENA). The MENA Hub has developed its vision to create a free and secured civic space and a mission to build a collaborative, innovative network of activists and Civil Society Organizations (CSOs) to facilitate the exchange and development of expertise and resources to face the shrinking of civic space through:

- Establishing a collaboration model between CSOs, social entrepreneurs and tech experts in the region;
- Initiating and testing several innovative services and tools related to digital advocacy and activism;
- Ensuring the collaboration and independence and sustainability of MENA hub members by leveraging member resources.

The program is designed to serve as a base for joint advocacy to international technology companies and governments to uphold digital rights, in particular, the right to freedom of expression online. It aims to map and assess digital rights status in the MENA region, engage in advocacy work on the closing of civic space on the Internet, and raise awareness on the civic space restrictions happening on the Internet.

## **Methodology**

The research team was commissioned by 7amleh – The Arab Center for the Advancement of Social Media to conduct this assignment to conduct a comprehensive literature review of available/previous local or regional studies/research on digital rights in Lebanon, Jordan, Morocco and Tunisia; conduct interviews with different stakeholders in each target country, including experts in technology and human rights from civil society, governmental entities, private sector and donors to map and document statistics and data, related to digital rights; identify policy recommendations that can improve citizens access to a safer environment for exercising their digital rights and their human rights and; identify gaps in the available research and data and provide recommendations for a future comprehensive study on digital rights in the MENA region; solicit feedback on the draft mapping along the drafting and data collection process from different partners and ensure a participatory approach and engagement of all stakeholders.

At the outset of the research, the research team identified a potential list of key stakeholders to interview within the framework of the desk review process. There were four focus group discussions held, each with fifteen, preselected participants, selected based on their experience, engagement, knowledge and capacity to provide insight into each country's digital rights context. In each focus group, participants were asked to share their attitudes and experiences as it related to digital rights, as well as engage fully in the group discussion in order to provide the researcher's insight into not only the areas of agreement that exist among participants, but also help to identify differences in opinion and experience. The responses were recorded, transcribed and analyzed to help provide a deeper understanding and analysis of the cultural context that surrounded the various aspects of digital rights across the targeted countries.

There were also ten core questions posed to legal professionals, human rights defenders, Internet providers, journalists and civil society organizations working in each of the targeted countries through an interview and focus group process. They focused on the areas of policy and reform, challenges, opportunities, archiving, context, infrastructure, self-monitoring, democratization, child rights and combating fake news. Political, economic, social and cultural aspects were taken into account through an analysis led by the facilitator. This included looking at recent policies and practices of the government and technology companies, as well as the infrastructure for accessing the Internet, the availability of country-specific information, and the impact of social media on policy making in each country. An additional main secondary source of information is questionnaires sent to legal and civil society organizations working in the targeted country in the focus groups. Local researchers have been asked to apply a check list of ten quality criteria and considerations.

The findings from this research serve as the foundation for potential joint, regional advocacy efforts in the future and are designed to help activists and other actors to more effectively strategize and advocate for the protection of digital rights in each studies country, as well as across the MENA region.

## **Limitations**

While this mapping is designed to examine the issue of digital rights in Lebanon, Jordan, Morocco and Tunisia holistically, there is a limit regarding the time and depth of knowledge and information that was available and that could be. Within this research, the team focused on categories of digital rights, which were developed from the issuance of domestic and international laws on a set of digital rights that must be provided and guaranteed by states as natural rights for their citizens, as well as treated as an integral part of the fundamental rights. The available resources focused on the most essential of the digital rights, especially where it seemed that policies and practices to protect these digital rights were lacking. Additionally, there was not enough relevant studies that were up to date and there was significant information that was not published or made available. To counter this limitation, the desk review was complimented by qualitative research which included interviews with experts in the area of digital rights and a short survey. It is also worth mentioning that this research faced many difficulties in mapping many rights, and encountered serious obstacles in getting access to detailed official information which resembles the disgraceful reality on the status of the right to access information and the right to make digital archives available.

## **Conclusions**

The definition of digital rights served the digital rights mapping by providing categories in which to analyse digital rights across Lebanon, Jordan, Morocco and Tunisia and takes into account different political, economic, social and cultural factors that impact digital rights. The benefit of this approach is that it provides a holistic perspective of the conditions and challenges that face people in the MENA region, and can support the development of future programs to address the main obstacles to protecting people's digital rights. Focus is given to governmental and corporate policies and practices that are creating unequal, non-inclusive, threatening environments for the use of digital technologies. With much of the focus of governments and companies being on how to utilize digital technologies to accumulate further resources and power, much of the media and academic institutions still failing to cover and study digital rights issues, dangers to people's digital rights in the MENA region continue to grow.

The legal framework in place to protect digital rights in Lebanon, Jordan, Morocco and Tunisia is not sufficient. While Tunisia has made significant strides in protecting the privacy of Tunisians by enshrining the right to privacy in the new

constitution, none of the other countries in this mapping have addressed the right to privacy in a way that sufficiently protects citizens. Instead, many vague and inconsistent laws have been passed which fail to adequately define and protect digital rights. This is of particular concern as there is a push by both governments and companies for citizens to utilize digital technologies to access basic services, like health and education. This situation has been made even more dire by the recent coronavirus pandemic, which has created a further necessity for citizens to be online and incentives for institutions, companies and organizations to digitize their work. There is a great risk that the push for digitalization will continue to outrun the push for legislation in the region, as has been the case globally, and that people in the MENA region will find that their rights are being increasingly violated.

This mapping sought to identify ways that Lebanon, Jordan, Morocco and Tunisia can potentially create a better environment for the protection of digital rights and human rights. Due to the limited publicly available information, the following was identified through extensive desk review of previous research studies and surveys, national data available and the survey and expert focus groups conducted as a part of this mapping:

1. **The Right to Access the Internet:** The focus of this chapter is on the digital infrastructure needed for citizens to be able to access the Internet. This includes access via computers, laptops and mobile devices, as well as access to different types of broadband and mobile internet services. The chapter also looks at the affordability of accessing the internet and understand what kind of digital divide exists amongst citizens and consider how this digital divide can be overcome.
2. **The Right to Privacy:** Several countries in this study have attempted to address issues related to the right to privacy, either through their constitutions, or other laws. This includes their right to privacy, including personal information, their online data and activity among other communications and correspondence. There is a particular attention paid to the increased use of surveillance technologies by both governments and companies to gain further resources, power and control of citizens as well as restrictions on the use of encryption and other protective measures that people can take to protect their right to privacy.
3. **The Right to Be Forgotten:** Most digital material remains retrievable on the web in the MENA regions, making people easily susceptible to surveillance. Although states like Tunisia and Jordan are ahead regarding the matter, where Tunisia was the first Arab country to discuss this right in the legal framework and as Jordan has declared partnership regarding human rights with the EU, the realistic measures regarding this right are absent in Lebanon and Morocco.
4. **The Right to Access Information:** Although Jordan and Tunisia have legislation that protects the right to access information legislation, there is a lack of

public awareness about how to use the right effectively. Nevertheless, advocacy efforts have been growing in the past years at the regional level as civil society, anti-corruption organizations, and journalists came together to support the adoption of access to information laws.

5. **The Right to Access the Digital Economy:** Accessing the digital economy is a key part of the development of the countries in this study. However, Lebanon is the only country to enact an e-commerce law. Similarly, Jordan also has sparse clauses that address e-commerce issues. However Tunisia and Morocco do not have any legal framework related to e-commerce which could better support the development of their countries.
6. **The Right to Freedom of Expression:** Even though freedom of expression is protected by the constitution, in all four countries, authorities have found ways to silence, sideline and punish voices of opposition and dissent by exploiting loopholes in the countries' penal and press codes, or creating exceptions using emergency and counter-terrorism laws. They have also expanded their control over ICT (Informations and Communications Technology) infrastructure as well as service providers, either through semi-governmental ownership (as evident in Tunisia and Jordan) or political influence and affiliation (as evident in Lebanon and Morocco). However, in all four countries and especially in Tunisia, civil society has been a key agent in combating such censorship, either through monitoring the state, protesting restrictive laws and policies and demanding reform.
7. **Hate Speech, discriminatin and sexual harassment:** Hatespeech, racism and gender based violence are growing in all countries studied, which is often made exceptionally challenging because of large populations of refugees in several of the countries studied. While there are some laws, such as in Tunisia that are focused on addressing racism and hate speech, these laws do not protect all minorities, especially people from LGBTQI+ communities. Other laws, such as the Cybercrime Law in Jordan criminalizes hate speech, but the definition of hate speech is vague and can easily be manipulated to silence dissidents. There are also very few laws protecting against gender based violence online.
8. **Fake News:** Since the beginning of the COVID-19 pandemic, unreliable and false information has been spreading around the world to a large extent. Tunisia and Jordan have enacted laws combating fake-news. However, broad definitions are usually found in these laws which are often viewed by human rights organizations as government attempts to restrict free speech. Other countries still lack a legal framework to protect the public from fake news and provide accurate evidence-based information. There have been, however, efforts by civil society to counter the spread of misinformation through fact-checking websites and initiatives.

## Recommendations

Chapter	Recommendation
Digital rights awareness and media literacy	There is a need to raise the awareness of the public, decision makers and power holders to better understand their digital rights and how they can be protected through policies and practices of government, media, civil society and educational institutions. There is also a need for investment in media literacy education, especially in rural areas in the region, which are generally disadvantaged.
Access to Internet	Internet access providers should respect net neutrality and be transparent about the traffic or information management policies and practices they employ. Policy makers and regulators should promote competitive and diverse broadband markets in order to reduce the cost of accessing the Internet. Internet access providers should invest in developing and expanding the infrastructure for providing access to the Internet at an affordable cost for average citizens with average income.
Access to Information	There is a need for governments to adopt laws that protect the right to access information and include minimal exceptions related to national security or public interest. Laws should enable anyone to submit requests for access to information without identifying themselves legally and with very minimal costs, if any, and to receive written responses within a maximum of 20 days. Those who infringe upon the right of people to access information should be subject to disciplinary and criminal sanctions.
Access to Digital Markets	There is a need to create a system of trust for online economic transactions. Governments also need to enact e-commerce laws that solidify a strong legal framework relating to consumer activity, new customer experiences, and created opportunities for large and small businesses, as well as for a new generation of retailers.
Privacy Laws	Governments should ensure that policy development, policies and practices regarding privacy and data are open to the public and engage multiple stakeholders. This includes establishing privacy laws, enforcement mechanisms and encouraging the development of codes of conduct and awareness raising programs for institutions and individuals that does not discriminate against anyone. In case of failures to comply with privacy laws, governments must provide adequate remedies.
Data protection	Privacy laws and guidelines or regulations related to personal data, must address how data is being collected, stored, processed and disseminated. Private companies must be transparent and disclose when institutions obtain personal data. Collection of data should be limited and obtained lawfully, with consent, and

	be a part of a privacy management programme that ensures protection of personal data. Individuals should, also, have the right to obtain information about their data.
National Security Laws and Surveillance	The laws relating to national security and public order should be known to the public. Surveillance and counter-terrorism policies and practices should be assessed for their compliance with international human rights norms and reformed accordingly. Governments should not weaken or undermine encryption standards, ban or limit users' access to encryption, or enact legislation requiring companies to provide encryption systems.
Digital ID	Digital ID should only be adopted on a voluntary basis when a secure technology infrastructure and cybersecurity framework is in place and should not be a requirement for people to access basic services. Minimum data should be collected and transferred to reduce the harm if data is compromised and biometric information should not be a requirement to receive aid or services.
Right to Be Forgotten	It is imperative that individuals have the right to erase data and their right to object to personal data processing against online databases. Users should be notified of their rights to their personal data, and have access to information regarding the right to be forgotten. Governments should also enact strong policies and regulations that protect this right .
Freedom of Expression	Governments should repeal all legislation that enables arbitrary and unbalanced restrictions on freedom of speech. Governments should also publish regular and accessible data disclosing the volume, nature, and purpose of all government requests made to companies affecting users' freedom of expression and privacy. Companies should be required by law to disclose meaningful and comprehensive information about the actions they take that may affect users' freedom of expression.
Racism, hate speech, gender based violence	Racism, discrimination, gender based violence online and cyberbullying, should be addressed by specific laws and implemented with the oversight of independent bodies. In particular, attention should be paid to how some laws actually further discrimination, by excluding people like members of the LGBTQI+ community.
Fake News	MENA governments need to develop crisis communication plans to provide an immediate response to disinformation. Governments should have transparent communication with the public. Media literacy in schools and campaigns to promote responsible information sharing practices, and define the responsibilities of technology companies in combating fake news, are necessary. Anti-fake news laws should be updated, in consultation with civil society ensuring laws protect the citizens without compromising their basic rights such as the right to freedom of expression.

## Introduction: Context Analysis of Digital Rights Environment

The rise of datafication<sup>8</sup> changed the way we think and perceive the world. Our communities are becoming increasingly digitized at an unprecedented rate. There is deep integration of new technologies, engendered *deep mediatization*<sup>9</sup> of digital technologies into society, which is being reshaped by reliance on datafication, and *datism*<sup>10</sup> articulation. Indeed, much attention has been given to the development of new technologies, with less focus placed on how these digital innovations have reshaped societies. Culture is fragile against the advent of these advances as technology has been always one of the main factors in cultural, societal, and social change<sup>11</sup>; we are technological beings, “we are artificial by nature”.<sup>12</sup> The digital culture, data capital, and digital labor force,<sup>13</sup> which characterize modern life, are normal manifestations of hyper-social digitalization, where the web has become a main tool used in community interaction. In such a digital environment, marked by increasingly powerful data-intensive technologies, new opportunities as well as new challenges for governments, citizens and institutions keep developing and rising.

The global Internet penetration rate reached 57 percent in 2019 while averaging between 59 percent to 67 percent in the Middle East and North Africa region (MENA) respectively.<sup>14</sup> In the coming years, however, these common units will become insignificant – as the entire digital universe is expected to reach 44 zettabytes by the end of 2020,<sup>15</sup> meaning there are 40 times more bytes than there are stars in the observable universe, resulting in double the amount of data in the digital universe

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<sup>8</sup> Datafication refers to the process by which subjects, objects, and practices are transformed into digital data. Associated with the rise of digital technologies, digitization, and big data. Datafication is intensifying as more dimensions of social life play out in digital spaces and renders a diverse range of information as machine-readable, quantifiable data for the purpose of aggregation and analysis. For more information visit: Southerton, Clare. (2020, April 4). Encyclopedia of Big Data: Datafication. Springer Link. Retrieved from: [https://link.springer.com/referenceworkentry/10.1007%2F978-3-319-32001-4\\_332-1](https://link.springer.com/referenceworkentry/10.1007%2F978-3-319-32001-4_332-1)

<sup>9</sup> Today we are living in an era not just of mediatization, but deep mediatization where every element of social process and social life is composed of elements that have already been mediated. This shifts the question of the media's 'influence' on the social into a higher-dimensional problem. For more information visit: Hepp, Andreas; Hasebrink, Uwe. (2018). “Researching Transforming Communications in Times of Deep Mediatization.” In: Andreas, Hepp; Andreas, Breiter; & Uwe, Hasebrink. (Edited).

Communicative Figurations. Transforming Communications – Studies in Cross-Media Research. London: Palgrave Macmillan. Pp. 15-48.

<sup>10</sup> “Dataism as a technique of knowing social action—human behavior being measured, analyzed, and predicted on the basis of large sets of metadata—but also as a faith in high-tech companies’ and government agencies’ intention to protect user data from exploitation. For more information visit: van Dijck, Jose. (2014). Datafication, dataism and dataveillance: Big Data; scientific paradigm and ideology. *Surveillance & Society*, 12(2), Pp. 197-208.

<sup>11</sup> Castells, Manuel. (1998). *End of Millennium*. Oxford: Blackwell Publishing.

<sup>12</sup> Drees, W.B, (2015). Naked Ape or Techno Sapiens?. Tilburg University. Retrieved from: [https://pure.uvt.nl/ws/portalfiles/portal/7281704/150008\\_oratie\\_prof\\_Drees\\_web.pdf](https://pure.uvt.nl/ws/portalfiles/portal/7281704/150008_oratie_prof_Drees_web.pdf)

<sup>13</sup> People also labor physically as part of the digital knowledge economy. There is a massive digital labor force involved in the physical production of digital devices. For more information visit: Lupton, Deborah. (2014). *Digital sociology*. England: Routledge.

<sup>14</sup> Statista. (2020). Internet penetration rate in the Middle East compared to the global internet penetration rate from 2009 to 2019. Retrieved from: <https://www.statista.com/statistics/265171/comparison-of-global-and-middle-eastern-internet-penetration-rate/>

<sup>15</sup> Tardieu, Hubert; et al. (2020). “The Birth of Digital—A Brief History of Digital Technologies.” In *Deliberately Digital: Rewriting Enterprise DNA for Enduring Success*. New York: Springer International Publishing. Pp. 3-7.

every 2 years. Today, unbeknownst to most people, for every person on earth, it is estimated that 1.7 MB of data is being created or *secreted* every second.<sup>16</sup> As a result of such an unprecedented flow of info-production, societies and their governments are being forced to face an unprecedented scale of questions and challenges related to digital rights and regulation. Artificial Intelligence (AI) and big data represent the most powerful data-intensive technologies with the potential to create an intrusive digital environment. In such an environment, both authorities and data-business enterprises are given free range to conduct illegal surveillance, analysis, and predictions of behavior, as well as manipulate people's personal digital traces and behavior to an unprecedented degree.<sup>17</sup>

Digital rights are fundamental human rights in the digital space.<sup>18</sup> The same rights that individuals enjoy offline must also be protected online.<sup>19</sup> Not all rights are absolute, and some rights are at risk of certain limitations and restrictions to balance competing rights and interests,<sup>20</sup> where some are milestones and inalienable; referred to as "blue rights",<sup>21</sup> or the first-generation rights.<sup>22</sup> Privacy, freedom of expression, information security, expansion of civic space, and access constitute an extension of equal and inalienable rights enshrined by international laws,<sup>23</sup> and declarations,<sup>24</sup> which affirm the digital rights of citizens, both online and offline.<sup>25</sup> The concept of rights in modern societies requires governance and law in an ethical and legislative framework that protects these rights without over-mediation and authoritarian surveillance, whilst keeping democratization of information -access and management.

The protection of human rights remains of central importance to all socio-economic, political, ideological, and technological advancements and movements. As intermediary platforms improve their ability to facilitate information sharing, collaboration, and creation, access to private information and basic digital

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<sup>16</sup> DOMO.(2018). Data Never Sleep 6.0. Retrieved in 2020, December 10), from:

[https://www.domo.com/assets/downloads/18\\_domo\\_data-never-sleeps-6+verticals.pdf](https://www.domo.com/assets/downloads/18_domo_data-never-sleeps-6+verticals.pdf)

<sup>17</sup> UN. (2018). The right to privacy in the digital age : Report of the United Nations High Commissioner for Human Rights. Retrieved in (2020, December 8), from: <https://undocs.org/A/HRC/39/29>

<sup>18</sup> UN General Assembly. (1966) International Covenant on Civil and Political Rights. Retrieved in (2020, November 13), from: <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

<sup>19</sup> Ibid.

<sup>20</sup> Article 19. (2016). UNHRC: Significant resolution reaffirming human rights online adopted. Retrieved from: <https://www.article19.org/resources/unhrc-significant-resolution-reaffirming-human-rights-online-adopted/>

<sup>21</sup> UN. (1977). First-generation human rights. Retrieved in (2020, December 8), from: <https://www.unescwa.org/first-generation-human-rights>

<sup>22</sup> Ibid

<sup>23</sup> UN Human Rights Committee (UNHRC). (2011). General comment no. 34, Article 19, Freedoms of opinion and expression. Retrieved in (2020, November 13), from: <https://www.refworld.org/docid/4ed34b562.html>

<sup>24</sup> International Telecommunications Union. (2011). Measuring the information society. Retrieved in (2020, November 13), from: <https://www.itu.int/net/pressoffice/backgrounders/general/pdf/5.pdf>

<sup>25</sup> UN Human Rights Council. (2018). The promotion, protection and enjoyment of human rights on the Internet : resolution / adopted by the Human Rights Council on 5 July 2018. Retrieved in (2020, December 2), from: <https://digitallibrary.un.org/record/1639840?ln=en>

human rights are increasingly at risk of *digital authoritarianism*<sup>26</sup>, both in the MENA region and around the world. In the face of such threats to individual liberties, there is a growing movement working to ensure the protection of digital rights and to “liberate the digital futures of their millions of tech-savvy youth.”<sup>27</sup> This movement also seeks to restrain digital authoritarianism, *as much as possible*, in order to create a *new reality*, one where new judicial, legislative, and enacting reforms create a digital environment protective of individual and group rights. However, the centralization of the management of web content in the MENA region jeopardizes the decentralized nature of the web and contaminates *social digital spaces*.

Furthermore, authorities and information companies are actively using their influence, alliance, and ever-advancing technologies benefiting from enacting customized domestic laws in which they expand their control and access to both the public communication shared online and user’s personal information, in an unprecedented manner, which violates digital human rights. Citizens must understand how their data is used by companies, governments, and technology giants; particularly, regarding whether their personal information shared online is dealt with fairly and accurately, or is sold or shared without users’ consent. This requires a great deal of attention to be given to further development and implementation of international and domestic laws designed to ensure data justice,<sup>28</sup> and privacy at a time when societies are, generally, subject to collective surveillance by institutions, authorities and governments. However, it must also be considered that the digital rights issues facing the countries included in this mapping; Lebanon, Jordan, Tunisia, and Morocco are associated with political instability, sensitive security considerations, and a fragile economic situation, which make it difficult for these countries to sufficiently address digital rights violations and develop effective legislative frameworks and the environment for the protection of digital rights.

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<sup>26</sup> Yayboke, Erol.; Brannen, Samuel. (2020, October 15). Promote and Build: A Strategic Approach to Digital Authoritarianism: Center for Strategic and International Studies. Retrieved from:

<https://www.csis.org/analysis/promote-and-build-strategic-approach-digital-authoritarianism>

<sup>27</sup> Langendorf, Manuel. (2020). Digital stability: How technology can empower future generations in the Middle East. European Council on Foreign Relations. Retrieved from:

[https://ecfr.eu/publication/digital\\_stability\\_how\\_technology\\_can\\_empower\\_future\\_generations\\_middle\\_east/](https://ecfr.eu/publication/digital_stability_how_technology_can_empower_future_generations_middle_east/)

<sup>28</sup> The term “data justice” means: fairness in the way people are made visible, represented and treated as a result of their production of digital data – is necessary to determine ethical paths through a datafying world. For more information visit: Taylor, Linnet. (2017). What is data justice? The case for connecting digital rights and freedoms globally. **Big Data & Society**, 4(2), Pp. 1-14.

## ***Lebanon***

The focus group conducted in Lebanon noted that it is a strength of the Lebanese digital rights environment that there is respect for freedom of expression and opinion. However, there is a concern among participants that there is a lack of awareness amongst the public of digital rights. It was emphasized that part of this problem is due to a lack of media coverage about digital rights related issues and that politics continue to dominate the media and news, but that these politicians lack the political will to address digital rights related issues.

Additionally, the participants expressed that they feel that they live under surveillance and that governments and companies violate citizens' digital rights and that the Lebanese Internal Security Forces (ISF) are using technology that is far superior to any of the protective measures that a citizen takes. This included the ISF's collection of information from protestors at many protests. This included mass data collection at protests, and many activists reported that if their phones were turned on during the protest that their data was captured and used by the government to arrest and prosecute them. Furthermore, Lebanon has no independent oversight and lacks a mechanism for documenting digital rights violations. There is also a lack of resources for education in Lebanon and as a result, basic media literacy and awareness of digital rights and human rights are not included in the educational system, making it even harder to communicate with the public about digital rights issues.

In regards to Lebanon, a number of opportunities to increase the country's digital rights and rights to information are possible. This includes an urgent need for the government to develop a legislative framework that is in line with international norms and standards. There is also an urgent need for the government to work to make accessing the Internet affordable. The participants proposed amending all digital and electronic rights laws to standardize and regulate the digital environment. updating schools and universities curriculum to include digital rights and digital security, especially during these times of the global pandemic and online. However, it is well known that there is a lack of political will and resources, to address the digital rights issues, including education and digital literacy.

## ***Jordan***

In the focus group from Jordan, digital rights were strongly associated with the right to access information, the right to privacy, and the right to freedom of expression. There was also an emphasis on having the right to access the Internet without government restrictions and the need for equal access to the internet and digital technologies. 90 percent of the participants expressed concern over the lack of definition of digital rights in Jordan and that the public is largely unaware of their digital rights. According to participants' speculations, no more than 50 percent of Jordanians are aware of their digital rights. Participants named a number of different

institutions and organizations including the Jordanian parliament, Ministry of education, ministry of media, academics, Journalists, civil society and human rights activists, who share a role and responsibilities in protecting Jordanian human rights.

The majority of the participants (90 percent) believe that their personal data is being collected and that their privacy is being constantly violated; however, only 30 percent of participants attributed this to the inadequacy of the Jordanian Cybercrime Law. 50 percent of the participants consider that the vague nature of the Cybercrime Law enables digital rights violations to occur. In order to reach a better situation in terms of digital rights in Jordan, three actions are recommended to be taken; Amending and ratifying the draft data protection law, decreasing the cost of being online, and raising awareness in digital literacy especially when it comes to children's education.

### ***Tunisia***

Participants in the digital focus group (2018) conducted in Tunisia believe that the lack of a legal definition of digital rights in Tunisia law is making it difficult to address rights violations. However, the new constitution of 2014 enshrines the state's obligation to protect the personal data of Tunisians and citizens' right to privacy. Another strength is the Law of 2004, which resulted in the creation of the Tunisian data protection authority ('INPDP'), constitutional right and other laws relating to other instances oblige them to protect personal data such as the law regulating the Independent High Authority for Elections (ISIE), (The Truth and Dignity Commission).

The main weaknesses and threats are represented by the absence of political will to include digital rights issues as priorities. Additionally, there is a large digital divide in Tunisia, which was one of the main concerns of participants. The focus group participants believed that there is poor awareness of digital rights amongst Tunisians and recommended that the government, academic institutions, and civil society should work to raise awareness about digital rights and how people can protect them online. In addition, participants argued that there are consistent violations of the law of 2004, data processing without declaration or authorization, collection and communication of personal data without informed consent, transfer of data abroad without consent or authorization, and finally, that the Tunisian data protection authority staff is "incompetent" and insufficient.

## **Morocco**

The current environment, regulations, and institutions in Morocco, still need to be developed and adapted to the technological development of the rapidly changing world. Government bodies, parliament, constitutional institutions and entities, the private sector, civil society organizations as well as social media activists, all share the responsibility to develop the digital rights scene. It is necessary for there to be regulations of the digital space, but without restrictions on the use of the internet and social media that should continue to be accessible to everyone.

**The Right to**

**Access the Internet**

## **Right to Access the Internet**

The right to access the Internet is being widely recognized as a human right and is one of the underlying means to enjoy our human rights in the offline and online world. This right includes two main dimensions: the right to access the physical infrastructure of information and communications technology required for accessibility to the Internet itself, and the right to access content online. The right to access the Internet therefore can not be discriminatory on the grounds of race, color, sex, gender, language, religion, political or another opinion, national or social origin, property, birth or status, including ethnicity, age or sexual orientation. Authorities must also ensure that access to the Internet is widely available for all, including vulnerable and marginalized groups or people in remote areas.<sup>29</sup>

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<sup>29</sup> 7amleh – The Arab Center for Social Media Advancement. (2020). Know Your Digital Rights: A Guide for Palestinians to Their Human Rights Online. Retrieved from:  
[https://7amleh.org/storage/Research%20and%20Position%20Papers/Digital\\_Rights\\_English.pdf](https://7amleh.org/storage/Research%20and%20Position%20Papers/Digital_Rights_English.pdf)

## **Lebanon**

In January 2020, the Internet penetration rate in Lebanon reached 78 percent with 5.35 million Internet users. This makes a decrease by 0.2 percent between 2019 and 2020.<sup>30</sup> Social media penetration stood at 60 percent with 4.10 million social media users, signaling an increase by 6.8 percent (261 thousand) since April 2019.<sup>31</sup> Around 68 percent of the Lebanese population use mobile phone connections and 78 percent use fixed Internet connections as of early 2020.<sup>32</sup> The number of mobile connections in Lebanon by 2020 was equivalent to 68 percent of the total population with 4.65 million mobile connections recorded in January, marking an increase by 1 percent since 2019.<sup>33</sup> As for fixed-broadband subscriptions, the latest available statistic was recorded in 2019, by the World Bank, 420 thousand subscriptions were reported as of the beginning of the year.<sup>34</sup>

In Lebanon, the state retains a monopoly over the ICT (Information and Communications Technology) infrastructure and the telecommunications industry. The entirety of the Internet and telephone network is owned by OGERO (Organisme de Gestion et d'Exploitation de l'ex Radio Orient) which is completely run by governmental actors, and from which all other Internet Service Providers in Lebanon must purchase their services.<sup>35</sup> In 2017, OGERO had 41 percent of the ICT market share with 290,000 of 700,000 subscribers.<sup>36</sup>

As a result of such monopoly, in addition to other factors, the Internet in Lebanon remains slow and expensive. The average download speed in 2020 stood at 6.75 Mbps on fixed-broadband, and 40.07 Mbps for mobile subscriptions.<sup>37</sup> As for prices, Lebanon has expensive communications services, ranking at fourth-most expensive in the MENA region and 128th in the world.<sup>38</sup> Subscription prices are decided by the government, and private service providers cannot adjust them without

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<sup>30</sup> Kemp, Simone. Digital 2020 Lebanon. Retrieved from: <https://datareportal.com/reports/digital-2020-lebanon#:~:text=The%20number%20of%20internet%20users,at%2078%25%20in%20January%202020>.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> The World Bank. (2020). Fixed broadband subscriptions (per 100 people). Retrieved from: <https://data.worldbank.org/indicator/IT.NET.BBND.P2>

<sup>35</sup> Murray, Livia. (2015, April 8). Four reasons Lebanon's Internet is so slow. Executive Magazine. Retrieved from: <https://www.executive-magazine.com/economics-policy/four-reasons-lebanons-internet-is-so-slow>

<sup>36</sup> Republic of Lebanon Telecommunications Regulatory Authority. (2011). Facts and Figures. Retrieved from: <http://www.tra.gov.lb/Market-Data-Facts-and-figures>;

Ghanem, Rania. (2017, August 11). Service providers reduce Internet charges 50 percent. Business News. Retrieved from: <http://www.businessnews.com.lb/cms/Story/StoryDetails/6187/Service-providers-reduce-Internet-charges-50-percent>

<sup>37</sup> MEX. (2018). Mobile Internet speeds up the Arab countries, but fixed broadband lags behind. Retrieved from: <https://smex.org/mobile-internet-speeds-up-arab-countries-but-fixed-broadband-lags-behind/>

<sup>38</sup> MGM Research. (2019). Worldwide Mobile Data Pricing Rankings 2019. Retrieved from: <https://mgmresearch.com/worldwide-mobile-data-pricing-rankings-2019/>;

Cable.co.uk. (2020). Worldwide mobile data pricing: The cost of 1GB of mobile data in 230 countries. Cable. Retrieved from: <https://www.cable.co.uk/mobiles/worldwide-data-pricing/#map>

a decree by the Ministry of Telecommunications.<sup>39</sup> In 2017, the Consumer Protection Association reported that in Lebanon, the cost of a package of communications from a cell phone, fixed phone, and the Internet for 24 hours/day, costs at least \$1,500 USD. The same package costs no more than \$26USD in France.<sup>40</sup>

This also reflects at the level of infrastructure. Lebanon's telecommunications infrastructure is especially weak. In 2019, the Global Connectivity Index ranked Lebanon as the 63rd (out of 79 countries) in terms of ICT development.<sup>41</sup> In Beirut, the average fixed-Internet speed is 7.8 MB/s, as compared to the global average of 38.3 MB/s.<sup>42</sup> 3G coverage is relatively poor in several areas and less than 10 percent of mobile phone users can benefit from the 4G/LTE connections.<sup>43</sup>

Leaders have indicated a commitment to develop the country's ICT sector. The Minister of Telecommunications unveiled in 2011, a plan that would ensure that by 2020, Lebanon's telecommunication infrastructure will be refurbished and rehabilitated, with a guarantee of fiber optic connections across the country, by 2020.<sup>44</sup> Despite the available installation of the fiber-optic network and its connection to the central offices, it does not ultimately connect the offices to the end-user, where copper infrastructure is still used. The CEO of Inconet Data Management S.A.L (the first Internet access company in Lebanon), Maroun Chammas, explained that fiber optic services were never designed to be used for the entire country's Internet traffic, but rather to handle billing and back-office traffic of OGERO.<sup>45</sup> There was no mention of the Minister's project this year and its website is no longer working.<sup>46</sup>

In addition to this attempt to improve infrastructure, in recent years, several ministers of communications have tried to take steps to reduce the fees of both land and cell phone calls.<sup>47</sup> However, the usage of phone subscriptions only accounts for less than 40 percent of the actual cost, while the remaining 60 percent is accounted for by taxes and semi-taxes.<sup>48</sup>

In 2018, yet another attempt was made. In June, the campaign named "FTTx " which aimed to bring internet connection speeds of at least 50Mbps to areas through

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<sup>39</sup> Freedom House. (2017). Freedom on the Net 2017 Lebanon. Retrieved from: <https://www.refworld.org/docid/5a547d2ba.html>

<sup>40</sup> Ibid.

<sup>41</sup> Global Connectivity Index. (2020). Shaping the New Normal with Intelligent Connectivity. Retrieved from: <https://www.huawei.com/minisite/gci/en/index.html>

<sup>42</sup> Testmy.net. (2020). Speed Comparison Beirut. Retrieved from: [https://testmy.net/city/beirut\\_lb](https://testmy.net/city/beirut_lb)

<sup>43</sup> Global Connectivity Index. (2020). Shaping the New Normal with Intelligent Connectivity. Retrieved from: <https://www.huawei.com/minisite/gci/en/index.html>

<sup>44</sup> "Minister Boutros Harb Launches the 2020 Plan," Republic of Lebanon Ministry of Telecommunications, July 2015, Retrieved from: <http://www.mpt.gov.lb/index.php/ar/2013-02-17-13-15-34/mpt-news-ar/50-latest/373-2015-07-01-15-17-30>

<sup>45</sup> Ibid.

<sup>46</sup> Website Down. Retrieved from: <https://lebanonvision2020.com/>

<sup>47</sup> Republic of Lebanon Telecommunication Regulatory Authority. Annual reports. Retrieved from: <http://www.tra.gov.lb/Annual-reports>

<sup>48</sup> Samaha, Maya. (2018). Lebanon... One of the Highest Cellular Bills in the World. Al Akhbar. Retrieved from: [https://al-akhbar.com/Finance\\_Markets/256131](https://al-akhbar.com/Finance_Markets/256131)

fiber-optic cables was started. This followed a highly publicized campaign in February 2018, when OGERO announced its new “national Internet strategy,” when the Council of Ministers had administered \$100 million for fiber-optic cable development for OGERO in 2017.<sup>49</sup>

The vitality of digital and technological skills has been evident for a long while, however in these times, the Corona-virus pandemic has made it all the more urgent to enhance Internet access through the improvement of infrastructure, and importantly, combatting digital literacy. In 2020 and 2021, due to the rising complaints on the quality of Internet services and connections during online classes, several teachers and students alike began opting out of the e-learning process entirely.<sup>50</sup>

However, some NGOs and social enterprises have successfully adopted online learning programs, even before the COVID-19 pandemic, setting hopeful examples for potential improvement in Lebanon. These first include Tabshoura, a platform created by the Lebanese Alternative Learning for free e-learning platforms for students from kindergarten to middle school, which is run in coordination with the Ministry of Education.<sup>51</sup> This collaboration allows the platform to provide learners with Arabic, English, and French education in alignment with the Lebanese curriculum. Some social enterprises as well, such as Synkers, are also altering and accommodating their technologies and launching online tutoring programs as a means of providing the necessary means of assistance for the duration of this crisis.<sup>52</sup>

There are many reasons for such high rates of digital illiteracy in Lebanon and the Arab World which include the cost of subscription and routers devices.<sup>53</sup> However matters are improving, as can be seen in the overall literacy rate in Lebanese adults, including digital literacy, reached 95 percent, compared to the 90 percent rate in the previous year.<sup>54</sup>

Since 2014, the International Communication Division of the Freie Universität Berlin has supported the Media and Digital Literacy Academy in Beirut at the Lebanese American University (LAU). This project was funded by the Deutscher Akademischer Austauschdienst (DAAD) and aimed to combat illiteracy in the digital and media sectors in the MENA region. Additionally, the Deutsche Welleakademie has implemented digital literacy development programs with its local partners, such as

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<sup>49</sup> Freedom House. (2019). Freedom on the Net 2019. Retrieved from:

<https://freedomhouse.org/country/lebanon/freedom-net/2019>

<sup>50</sup> UNESCO. (2020). Regional Conference on Literacy and Adult Education in the Arab Region: Challenges and Opportunities.

Retrieved from:

<https://en.unesco.org/news/regional-conference-literacy-and-adult-education-arab-region-challenges-and-opportunities>

<sup>51</sup> Tabshoura. (2020). What is Tabshoura?. Retrieved from: <http://www.tabshoura.com/>

<sup>52</sup> Capgemini. (2020). Digital Literacy in the Times of COVID. Retrieved from:

<https://www.capgemini.com/2020/09/digital-literacy-in-the-times-of-covid/>

<sup>53</sup> Ibid.

<sup>54</sup> Data Reportal. (2020). Digital 2020 Lebanon. Retrieved from:

<https://datareportal.com/reports/digital-2020-lebanon#:~:text=There%20were%205.35%20million%20internet.at%2078%25%20in%20January%202020.>

the media and digital literacy programs which have been developed at the LAU Institute of Media Research and Training.<sup>55</sup>

In 2018, the DW Akademie promoted information and digital literacy in Lebanon through a project called “MIL 4 Peace in Lebanon.” This project aimed to aid young individuals, adults, and parents in developing their media skills and combat digital illiteracy.<sup>56</sup> Between 2018 and 2019, Project Someone, in partnership with five NGOs delivered a series of workshops to battle digital illiteracy and enhance the capacity of the Lebanese community.<sup>57</sup> This workshop series mainly targeted Syrian and Palestinian refugees, individuals with special needs, women, and children, and consisted of four main workshops which explain the rights, and responsibilities of digital citizens, enhance digital media literacy skills, clarifying the use and dangers of social media, and aim to develop digital empathy.<sup>58</sup> Another academy that provides digital training and knowledge is the Media Digital Literacy Academy of Beirut (MDLAB), with a focus on combating digital illiteracy. According to MDLAB, digital literacy programs were introduced to 40 universities and 12 schools in the Arab region.<sup>59</sup>

Notably, the global pandemic in 2020, is increasing the need and importance of technological knowledge, in particular, due to the need for access to online learning and work platforms, widely used during national periods of closure and lockdown. Several governmental and non-governmental initiatives and projects were initiated, tailored, or amended in order to support e-learning, and digital literacy. These include programs funded by the European Union, Arab Thoughts foundation, Kiron, UNESCO, ESCWA, Coursera, Ministry of Higher Education and Ministry of Labor.

In addition to progress on MIL, The Lebanese government has taken several initiatives in order to implement digital and e-governance, such as e-health, e-cadastre, and e-taxation services.<sup>60</sup> Between 2002 and 2003, for instance, The Office of the Minister of State for Administrative Reform created an e-government vision as well as a national e-strategy. Later in 2013, the e-government ‘e-gov.gov.lb’ was introduced.<sup>61</sup> The Ministry of Foreign Affairs has also implemented a Web-based interactive system to ensure the safety of the information, in addition to creating an application aimed at updating Lebanese expatriates about Lebanon’s news.<sup>62</sup>

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<sup>55</sup> The Media and Digital Literacy Academy of Beirut (MDLAB). (2017). Media, Youth and Radicalization. Retrieved from: <http://imrt.lau.edu.lb/sites/default/files/pdf/Media%20Youth%20and%20Radicalization.pdf>

<sup>56</sup> DW Akademie. (2018). Media Literacy for Young People in Lebanon. Retrieved from: <https://www.dw.com/en/media-literacy-for-young-people-in-lebanon/a-42071194>

<sup>57</sup> Ibid.

<sup>58</sup> Project Someone. (2019). Digital Literacy in Lebanon. Retrieved from: <https://projectsomeone.ca/digitalliteracy>

<sup>59</sup> MDLAB. (2020). Home. Retrieved from: <https://mdlab.lau.edu.lb/>

<sup>60</sup> The Daily Star. (2018). Lebanon Waits for E-Government. Retrieved from: [https://www.zawya.com/mena/en/economy/story/Lebanon\\_waits\\_for\\_egovernment-DS06052016\\_dsart-350794/](https://www.zawya.com/mena/en/economy/story/Lebanon_waits_for_egovernment-DS06052016_dsart-350794/)

<sup>61</sup> Fakhoury, Rania, and Aubert, Benoit. (2015). Citizenship, Trust and Behavioral Intentions to Use Public E-Services: The Case of Lebanon. *International Journal of Information Management*, 35(3). Pp. 346-351.

<sup>62</sup> Nashed, Mat. (2016, May 6). Lebanon Waits for E-Government. The Daily Star. Retrieved from: <https://www.dailystar.com.lb/Business/Local/2016/May-06/350794-lebanon-waits-for-e-government.ashx>

Additional flagship initiatives in the past years such as the electronic registry extract have been issued by the ministry of interior and municipalities.<sup>63</sup>

A 2020 report by the United Nations, revealed that all regions, even in minimally-developed countries, have made progress with regard to e-governance and e-services, with 22 percent promoting high development of e-governments.<sup>64</sup> Lebanon had moved from a high to middle electronic government development index<sup>65</sup> and is the only Asian country to exhibit a downward movement.<sup>66</sup>

## **Jordan**

Until January 2020, there were 6.78 million Internet users in Jordan and Internet penetration in Jordan stood at 67 percent.<sup>67</sup> Since 2019, the number of Internet users in Jordan increased by 79 thousand (+1.2 percent). Similarly, social media users increased to 5.70 million in 2020 and social media penetration stood at 56 percent. This marked a 7.4 percent increase specifically by 394 thousand users, since 2019. There were 8.23 million mobile connections, equivalent to 81 percent of the total population.<sup>68</sup> As for broadband subscriptions, they are still relatively low. This is because Jordan is still working on deploying its national fiber based broadband network, while the majority of subscribers still use DSL services. In 2020 Umniah and JEPCO (local telecommunications providers) partnered to work on the network. Notably, Jordan's Internet infrastructure improved significantly after 4G LTE services were launched in 2015.<sup>69</sup> Nearly 90 percent of Jordan's population is now reached by 4G LTE infrastructure, and both download and upload speeds nearly tripled between 2015 and 2017.<sup>70</sup>

In Jordan, as of 2020, a monthly home broadband subscription usually costs from JOD (Jordanian Dinar) 16 (\$22) for a data allowance of 75 GB to JOD 26 (\$37) for an allowance of up to 1,000 GB.<sup>71</sup> On the other hand, monthly mobile Internet prices

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<sup>63</sup> Directorate General of Civil Status. (2020). Electronic Civil Registry Record. Retrieved from: <https://www.dgcs.gov.lb/arabic/ekhraj-al-kaid-electronic>

<sup>64</sup> United Nations Department of Economic and Social Affairs. (2020). E-Government Survey 2020. Retrieved from: [https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/2020%20UN%20E-Government%20Survey%20\(Full%20Report\).pdf](https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/2020%20UN%20E-Government%20Survey%20(Full%20Report).pdf)

<sup>65</sup> Lebanon ranked 127th worldwide with respect to its e-government development index, and 148th worldwide with respect to its e-participation index. For more information visit: <https://publicadministration.un.org/egovkb/en-us/Data/Country-Information/id/94-Lebanon>

<sup>66</sup> United Nations Department of Economic and Social Affairs. (2020). E-Government Survey 2020. Retrieved from: <https://www.un.org/development/desa/publications/publication/2020-united-nations-e-government-survey>

<sup>67</sup> Datareportal. (2020). DIGITAL 2020 Jordan. Retrieved from: <https://datareportal.com/reports/digital-2020-jordan#:~:text=There%20were%206.78%20million%20internet.at%2067%25%20in%20January%202020.>

<sup>68</sup> Ibid.

<sup>69</sup> Freedom House (2019). Freedom on the Net 2019. Retrieved from: <https://freedomhouse.org/country/jordan/freedom-net/2019>

<sup>70</sup> Global System for Mobile Communications (GSMA). (2018). State of Mobile Internet Connectivity 2018. Retrieved from: <https://data.gsmainelligence.com/api-web/v2/research-file-download?id=33292545&file=State%20of%20Mobile%20Internet%20Connectivity%202018.pdf>

<sup>71</sup> Zain Jordan. Internet Service. Retrieved from: <https://www.jo.zain.com/english/Pages/BroadbandServices.aspx>

range from JOD 2 (US\$3) for a 600 MB plan to JOD 9 (US\$13) for 34 GB.<sup>72</sup> Interestingly, an annual survey conducted by the Department of Statistics of Jordan found that in 2017, 10.5 percent cited high costs as a reason for not accessing the Internet.<sup>73</sup> The survey also showed that cost is a barrier to access in rural areas, where 17.3 percent of residents do not access the Internet due to prices compared to 9.5 percent in urban areas.<sup>74</sup> However, prices for Internet service went down in recent years due to competition, yet taxes on the service increased from 8 to 16 percent in 2017.<sup>75</sup> These taxes remain a considerable barrier for many low-income users.<sup>76</sup>

On top of high costs, this digital divide has been worsened due to additional factors. According to 2016 data from the Pew Research Center, a “real and pervasive” demographic divide was found to exist among Internet users in Jordan. 75 percent of individuals between 18 and 34 years of age use the Internet, only 57 percent of individuals older than 35 do. The digital divide is based on the level of education: 96 percent of people with “more education” (secondary education or above) use the Internet, while only 41 percent of Jordanians with “less education” (below secondary education) effectively use the internet.<sup>77</sup> The report also showed the connection between income and access, with 80 percent of those with higher income using the Internet, compared to 50 percent of those with lower income.<sup>78</sup> Furthermore, the Jordanian Economist Intelligence Unit’s 2019 Inclusive Internet Index found a gender gap in Internet and mobile phone access, as well. Women’s access to the Internet is 5.1 percent higher than men’s, while men’s access to mobile phones is 6.9 percent higher than women’s.<sup>79</sup>

In an effort to bridge this divide, local providers such as Zain and Umniah offer the Facebook Flex plan, which provides access to Facebook’s Free Basics initiative that enables users to access a limited group of websites for free.<sup>80</sup> Furthermore, main operators provide cheaper plans for governorates outside Amman. The government has also tried to reduce the gap, through Media and Information Literacy (MIL) programs. The Jordanian government has in fact included MIL as part of a

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<sup>72</sup> Zain Jordan. Mobile Internet Plans. Retrieved from: <https://www.jo.zain.com/english/pages/default.aspx>

<sup>73</sup> Central Bank of Jordan. (2018). Financial Inclusion Diagnostic Study in Jordan 2017, Synthesis Report. Retrieved from: <https://www.cbj.gov.jo/EchoBusv3.0/SystemAssets/PDFs/2018/Financial%20Inclusion%20Diagnostic%20Study%20in%20Jordan%202017.pdf>

<sup>74</sup> Ibid.

<sup>75</sup> Poushter, J. (2020, July 24). Internet access grows worldwide but remains higher in advanced economies. Retrieved March 02, 2021, from <https://www.pewresearch.org/global/2016/02/22/internet-access-growing-worldwide-but-remains-higher-in-advanced-economies/>

<sup>76</sup> Ibid.

<sup>77</sup> Poushter, J. (2020, July 24). Internet access grows worldwide but remains higher in advanced economies. Retrieved March 02, 2021, from

<https://www.pewresearch.org/global/2016/02/22/internet-access-growing-worldwide-but-remains-higher-in-advanced-economies/>

<sup>78</sup> Poushter, J. (2020, July 24). Internet access grows worldwide but remains higher in advanced economies. Retrieved March 02, 2021, from

<https://www.pewresearch.org/global/2016/02/22/internet-access-growing-worldwide-but-remains-higher-in-advanced-economies/>

<sup>79</sup> Ibid.

<sup>80</sup> Freedom House. (2019). Freedom on the Net 2019. Retrieved from: [https://freedomhouse.org/country/jordan/freedom-net/2019#footnote6\\_0aip1uw](https://freedomhouse.org/country/jordan/freedom-net/2019#footnote6_0aip1uw)

two-year plan to establish the “Right to Know” as a protected right for its citizens. In order to achieve this objective, the government launched the ‘You Have the Right to Know’ platform in 2018, which is a platform designed to support MIL initiatives conducted by grassroots organizations. Due to the novelty of MIL in the country, one should note that these initiatives are widely varying in their specific focus and exist across several types of organizations and sectors.

## **Tunisia**

In Tunisia, access to the physical infrastructure required to access the Internet, has been on a steady and continuous increase. This is shown in the annual and monthly reports released by the National Telecommunications Authority of Tunisia. In 2020, the Internet penetration rate reached 64 percent with 7.55 million Tunisian Internet users.<sup>81</sup> This marked an increase by 0.06 percent since 2019 and by around 20 percent over the span of the past four years.<sup>82</sup> Interestingly, due to this growth in the number of users accessing the Internet, in Tunisia there was a decrease in the number of cybercafés in the country.<sup>83</sup> More specifically, in 2020, there were 1.23 million fixed-broadband subscriptions and 9 million mobile data subscriptions -- 435,500 of which were subscriptions to third-generation (3G) and fourth-generation (4G) USB keys and 119,400 machine-to-machine communication (M2M) subscriptions, with phone plans as the remaining percentage.<sup>84</sup> Naturally, this growth was also mirrored at the level of social media, as social media penetration in Tunisia stood at 62 percent in January 2020, with 7.3 million social media users. This represents a 6.9 percent increase (473 thousand users) since April 2019.

As the number of people using the Internet grew, so has the quality of Internet services and technologies. First, the main mobile operators in Tunisia obtained the 4G license for the first time on March 3, 2016, following a call for tenders launched by the Ministry of Communication Technologies.<sup>85</sup> Further, in 2019, Minister Anouar Maarouf announced that Tunisia is preparing to install, in 2021, the 5th generation (5G) of mobile networks, due to the fact that the country has now developed the necessary infrastructure for the realization of this technology.<sup>86</sup> Similar development took place in relation to the Internet speed as well. Specifically, in 2020, only 34 percent of asymmetric digital subscriber line users had Internet connections slower

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<sup>81</sup> Kemp, Simone. (2020). Digital 2020: Tunisia. Retrieved from: <https://datareportal.com/reports/digital-2020-tunisia>

<sup>82</sup> Ibid.

<sup>83</sup> Ibid

<sup>84</sup> The National Telecommunications Authority of Tunisia. (2020). Tableau de Bord Mensuel Data Mobile. Retrieved from: [http://www.intt.tn/upload/files/TB4\\_Data-Mobile%20-04\\_2020.pdf](http://www.intt.tn/upload/files/TB4_Data-Mobile%20-04_2020.pdf)

<sup>85</sup> Tunisia - Telecommunications Equipment/Services. (2019). Export.gov. Retrieved from: <https://www.export.gov/apex/article?id=Tunisia-Telecommunications-Equipment-Services>

<sup>86</sup> La presse. (2019). Réseaux mobiles en Tunisie: la 5ème génération (5G) débarque d’ici 2021. Retrieved from: <https://lapresse.tn/25874/reseaux-mobiles-en-tunisie-la-5eme-generation-5g-debarque-dici-2021/>

than 8 Mbps, while 66 percent had speeds between 8 and 16 Mbps, in comparison to 2019 when only 55.7 percent had access to higher speeds.<sup>87</sup>

Internet access in Tunisia is relatively affordable compared with other countries in the MENA region. In 2019, ISP (Internet service provider) prices were between 10.5 dinars (\$4) a month for a speed of 4 Mbps<sup>22</sup> and 25 dinars (\$9) for a speed of 20 Mbps. A monthly 4G subscription plan costs 13.5 dinars (\$5) for a 5G data allowance per month and up to 45 dinars (416) for a 55G data allowance per month. For a postpaid monthly 4G subscription plan was 25 dinars (\$9) for a 25GB data allowance, and a 55 GB plan cost 50 dinars (\$18). Companies, additionally, offer a variety of packages and data capacities; however those who live in the rural areas, away from major cities tend to have less options in terms of operators and coverage. This is mainly because it is less profitable for private firms to invest in their areas and in Tunisia, Internet services are primarily provided by the private sector. The telecommunications market is very concentrated, and the government has limited control over the Internet through its ownership stakes in the country's major tech companies. However, the Tunisian government, and the National Authority of Telecommunications (INT), the main regulator of this market, has nonetheless been working to address this urban-rural divide, through infrastructure and tax reduction programs.<sup>88</sup>

The government's most notable effort in this regard is manifested in the "Coverage of White Areas" plan that the government announced in 2017.<sup>89</sup> This 5-year-long plan aims to provide Internet access to Tunisians in rural areas. These areas have long lacked digital infrastructure due to their low population density which makes any network investment unprofitable for private firms. These "White Areas" amount to 94 sectors, spread over 47 delegations, in 15 governorates. Particularly, it is expected that there are 164 schools, 59 basic health centres and 180,000 inhabitants that will benefit from this project. It was taken on by Tunisie Telecom in November 2017 and by the end of 2018, 60 percent of the project had been completed. In April 2019, the Ministry of Telecommunication and Digital Economy gave 12 university campuses and 19 technology colleges fiber-optic cables and Wi-Fi outdoor service.<sup>90</sup> In May 2020, Mohamed Fadhel Kraiem, the Minister of Communications Technologies and Digital Transformation, said that 90 percent of the white zones have been covered: 163,000 inhabitants, 132 educational establishments, and 49 health centers now have broadband Internet access.<sup>91</sup>

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<sup>87</sup> The National Telecommunications Authority of Tunisia. (2020). Tableau de Bord Mensuel Data Mobile. Retrieved from: [http://www.intt.tn/upload/files/TB4\\_Data-Mobile%20-08\\_2020.pdf](http://www.intt.tn/upload/files/TB4_Data-Mobile%20-08_2020.pdf)

<sup>88</sup> Ibid

<sup>89</sup> Ministry of Communication Technologies Tunisia. (2020). Projet de couverture des zones blanches. Retrieved from: [https://www.mtcen.gov.tn/index.php?id=119&L=0&tx\\_ttnews%5Btt\\_news%5D=4049&cHash=11d45942db63b2d23cb217987770dd1b](https://www.mtcen.gov.tn/index.php?id=119&L=0&tx_ttnews%5Btt_news%5D=4049&cHash=11d45942db63b2d23cb217987770dd1b)

<sup>90</sup> Ibid.

<sup>91</sup> Tunisie Haut Debit. (2020). Ecoles connectées et Wallet Digital: le ministre des TIC défend ses réalisations à l'ARP. Retrieved from: <https://thd.tn/ecoles-connectees-et-wallet-digital-le-ministre-des-tic-defend-ses-realizations-a-larp/>



## **Morocco**

As of January 2020, Internet penetration in Morocco reached 69 percent with 25.32 million users, which marked an increase by 13 percent (2.9 million users) since 2019.<sup>92</sup> Between 2010 and 2018, the rate grew from 52 percent to 65 percent according to the International Telecommunications Union (ITU). As for social media, the penetration rate reached 49 percent in 2020 with 18.00 million social media users, marking an 11 percent increase since 2019.<sup>93</sup> Further, as of the beginning of 2020, there were 43.35 million mobile connections in Morocco, equivalent to 118 percent of the total population.<sup>94</sup> Notably, 92 percent of Morocco's population uses mobile phones and of those users, 73 percent are smartphone users, 86 percent of those individuals use their smartphones to access the Internet.<sup>95</sup> As for fixed broadband Internet subscriptions, in 2019 there were 1.7 million subscriptions which marked a 12 percent increase since 2019.<sup>96</sup> Between 2005 and 2019, fixed broadband subscriptions in Morocco grew from 249,138 to 1.75 million rising at an annual rate that reached its maximum (57.29 percent) in 2006.<sup>97</sup>

Internet speeds in Morocco have also increased. According to the 2019 Inclusive Internet Index, Morocco's mobile Internet download speeds reached an average of 13 Mbps, while mobile upload speeds average at 7.5 Mbps, up 17.7 percent and 19 percent, respectively, from the 2018 index.<sup>98</sup> In terms of fixed-broadband speeds, the average download speed is 15.5 Mbps, while upload speeds average 2.7 Mbps, up 50.3 and 45.2 percent respectively, from the 2018 index. There are three main providers operating in the market in Morocco. At the end of 2017, Itissalat Al-Maghrib held 42.1 percent of the mobile fleet followed by Orange (34.8 percent) and Inwi Corporate (23.1 percent).<sup>99</sup> In terms of costs, the Internet is still expensive for the vast majority of the Moroccan population.<sup>100</sup> In a 2020 report by the Freedom on the Net, the US based organization Freedom House assessed that Internet use in Morocco is "partly free".<sup>101</sup>

In terms of infrastructure, around 10,000 kilometers of fiber-optic backbone belong to Maroc Telecom (partially owned by the state). The National Railways Office (ONCF) and National Office of Electricity and Water (ONEE), also own 2,000 and 4,000

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<sup>92</sup> FreedomHouse. (2020). Key Internet Controls. Retrieved from:

<https://freedomhouse.org/report/freedom-net/2020/key-internet-controls>

<sup>93</sup> Datareportal. (2020). Digital 2020: Morocco. Retrieved from: <https://datareportal.com/reports/digital-2020-morocco>

<sup>94</sup> Ibid

<sup>95</sup> National Telecommunications Regulatory Agency (ANRT). (2017). Annual Report 2017. Retrieved from:

[https://www.anrt.ma/sites/default/files/rapportannuel/rapport\\_annuel\\_20](https://www.anrt.ma/sites/default/files/rapportannuel/rapport_annuel_20)

<sup>96</sup> Knoema. (2020). World Data Atlas. Retrieved from:

[Knoema.com/atlas/Morocco/topics/Telecommunication/Telecomm-Services/Fixed-broadband-subscriptions](https://www.knoema.com/atlas/Morocco/topics/Telecommunication/Telecomm-Services/Fixed-broadband-subscriptions)

<sup>97</sup> Ibid.

<sup>98</sup> The Inclusive Internet. (2019). Morocco, Inclusive Internet Index. Retrieved

from: <https://theinclusiveinternet.eiu.com/explore/countries/MA/>

<sup>99</sup> National Telecommunications Regulatory Agency. (2017). Annual Report 2017. Retrieved from:

[https://www.anrt.ma/sites/default/files/rapportannuel/rapport\\_annuel\\_2017\\_vf.pdf](https://www.anrt.ma/sites/default/files/rapportannuel/rapport_annuel_2017_vf.pdf)

<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

kilometers of infrastructure respectively.<sup>102</sup> The state controls both entities.<sup>103</sup> Further, in 2015 and following a tendering process, Morocco's three operators were awarded 20-year LTE licenses. In turn, the three firms were expected to pool an additional Dh860m (€79.6m) to be invested in the reorganization of the nation's spectrum. Furthermore, they were given until 2020 to establish the necessary 4G capacity and coverage to service 65 percent of the population. The three players were also requested to provide an average downloading speed of at least 2 Mbps for 90 percent of Moroccans.

The Moroccan government has also developed several programs over the years to improve the country's ICT infrastructure. In 2018, the government released "General Guidelines for the Further Development of the Telecommunications Sector" by the end of the year.<sup>104</sup> This 2018 program describes plans to increase high-speed connections throughout the country, reinforce the existing framework, and provide universal access.<sup>105</sup> In 2020, Morocco ranked 106 of 193 in the UN E-Government Development Index, and E-Participation Index.<sup>106</sup> Nonetheless, in spite of such development, and even after the PC and tablet became two essential parts of most Moroccan households where half of the urban households have more than one device and 60 percent of people have access to a computer,<sup>107</sup> there is still a large divide between urban and rural households who make up 38.7 percent of the overall population.<sup>108</sup>

According to the most recent annual report from the National Telecommunications Regulatory Agency (ANRT), those who live in cities are more likely to have Internet access than rural inhabitants, with internet penetration at 67 percent in urban areas compared with 43 percent in rural areas, which is well above the continent's average.<sup>109</sup> While many people in rural households have access to electricity and radio and electricity, most do not have access to phone lines and high-speed Internet. Further, the high rate of illiteracy among rural Moroccans (47.5 percent) and especially among rural women (60.1 percent) constitutes a second

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<sup>102</sup> Ibid.

<sup>103</sup> Gelvanovska, Natalija; Rogy, Michel; & Rossotto, Carlo Maria. (2014). *Broadband Networks in the Middle East and North Africa: Accelerating High-Speed Internet Access*. Washington, D.C.: The World Bank.

<sup>104</sup> ANRT. (2019). *Annual Report 2019*. Retrieved from: <https://www.anrt.ma/publications/notes-dorientations-generales>

<sup>105</sup> Ecofin Agency. (2018). *Morocco's Telecom regulator elaborates actions to develop the sector in its 2019-2022 general guidance paper*. Retrieved from: <https://www.ecofinagency.com/telecom/0712-39396-moroccos-telecom-regulator-elaborates-actions-to-develop-the-sector-in-its-2019-2022-general-guidance-paper>

<sup>106</sup> UN. (2020). *UN E-Government Knowledge Base*. Retrieved from:

<https://publicadministration.un.org/egovkb/en-us/data/country-information/id/115-morocco>

<sup>107</sup> National Telecommunications Regulatory Agency. (2016). *The annual National Survey of Information Technology and Communication*. Retrieved from: [https://www.anrt.ma/sites/default/files/publications/Enquete\\_TIC\\_2015\\_fr.pdf](https://www.anrt.ma/sites/default/files/publications/Enquete_TIC_2015_fr.pdf)

<sup>108</sup> Haut-Commissariat Au Plan. (2018). *Annuaire Statistique du Maroc 2017*. Retrieved from: <https://www.hcp.ma/file/206110/>.

<sup>109</sup> Lancaster, Henry. (2020). *Morocco - Telecoms, Mobile and Broadband - Statistics and Analyses*. Retrieved from: <https://www.budde.com.au/Research/Morocco-Telecoms-Mobile-and-Broadband-Statistics-and-Analyses>

major obstacle in the way of Internet accessibility.<sup>110</sup> Overall, the “functional illiteracy rate” in Morocco is among the lowest in the MENA region, as it has reached an average of 27 percent.<sup>111</sup> However, digital illiteracy in Morocco is even more prevalent than functional illiteracy<sup>112</sup>, and eradicating the former does not always mean erasing the latter. In fact, erasing digital illiteracy can be a prerequisite to erasing regular illiteracy. This has especially been true even since the outburst of the Covid-19 pandemic. Due to the rapidly infectious nature of the virus, Morocco, like other countries, urgently resorted to distance learning in place of traditional schools and classrooms, which has made any access to education fully dependent on the digital realm.<sup>113</sup> But on a positive note, this also presents an opportunity to not only continue education to combat regular illiteracy, but to simultaneously combat digital illiteracy while doing so, as the digital world is becoming more present and necessary in every citizen’s life more than ever before.<sup>114</sup>

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<sup>110</sup> Haut-Commissariat Au Plan. (2020). Démographie – Maroc. Retrieved from: <http://rgphentableaux.hcp.ma/Default1/>

<sup>111</sup> The World Bank. (2019). Literacy rate, adult total (% of people ages 15 and above) - Morocco.

Retrieved from: <https://data.worldbank.org/indicator/SE.ADT.LITR.ZS?locations=MA>

<sup>112</sup> Hatim, Yahia. (2020). Moroccan Intellectual Abdallah Laroui Extolls Importance of Literacy. Retrieved from:

<https://www.morocoworldnews.com/2020/01/290869/moroccan-intellectual-abdallah-laroui-importance-literacy/>

<sup>113</sup> Housseine, Bashirs; Salhi, Rabha. (2020). The Need of Distance Learning in the Wake of COVID-19 in Morocco. IJLLS.

Retrieved from: <https://ijlls.org/index.php/ijlls/article/view/326/142>

<sup>114</sup> Ibid.

# The Right to Privacy

## Right to Privacy

The right to privacy is a well-established human right that is protected under international human rights law. Article 17 of the International Covenant on Civil and Political Rights states that “no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence,” and that “everyone has the right to the protection of the law against such interference or attacks.”<sup>115</sup>

The right to privacy, including data protection, is increasingly becoming fundamental for the exercise of related human rights online.<sup>116</sup> The July 2015 appointment of the first UN Special Rapporteur on the Right to Privacy in the Digital Age reflects the rising importance of privacy in global digital policy, and the recognition of the need to address privacy rights issues on both global and local levels.<sup>117</sup> Nonetheless, there remains a significant shortage of national legislation and enforceable global standards for privacy and data-protection rights over the Internet. Users have few if any means to enforce their privacy and personal data-protection rights, even when recognized by legislation.<sup>118</sup>

Concerns have been raised about the use of digital data to engage in racial and other types of profiling that may lead to discrimination, over-criminalization, and other restrictions. In this era of big data, there are major policy challenges in determining the right way to use data to improve health, wellbeing, security, and law enforcement. Finding the right balance between the collection of information for the public good continues to struggle to, at the same time, ensure positive use of this data does not infringe on people’s rights to privacy, fairness, equality, and freedom of speech.<sup>119</sup>

The development of new technologies for collecting and processing data has made humanitarian action more efficient, while at the same time poses several challenges in the use of this data. Indeed, humanitarian action is characterized by the multiplicity of stakeholders such as state actors, humanitarian organizations, both local and international, as well as several various service providers. Generally, these actors have different nationalities and are therefore subject to different data protection laws, making the applicable law in these types of transactions sometimes

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<sup>115</sup> UN General Assembly. (1966). International Covenant on Civil and Political Rights. Retrieved from: <https://www.refworld.org/docid/3ae6b3aa0.html>

<sup>116</sup> 7amleh – The Arab Center for Social Media Advancement. (2020). Know Your Digital Rights A Guide for Palestinians to Their Human Rights Online. Retrieved from: [https://7amleh.org/storage/Research%20and%20Position%20Papers/Digital\\_Rights\\_English.pdf](https://7amleh.org/storage/Research%20and%20Position%20Papers/Digital_Rights_English.pdf)

<sup>117</sup> OHCHR. (2019). OHCHR and privacy in the digital age. Retrieved from: <https://www.ohchr.org/en/issues/privacy/sr/pages/srprivacyindex.aspx#:~:text=In%20July%202015%2C%20the%20Human.on%20the%20right%20to%20privacy.>

<sup>118</sup> Mishra, Neha. (2019). Privacy, Cybersecurity, and GATS Article XIV: A New Frontier for Trade and Internet Regulation? *World Trade Review*, 19 (3), Pp. 341-364. Retrieved from: <https://ssrn.com/abstract=3383684>

<sup>119</sup> Laplante, Phillip. (2013). Who’s afraid of big data?. *IT Professional*, 15(5), Pp.6–7;

Crawford, Kate; Schultz, Jason. (2014). Big data and due process: toward a framework to redress predictive privacy harms. *Boston College Law Review*, 55(1), Pp.93–128.

difficult to determine. Also, humanitarian organizations are under strong pressure from governments to share their data.<sup>120</sup> Unfortunately, sharing data collected during humanitarian actions could have disastrous consequences as in armed conflicts such as the identification of victims, which could potentially lead to further violations of their rights and continued victimization. Misused elements such as private health information, or the ethnic or/and religious specificities of certain groups, identified by humanitarians to adapt their intervention, can expose these populations to targeted attacks.

## **Lebanon**

In Lebanon there is a minimal legal framework for the protection of privacy. Instead, the legal framework gives the government a comprehensive mandate for implementing surveillance. Article 14 of the Lebanese Constitution “ensures the inviolability of the home,” but it is unclear if this applies to private communications.<sup>121</sup> The Telecommunications Interception Act of 1999 (Law 140/1999) protects the privacy of communications, but it has restrictions and fails to tackle modern forms of electronic communication.<sup>122</sup> Moreover, the law provides the government with the right to monitor communications if a judge permits access to the government agencies, or if the Ministries of Interior or of Defense submit a request to the Prime Minister for issues under the umbrella of “combating terrorism,” or that of “state security”.<sup>123</sup>

In 2002, Lebanon had initiated an electronic government initiative with the aim of establishing a Unique Identity Number, as a prerequisite to the Smart Card initiative. This identity card includes the individual’s parents’ names, palm-prints, fingerprints, facial recognition, and criminal history.<sup>124</sup> More recently in 2017, the Lebanese government had begun administering “digital residence permits,” which are similar to biometric passports except for being issued for residents rather than citizens.<sup>125</sup>

Lebanese security agencies are also known to have used invasive spying softwares. The Electronic Frontier Foundation published a report in 2018 revealing the existence of “hundreds of gigabytes of infiltrated data,” that must have violated the

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<sup>120</sup> L’Association francophone des autorités de protection des données personnelles (AFAPDP). (2016). Protection des données dans l’humanitaire: des préoccupations partagées et une recherche de solutions communes. Retrieved from: <https://www.afapdp.org/archives/3258>

<sup>121</sup> RefWorld. (2018). Freedom on the Net 2018 - Lebanon. Retrieved from: <https://www.refworld.org/docid/5be16b09a.html>

<sup>122</sup> Lebanon Telecommunications Law: Law 431/2002. Retrieved from: <https://ppp.worldbank.org/public-private-partnership/library/lebanon-telecommunications-law-law-431-2002>

<sup>123</sup> Ibid.

<sup>124</sup> Privacy International; Social Media Exchange; and the Association for Progressive Communication. (2015). The Right to Privacy in Lebanon: Stakeholder Report Universal Periodic Review. 23rd Session, Lebanon. Retrieved from: [https://www.upr-info.org/sites/default/files/document/lebanon/session\\_23\\_-\\_november\\_2015/js22\\_upr23\\_lbn\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/document/lebanon/session_23_-_november_2015/js22_upr23_lbn_e_main.pdf)

<sup>125</sup> Social Media Exchange. (2018). State of Privacy, Lebanon. Retrieved from: [https://smex.org/wp-content/uploads/2018/02/State\\_of\\_Privacy\\_01\\_18.pdf](https://smex.org/wp-content/uploads/2018/02/State_of_Privacy_01_18.pdf)

basic privacy rights of Lebanese citizens.<sup>126</sup> The seemingly intriguing advancement in technology lacks the proper data protection legislation, which will evidently impair the regulation and hinder the true objectives of the biometric information of citizens.

In 2019, the Lebanese government also repeatedly requested user account information from companies like Google, Twitter, and Facebook. In recent years, the cabinet has also passed acts giving the security agencies temporary but unconstrained access to all telecommunications metadata. Alfa and Touch companies are compelled to submit because they are owned by the government.<sup>127</sup>

In 1999, Lebanon became the first country in the Arab world to introduce a legal structure for intercepting communication, under the Telecommunication Interception Act in December 1999, also known as Law 140/1999, and eventually adopted into law in 2009.<sup>128</sup> This law states that “any violation of secrecy or privacy is highly restricted, and communication secrecy is a matter of utmost importance and must not be breached unless an emergency arises or a judicial/administrative order is obtained.”<sup>129</sup> Therefore, internal, external, wired, or wireless means of communication are protected by this law. In criminal cases, Articles (2) and (3) of the Law authorize the intervention by court order, given that the interception duration does not exceed two months, and that the means of communication and subject of the investigation and procedure are provided. Moreover, either the Minister of Interior or the Minister of Defence may also intercept communication to fight against terrorist individuals, groups and organizations, after the aforementioned specifications have been stated and written approval of the Prime Minister has been obtained, according to Article (9).

In theory, this law seemingly provides the essential safeguards and right to privacy, however. In practice, systematic failures and deficiencies to abide by this law pose a direct and potent threat to the Lebanese citizens’ right to privacy. For instance, in 2014 when the Lebanese government authorized the full, unlimited, and unrestricted access of the Internal Security Forces to the electronic communications data of every citizen of Lebanon for six months.<sup>130</sup> This was a violation of Article (9) of the Law 140/1999 since it does not allow for an inspection of more than two months, and the entire population of the four million Lebanese citizens cannot be a suspect of a crime.<sup>131</sup> This also violated article (16) that obliges the Prime Minister to obtain

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<sup>126</sup> Lookout; Electronic Frontier Foundation. (2018). Dark Caracal Cyber-espionage at a Global Scale. Retrieved from: [https://info.lookout.com/rs/051-ESQ-475/images/Lookout\\_Dark-Caracal\\_srr\\_20180118\\_us\\_v.1.0.pdf](https://info.lookout.com/rs/051-ESQ-475/images/Lookout_Dark-Caracal_srr_20180118_us_v.1.0.pdf)

<sup>127</sup> Facebook Transparency (2019). Lebanon. Retrieved from: <https://transparency.facebook.com/government-data-requests/country/LB>; Twitter Transparency. (2019). Lebanon. Retrieved from: <https://transparency.twitter.com/en/countries/lb.html>.

<sup>128</sup> Global Voices Advox. (2014). Law 140: Eavesdropping on Lebanon. Retrieved from: <http://globalvoicesonline.org/2014/04/11/law-140-eavesdropping-on-lebanon>

<sup>129</sup> Social Media Exchange. (2019). New Report: Analyzing Freedom of Expression Online in Lebanon in 2018. Retrieved from: <https://smex.org/new-report-analyzing-freedom-of-expression-in-lebanon-in-2018-2/>

<sup>130</sup> Global Voices Advox. (2014). Law 140: Eavesdropping on Lebanon. Retrieved from: <https://advox.globalvoices.org/2014/04/11/law-140-eavesdropping-on-lebanon/>

<sup>131</sup> Ibid.

verification from an autonomous judicial panel before proceeding with any administrative decisions.

Several security agencies, labeled surveillance actors, are institutions with the authority to access an individual's information and data and conduct surveillance procedures. Such institutions include the General Directorate of General Security, founded in 1921 and overseen by the Ministry of Interior in 1959, the ISF and the Army Intelligence Directorate, which was founded in 1991, and reports directly to the Ministry of Interior under Law No. 17.<sup>132</sup> Yet in March 2014, the Cabinet had allowed the ISF and other agencies unlimited access to the communication information of Lebanese citizens for a period of six to twelve months. Later in October 2017, the Cabinet, once more, gave these security agencies complete access to the electronic communications of all Lebanese individuals for a shorter period of four months. On several occasions,<sup>133</sup> reports of infiltration of the Lebanese telecommunication network by the Israeli government have been disclosed<sup>134</sup>.

The Lebanese government demands registration for prepaid SIM cards and has led on the idea of enforcing biometric registration. Since September 2018, the Ministry of Telecommunications compels individuals to register their International Mobile Equipment Identity (IMEI) number, which links to their phone number, on a non-secure government website. The ministry referred to "security concerns" as the reason for this proposal, even before explaining how it would actually work as people routinely purchase SIM cards from stores.

Lastly, in 2017, the government proposed a plan to tax VoIP services. Although the government introduced it as a tax to increase revenue, it was likely designed to push individuals to use Lebanon's unencrypted mobile network.<sup>135</sup>

## **Jordan**

According to 7iber, a Jordan based citizen media and multimedia organization, many Jordanians believe that "someone is listening in" on their phone calls.<sup>136</sup> This perception is also carried over to the Internet, and many people believe that

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<sup>132</sup> Social Media Exchange. (2019). New Report: Analyzing Freedom of Expression Online in Lebanon in 2018. Retrieved from: <https://smex.org/new-report-analyzing-freedom-of-expression-in-lebanon-in-2018-2/>

<sup>133</sup> The Associated Press; Khoury, J. (2014, 6 September). Israel Detonates Spying Device in South Lebanon, Report Says. Haaretz. Retrieved from: <http://www.haaretz.com/news/diplomacy-defense/1.614343>

<sup>134</sup> EU Parliament. (2016). Fact-finding mission of the Budgetary Control Committee (CONT) To Jordan and Lebanon. Retrieved from: <https://www.europarl.europa.eu/cmsdata/116246/DOSSIER%20-%20CONT%20Mission%20to%20Jordan%20and%20Lebanon.%202020-23%20September%202016.pdf>

<sup>135</sup> Bitar, Lara. (2017). A Brief History of Personal Data Collection in Lebanon. Social Media Exchange Association (SMEX). Retrieved from: <https://smex.org/a-brief-history-of-personal-data-collection-in-lebanon/>

<sup>136</sup> 7iber. (2015). A glimpse into the perception of "digital privacy" in Jordan. Retrieved from: [https://www.7iber.com/wireless\\_research/a-glimpse-into-the-perception-of-digital-privacy-in-jordan/](https://www.7iber.com/wireless_research/a-glimpse-into-the-perception-of-digital-privacy-in-jordan/)

Jordanian security forces use surveillance and monitor online comments, labeling them by date, Internet protocol (IP) address, and location.<sup>137</sup>

The right to privacy is primarily protected by the Constitution. According to Article (18), electronic communications may not be intercepted or otherwise collected or viewed except by a judicial order in accordance with the provisions of the law<sup>138</sup>. Nonetheless, according to Article (29) of the Telecommunication Law, one of the license conditions requires ISPs to provide the necessary facilities to implement judicial and administrative requests related to the monitoring of communication. However, there is not any law specifically regulating the powers of law enforcement and intelligence agencies in relation to digital communications.<sup>139</sup>

Article (71) of the Telecommunications Law provides that anyone who spreads or discloses the content of any communication through a public or private telecommunications network, a telephone message or records without any legal reasoning shall be punished by imprisonment for a period of a month to a year, or handed a fine from JD100 to JD300<sup>140</sup>. Furthermore, Article (76) prohibits any person from intercepting, obstructing or altering the contents of a message carried through the telecommunications networks or encouraging others to do so.<sup>141</sup> The offense is punishable by imprisonment for a period of one to six months,<sup>142</sup> or by a fine of JD200, or both penalties.<sup>143</sup>

Since early 2010, reports have emerged of an increased reliance on communications surveillance, including repression of dissent, as more charges derived from surveillance are being pressed against activists.<sup>144</sup> In 2016, the TRC blocked an attempt by Jordanian mobile service providers to impose fees on the use of VoIP services.<sup>145</sup> However, providers then blocked users from making free or inexpensive calls using services like WhatsApp and Viber, while Messenger, Telegram, and Skype remained accessible.

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<sup>137</sup> 7iber. (2015). A glimpse into the perception of “digital privacy” in Jordan. Retrieved from:

[https://www.7iber.com/wireless\\_research/a-glimpse-into-the-perception-of-digital-privacy-in-jordan/](https://www.7iber.com/wireless_research/a-glimpse-into-the-perception-of-digital-privacy-in-jordan/)

<sup>138</sup> Ibid.

<sup>139</sup> LOC. (2016). Government Access to Encrypted Communications. Retrieved from:

<https://www.loc.gov/law/help/encrypted-communications/gov-access.pdf>

<sup>140</sup> WIPO. (2012). Telecommunications Regulatory Commission Jordan, Telecommunications Law NO. (13) of 1995. Retrieved from: <https://www.wipo.int/edocs/lexdocs/laws/en/jo/jo056en.pdf>

<sup>141</sup> Internet Legislation Atlas. Surveillance and data protection Jordan. Retrieved from:

<https://internetlegislationatlas.org/#/countries/Jordan/frameworks/surveillance>

<sup>142</sup> Article (71) of the telecommunications act: Anyone who publishes or disseminates the content of any communication via a public or private communication network or a telephone message, covet it. By virtue of his position, or if he registers him without legal basis, he shall be punished with imprisonment for a period of not less than one year and not more than one year, or with a fine Not less than (100) dinars and not more than (300) dinars, or both penalties. For more information visit: <https://www.wipo.int/edocs/lexdocs/laws/en/jo/jo056en.pdf>

<sup>143</sup> Internet legislation atlas. Surveillance and data protection Jordan. Retrieved from:

<https://internetlegislationatlas.org/#/countries/Jordan/frameworks/surveillance>

<sup>144</sup> Shukkeir, Yahia. (2014). Confiscating the carrier pigeon: Jordan’s response to online surveillance. Retrieved from:

[https://giswatch.org/sites/default/files/confiscating\\_the\\_carrier\\_pigeon.pdf](https://giswatch.org/sites/default/files/confiscating_the_carrier_pigeon.pdf)

<sup>145</sup> Freedom House. (2019). Freedom on the Net 2019. Retrieved from:

[https://freedomhouse.org/country/jordan/freedom-net/2019#footnote6\\_0aip1uZ](https://freedomhouse.org/country/jordan/freedom-net/2019#footnote6_0aip1uZ)

Furthermore, the government amended Article (2) to add the term “applications” to the definition of an information system, meaning that smart phone apps, such as WhatsApp, Viber, and others, would be subject to mass surveillance, which can restrict freedom of expression. In addition, Articles (11) and (13) now penalize defamation online and give the government the power to confiscate, suspend, and search personal computers and other information systems, thereby violating individuals’ right to privacy.<sup>146</sup>

The legislative framework for privacy, surveillance and electronic media began to change in 2012, as an additional requirement introduced that a court order is required in order to survey communications of the citizens<sup>147</sup>. Further, the amended Press and Publication Law (No. 32) of 2012<sup>148</sup>, addressed journalism for the first time and began to require journalists to register and be licensed. Furthermore, the press is also held legally accountable under both the Amended Combating Terrorism Law No. (18) Which was passed in 2014, as well as the Cybercrime Law No. (27), which was first passed in 2015 and later modified in 2017 and 2018.<sup>149</sup>

Currently, Telecommunications Law still allows communications to be monitored through a judicial or administrative request.<sup>150</sup> New amendments to the Press and Publication Law that were bypassed in 2012<sup>151</sup> made electronic media owners and their employees "subject to the responsibility of the intermediary" and "responsible for maintaining a record of all posted user comments for a period of at least six months."<sup>152</sup>

In May 2018, the Jordanian Ministry of Transportation published new instructions for licensing ride-hailing apps, such as Uber and Careem, which allow the ministry, as well as judicial and security bodies, access to the companies’ servers and

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<sup>146</sup> Access Now. (2019). Cybercrime law in Jordan: pushing back on new amendments that could harm free expression and violate privacy. Retrieved from: <https://www.accessnow.org/cybercrime-law-in-jordan-pushing-back-on-new-amendments-that-could-harm-free-expression-and-violate-privacy/>

<sup>147</sup> CPJ. (2018). CPJ Submission to the United Nations Universal Periodic Review of the Hashemite Kingdom of Jordan. Retrieved from: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5526&file=EnglishTranslation>

<sup>148</sup> WIPO. (2012). Telecommunications Regulatory Commission Jordan, Telecommunications Law NO. (13) of 1995. Retrieved from: <https://www.wipo.int/edocs/lexdocs/laws/en/jo/jo056en.pdf>

<sup>149</sup> Al Adwan, Taher. (2017). **Confrontation by Writing: From My Files in Politics and Journalism**. Beirut: The Arab Foundation for Studies and Publishing.

<sup>150</sup> Article 29 of the Telecommunication Law: that the licensee should commit to provide the necessary facilities to the competent authorities for the implementation of court and administrative orders that has to do with tracking communications specified in these orders. For more information visit: <https://www.wipo.int/edocs/lexdocs/laws/en/jo/jo056en.pdf>

<sup>151</sup> Article 4 of Anti-Terrorism Law: If the Prosecutor General received reliable information indicating that a person or group of persons is connected to any terrorist activity, the Prosecutor General can impose surveillance over the residence of the suspect, his movements, and his means of communication. For more information visit: [https://ihl-databases.icrc.org/ihl-nat/a24d1cf3344e99934125673e00508142/4d39e76935f76f4fc125767e00320698/\\$FILE/Anti-Terrorism%20Law.PDF](https://ihl-databases.icrc.org/ihl-nat/a24d1cf3344e99934125673e00508142/4d39e76935f76f4fc125767e00320698/$FILE/Anti-Terrorism%20Law.PDF)

<sup>152</sup> 7iber; IRCKHF. (2015). Digital Privacy in Jordan: Perceptions and Implications among Human Rights Actors. Retrieved from: <https://www.7iber.com/research/a-glimpse-into-the-perception-of-digital-privacy-in-jordan/>

databases without a court order.<sup>153</sup> With the data from the companies, the government can track the movements and activities of users.

In 2019, the government continued work on a draft data protection law that purposes to regulate how personal data is collected, used, and published. The latest draft of the law, however, does not ensure the objectivity and transparency of the proposed Data Protection Authority (DPA) which is supposed to be developed by members of the government and the security forces, among others.<sup>154</sup>

Since 2010, cybercafés have been obliged to install security cameras to monitor customers. Café owners are required to retain the browsing histories of users for at least six months. Authorities claim that these restrictions are necessary for security reasons. Although enforcement is somewhat lax, once-thriving cybercafé businesses are now in decline due to the restrictions, as well as increased access to personal Internet connections.<sup>155</sup>

According to a 2019 report published by the London-based ImpACT International for Human Rights Policies and Access Now, some of Jordan's ISPs clearly violate customers' privacy by collecting intrusive user information without prominently disclosing that fact or explaining how the data are used.<sup>156</sup> Additionally, clauses within mobile phone contracts give Jordanian companies the right to terminate service should customers use their phones in any way that is "threatening to public morals or national security."<sup>157</sup>

The Jordanian situation is relatively better where there have been no reports of limitations on virtual private networks (VPNs) and other evasion tools or limits on encryption, but anonymous communication is prohibited. Cybercafé customers must provide personal identification information before they use the Internet. SIM Card registration is mandatory for all mobile phone users. In 2018, the TRC announced that a biometric system for mobile and Internet SIM card registration would be established, requiring users to submit their fingerprints.<sup>158</sup>

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<sup>153</sup> Jordan Open Source Association (JOSA). (2018). Amendments on the regulations of transport applications allows mass surveillance of passengers. Retrieved from: <http://opinions.jordanopensource.org/post/208>

<sup>154</sup> Advox. (2019). Data protection policy void threatens privacy rights of citizens and refugees in Jordan. Retrieved from: <https://advox.globalvoices.org/2019/12/30/data-protection-policy-void-threatens-privacy-rights-of-citizens-and-refugees-in-jordan/>

<sup>155</sup> International Freedom of Expression Exchange. (2010, August 18). Cyber crime law attacks free expression; Internet cafés monitored. Retrieved from: <https://www.i-policy.org/2010/08/cyber-crime-law-attacks-free-expressio...>

<sup>156</sup> ImpACT International; Accessnow. (2020). Jordan ISPs Violate Customers' Privacy. Retrieved from: <https://www.accessnow.org/cms/assets/uploads/2019/11/privacy-study-on-Jordan-Eng.pdf>

<sup>157</sup> Eye on Media. (2013, December 25). Declining Freedom, Restrictions on the Internet and a Financial Crisis. Retrieved from: <https://eyeonmediajo.net/episodes/%D8%A5%D8%B9%D9%84%D8%A7%D9%85-2013-%...>

<sup>158</sup> Telecommunications Regulatory Commission. (2018). TRC Tender No.2/2018 for the Procurement of SIM Card Biometric Registration and Verification System. Retrieved from: <https://trc.gov.jo/EchoBusv3.0/SystemAssets/PDF/AR/Tenders/tender22018-....>

There does not appear to be a formal encryption policy in Jordan. A National Cipher Centre was established to administer, monitor, plan, and enforce national strategic encryption policies, then produce localized national algorithms and keys. While the private sector has the flexibility to use its own cryptographic solutions, these solutions should not violate approved standards, policies, or strategic guidelines. Governmental organizations and the private sector need to use encryption along with other security measures to protect classified and critical information assets.

## **Tunisia**

In Tunisia the Right to Privacy has been given a constitutional value since the promulgation of the old Constitution in 1959.<sup>159</sup> Article 9 of the Constitution enshrined it as follows: "The inviolability of home, the secrecy of correspondence and the protection of personal data are guaranteed, except in the exceptional cases provided by law".<sup>160</sup> After a constitutional referendum on May 26, 2002, a new more specific provision was added to Article 9 concerning "personal data".<sup>161</sup> On this basis, a law on the protection of personal data was adopted on July 27, 2004 and is still in force.<sup>162</sup>

Following the departure of the Tunisian president Zine El Abidine Ben Ali in January 2011 after popular protests and the election of a National Constituent Assembly (NCA) on November 22, 2011, the old constitution was repealed and replaced by a new constitution drafted and promulgated on January 26, 2014.<sup>163</sup> The new constitution enshrined the right to privacy, as one of the fundamental rights that the state must protect. Additionally, on May 24, 2019, Tunisia became the thirtieth country to sign the Convention for the Protection of Individuals with regard to automatic processing of personal data that protects the right to privacy of individuals.<sup>164</sup> Beyond constitutional amendments, the Ministry of Communication Technologies and the Digital Economy has launched several public consultations with key agents in the public and private sectors and civil society as well as independent experts to give an advisory opinion on a draft law for a new code governing the digital space.<sup>165</sup>

The Tunisian government has a number of ways to monitor the Internet and many journalists often argue that the government is unlawfully practicing

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<sup>159</sup> Jurisite Tunisie. (1959). Tunisia's Constitution of 1959. Retrieved from: <https://urlz.fr/dJh9>

<sup>160</sup> World Intellectual Property Organization (WIPO). (1959). The Constitution of Tunisia, 1959. Retrieved from: <https://www.wipo.int/edocs/lexdocs/laws/en/tn/tn028en.pdf>

<sup>161</sup> UN Human Rights Committee (HRC). (2007). Consideration of reports submitted by States parties under article 40 of the Covenant. Retrieved from: <https://www.refworld.org/docid/5645a2a54.html>

<sup>162</sup> AFAPDP. (2004). Organic law no. 2004-63 relating to protecting personal data. Retrieved from: <https://urlz.fr/dJhm>

<sup>163</sup> Constitute Project. (2019). Tunisia's Constitution of 2014. Retrieved from: [https://www.constituteproject.org/constitution/Tunisia\\_2014.pdf](https://www.constituteproject.org/constitution/Tunisia_2014.pdf)

<sup>164</sup> Web Manager Center. (2019). La Tunisie signe la Convention 108 du Conseil de l'Europe sur la protection des données personnelles. Retrieved from: <https://urlz.fr/dJiz>

<sup>165</sup> MTCEN. (2018). Consultation Publique « Un code pour une Tunisie Numérique ». Retrieved from: [https://www.mtcen.gov.tn/index.php?id=226&tx\\_ttnews%5Btt\\_news%5D=3646&cHash=f517fec7da726f80e154fdda7e84950](https://www.mtcen.gov.tn/index.php?id=226&tx_ttnews%5Btt_news%5D=3646&cHash=f517fec7da726f80e154fdda7e84950)

surveillance.<sup>166</sup> Since 2001, the government has also been working to limit the ability of citizens to use encryption, which is essential for many journalists and activists. Articles 9 and 87 of the 2001 telecommunications code prohibit the use of data encryption and dictate a penalty of up to five years in prison for unofficial use of encryption for any kind of data.<sup>167</sup>

The Tunisian parliament also passed an anti-terrorism law on August 7, 2015 which compromises articles concerning surveillance. Indeed, it grants the intelligence services panoply of technical means and considerable power to intercept communications under the condition of obtaining the agreement of the judicial authority for a period of 4 months which is renewable once.<sup>168</sup> This law has attracted much criticism,<sup>169</sup> because of its weak capacity to ensure the protection of suspects' personal data and the possibility given to the Ministry of the Interior to commit abuses in the name of fighting terrorism or money laundering.<sup>170</sup>

In January 2019, the 2015 counterterrorism law was officially amended by the parliament.<sup>171</sup> Article 54 of the amended law requires security and intelligence services seeking to intercept communication of suspected terrorists to obtain judicial approval. Previously, judicial approval was required to specify the type of communication being collected in addition to the specific period of the surveillance and data collection, which could be no greater than four months and could only be extended once. Article 64 of the amended law changed the punishment of conducting surveillance and data collection to between one and five years in prison and a fine ranging from 1,000 to 5,000 dinar (approx. \$350 to \$1,750).<sup>172</sup>

In November 2013 Tunisia formed the Technical Telecommunications Agency (ATT) by decree No. 4506- 2013. This raised concerns among human rights and privacy groups, because of a lack of transparency surrounding the duties of the agency.<sup>173</sup> Human rights organizations such as Reporters Without Borders immediately called for the withdrawal of this decree, fearing that this agency would be a means of

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<sup>166</sup> Snjt. (2018). Report: Friday, 2 February 2018 The Tunisian Press in Rage. Retrieved from: <https://urlz.fr/6uQH>

<sup>167</sup> République Tunisienne. (2016). Code Des Télécommunications. Retrieved from:

<http://www.legislation.tn/sites/default/files/codes/telecommunication.pdf>

<sup>168</sup> Article. 57 (new) - In cases where the necessity of the investigation requires it, direct or digital infiltration can take place through a police officer with an assumed identity or by an informant recognized by the officers of the judicial police empowered to ascertain terrorist offenses. Infiltration in the two aforementioned cases is carried out by written and reasoned decision of the public prosecutor or the investigating judge at the judicial center for the fight against terrorism and under his control for a period not exceeding six months, renewable for the same duration and by a reasoned decision.

<sup>169</sup> Avocat sans frontières. (2016). Lutte contre le terrorisme et pratique judiciaires en Tunisie. Retrieved from:

[https://www.asf.be/wp-content/uploads/2017/02/ASF\\_TUN\\_RapportTerrorisme\\_201702\\_FR.pdf](https://www.asf.be/wp-content/uploads/2017/02/ASF_TUN_RapportTerrorisme_201702_FR.pdf)

<sup>170</sup> ROJ. (2016). Lutte contre le terrorisme et pratiques judiciaires en Tunisie: le procès équitable à l'épreuve. Retrieved from:

[https://www.asf.be/wp-content/uploads/2017/02/ASF\\_TUN\\_RapportTerrorisme\\_201702\\_FR.pdf](https://www.asf.be/wp-content/uploads/2017/02/ASF_TUN_RapportTerrorisme_201702_FR.pdf)

<sup>171</sup> Ibid.

<sup>172</sup> Ibid.

<sup>173</sup> IHRB. (2016). Freedom Online, Tunisia: Revolution and Revelations. Retrieved from:

<https://www.ihrb.org/focus-areas/information-communication-technology/commentary-freedom-online-tunisia-revolution>

reverting to illegal surveillance very common under the Ben Ali regime.<sup>174</sup> These concerns have persisted, and during the creation of the 2020 government, there were allegations from different political groups that the Ennahda party used the ATT to spy on the communications of its opponents.<sup>175</sup> In a plenary session at the parliament in February 2020, the Minister of Communication and Digital Economy denied all allegations, indicating that the ATT met the terms of judicial authorizations.<sup>176</sup> However, the Minister of the Interior, Lotfi Brahem, admitted in January 2018, that the police were “wire-tapping” a foreign journalist during protests, stating that “a night phone call between a journalist and protesters was detected, so he was interrogated and then released.”<sup>177</sup>

In 2014, Presidential Decree no. 4773 on “fixing the conditions and procedures for allocating authorizations for ISP activities” was passed and imposes a duty on Internet service providers “to meet the requirements of the national defense, security, and public safety and security in accordance with the legislation and regulation in force” and to aid legal, military, and national security authorities as necessary.<sup>178</sup> This encourages companies to partake in and makes Tunisians more vulnerable to state surveillance. The main Internet Service Providers in Tunisia, including Tunisie Telecom, Ooredoo, TopNet, GlobalNet, Hexabyte Tunisie, and BEE, often collect intrusive user information, without prominently disclosing what is being collected or how the data will be used. Only one company, Orange Tunisia, complies with all requirements laid out in Article 4 of the Organic Law No. 2004.<sup>179</sup>

In 2016, the government issued biometric identification cards, which enabled the collection of massive amounts of data about citizens. This ignited criticism from civil society given the absence of proper data and privacy legislations.<sup>180</sup> At the same time, there have been some attempts by the government to protect the identity of Internet users. Under 2014 regulations issued by the ICT ministry, cybercafé Internet users are not required to register or provide identification.<sup>181</sup> However, this regulation is increasingly irrelevant as the number of Internet users at Internet cafes has

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<sup>174</sup> RSF. (2013). Authorities urged to rescind decree creating communications surveillance agency. Retrieved from: <https://rsf.org/en/news/authorities-urged-rescind-decree-creating-communications-surveillance-agency>

<sup>175</sup> Youtube. (2020). Talk on Amwaj Jawhara FM. <https://www.youtube.com/watch?v=suOn3b8oYzY>

<sup>176</sup> Karim, Mohammed Fadel. (2020, March 5). The Minister of Technology responds to wiretapping accusations. Retrieved from:

<https://www.mosaiquefm.net/ar/المكالمات-التصتت-على-إتهامات-التصتت-على-المكالمات>

<sup>177</sup> Marsad Tunisia. (2018). Le spectre d’une restriction des libertés refait surface après les propos polémiques du ministre de l’Intérieur, observatoire de la sécurité. Retrieved from: <https://urlz.fr/dTMf>

<sup>178</sup> Presidency of the Government of Tunisia. (2014). Decree no. 4773 of 26 December 2014 fixing the conditions and procedures for allocating authorizations for ISP activities. Retrieved from:

[http://www.legislation.tn/fr/detailtexte/Décret-num-2014-4773-du-26-12-2014-jort-2015-007\\_2015007047733](http://www.legislation.tn/fr/detailtexte/Décret-num-2014-4773-du-26-12-2014-jort-2015-007_2015007047733)

<sup>179</sup> Access Now. (2020). Tunisian ISPs violate customers’ privacy. Retrieved from:

<https://www.accessnow.org/tunisian-isps-violate-customers-privacy/>

<sup>180</sup> GSMA. (2019). Data Privacy Frameworks in MENA Emerging approaches and common principles. Retrieved from:

<https://www.gsma.com/mena/wp-content/uploads/2019/06/GSMA-Data-Privacy-in-MENA-Full-Report.pdf>

<sup>181</sup> The United States Department of Justice. (2019). Tunisia. Retrieved from:

<https://www.justice.gov/eoir/page/file/1234711/download>

decreased in recent years. Additionally, the regulation does not protect those who are accessing the Internet using mobile devices or broadband connections, making the law applicable only to a few.<sup>182</sup>

The deficiencies of the legal framework governing cybersecurity in Tunisia urged the Tunisian National Security Council to develop a National Cybersecurity Strategy for 2020 - 2025, which was released on December 9, 2019. This strategy aims to lead and manage the national cyberspace, identifying the parties involved and supporting coordination between them. It also aims to prevent cyber threats and improve the country's resilience to these.<sup>183</sup> To achieve these objectives, the strategy focuses on 5 main axes, including the establishment of sectorial cybersecurity strategies, the improvement of the legal and regulatory framework, the strengthening of skills, the promotion of the culture of cyber security as well as the mastery of standards and technologies related to digital security.<sup>184</sup>

## **Morocco**

Morocco has signed a number of international treaties with privacy implications.<sup>185</sup> Article 24 of the Moroccan Constitution set the base for the protection of personal data. It states that “the privacy of personal phone calls of any nature, shall not be violated. No authorization shall be given to access or release the content of these calls, or to use them against someone, without a court order and in accordance with the law.”<sup>186</sup> In 1997, Morocco instated the Post and Telecommunications Law 24 - 96. Article 10 states that “all devices used by operators must protect privacy and personal data”.<sup>187</sup> However, Law 1-09-15 on Data Protection allows for there to be exceptions to the protection of privacy and personal data which can lead to inconsistencies in its legal application in ways that violate users’ privacy.<sup>188</sup>

Morocco has established several regulatory agencies to protect Moroccans privacy. This includes the National Telecommunications Regulatory Agency (ANRT) which was set up to control and regulate the telecommunications sector and to

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<sup>182</sup> Ibid.

<sup>183</sup> Ministère des Technologies de la Communication. (2019). Stratégie Nationale Cybersécurité. Retrieved from: [https://www.mtcen.gov.tn/index.php?id=119&tx\\_ttnews%5Btt\\_news%5D=3984&cHash=be608cbb7647eeb46eff2f63400a777a](https://www.mtcen.gov.tn/index.php?id=119&tx_ttnews%5Btt_news%5D=3984&cHash=be608cbb7647eeb46eff2f63400a777a)

<sup>184</sup> National Cybersecurity Strategy. (2019). National Cybersecurity Strategy 2020-2025. Retrieved from: <https://ncss.ansi.tn/>

<sup>185</sup> Morocco is a signatory of a number of treaties with privacy implications, including: The Universal Declaration on Human Rights; the International Covenant on Civil and Political Rights; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention for the Protection of All Persons from Enforced Disappearance; the Convention on the Rights of Persons with Disabilities. For more information visit: <https://privacyinternational.org/state-privacy/1007/state-privacy-morocco>

<sup>186</sup> The Moroccan Constitution. (2011). Retrieved from: [http://www.sgg.gov.ma/Portals/0/constitution/constitution\\_2011\\_Fr.pdf](http://www.sgg.gov.ma/Portals/0/constitution/constitution_2011_Fr.pdf)

<sup>187</sup> National Telecommunications Regulatory Agency. (1997). Law no 24-96 on postal and telecommunications services. Retrieved from: [https://www.anrt.ma/sites/default/files/documentation/loi\\_24-96\\_vc-fr\\_0.pdf](https://www.anrt.ma/sites/default/files/documentation/loi_24-96_vc-fr_0.pdf)

<sup>188</sup> Privacy International. (2019, January 26). State of Privacy Morocco. Retrieved from: <https://privacyinternational.org/state-privacy/1007/state-privacy-morocco>

guarantee that all the telecommunications operators are respecting people's privacy.<sup>189</sup> It also includes the National Commission for the Control of Personal Data Protection (CNDP), which is designed to ensure that personal data is processed in a legal manner.<sup>190</sup> According to the CNDP, individuals have the right to determine if their personal data can be processed by governmental and corporate entities unless there is a legal obligation, national security interest, contractual agreement, or if the individual is physically or lawfully unable to give consent, or if the party accessing the data holds a legitimate interest.<sup>191</sup> However, some NGOs criticized the CNDP, particularly because there is a lack of a deadline for storing data and because the CNDP is not transparent in regards to how it operates.<sup>192</sup>

Advanced surveillance tools have reportedly been used in Morocco, and Moroccan activists have identified surveillance abilities among the most dangerous tools in the hands of the state. This is especially enabled due to the concentration of Internet infrastructures (fiber-optic networks and ISPs) in the hands of the government.<sup>193</sup> A 2018 report exposed that operators in Morocco may have used a spying software called Pegasus (by NSO Group in Israel) which in Morocco, in particular, can only be purchased by the government.<sup>194</sup> A 2019 Amnesty International report showed that human rights activists were especially targeted by the software.<sup>195</sup> More reports showed the use of more software by the Italian company Hacking Team.<sup>196</sup> Leaks revealed that the Supreme Council for National Defense, and the Department of Territory Surveillance Department acquired remote surveillance systems and malicious intervention products from this company, in 2009 and 2012 respectively.<sup>197</sup> In addition Information obtained by the BBC revealed exports since 2011 of a software called "Evident", which enabled governments to conduct mass surveillance on their citizens' communications, including Morocco.<sup>198</sup> An Investigation was opened in this regard by Privacy International and Morocco's Digital Rights

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<sup>189</sup> Privacy International. Ibid.

<sup>190</sup> La Commission Nationale de Contrôle de la Protection des Données à Caractère Personnel (CNDP). Missions. Retrieved from: <https://www.cndp.ma/fr/cndp/missions.html>

<sup>191</sup> La Commission Nationale de Contrôle de la Protection des Données à Caractère Personnel (CNDP). (2013). Vos Droits [Your Rights]. Retrieved from: <https://www.cndp.ma/fr/droits/vos-droits.html>.

<sup>192</sup> Coordination Maghrébine des Organisations Des Droits Humains. (2016). Rapport Alternatif De La Société Civile Au Rapport Gouvernemental Répondant À La Liste Des Points À Traiter Établie Par Le Comité Des Droits De L'homme Concernant Le Sixième Rapport Périodique Du Maroc Sur La Mise En Œuvre Du Pacte International Des Droits Civils Et Politiques. Retrieved from: [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/MAR/INT\\_CCPR\\_CSS\\_MAR\\_25213\\_F.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/MAR/INT_CCPR_CSS_MAR_25213_F.pdf)

<sup>193</sup> mohammad ibahrine. (2004). Towards a national telecommunications strategy in Morocco. Retrieved from: <https://firstmonday.org/ojs/index.php/fm/article/view/1112/1032>

<sup>194</sup> Bill Marczak; Scott-Railton, John; McKune, Sarah; Abdul Razzak, Bahr; & Deibert, Ron. (2018). HIDE AND SEEK Tracking NSO Group's Pegasus Spyware to Operations in 45 Countries. Retrieved from: <https://citizenlab.ca/2018/09/hide-and-peek-tracking-nso-groups-pegasus-spyware-to-operations-in-45-countries/>

<sup>195</sup> Amnesty. (2019). Morocco: Human Rights Defenders Targeted with NSO Group's Spyware. Retrieved from:

<https://www.amnesty.org/en/latest/research/2019/10/morocco-human-rights-defenders-targeted-with-nso-groups-spyware/>

<sup>196</sup> Human Rights Committee. (2016). The Right to Privacy in Morocco. Human Rights Committee 116th Session. Retrieved from: [https://privacyinternational.org/sites/default/files/2017-12/HRC\\_morocco.pdf](https://privacyinternational.org/sites/default/files/2017-12/HRC_morocco.pdf)

<sup>197</sup> Privacy International. Ibid.

<sup>198</sup> BBC. (2017, June 14). How BAE sold cyber-surveillance tools to Arab states. Retrieved from: <https://www.bbc.com/news/world-middle-east-40276568>

Association.<sup>199</sup> After the publication of the results, authorities filed criminal accusations against activists who were part of the movement that led to the investigation, describing them as “persons who distributed a report containing grave accusations about spying practices.”<sup>200</sup>

Morocco’s 2003 law on fighting terrorism criminalizes any act of praise of terrorism by any means including electronic.<sup>201</sup> This law offers a large arbitrary power for judges in courts and can be interpreted to legitimize state surveillance, especially against political opponents and independent journalists. For instance, in 2015 seven activists from Digital Rights Association, an organization focused on issues of privacy and surveillance in Morocco, were brought to court on the charge of “using foreign funding to undermine state security”.<sup>202</sup>

In 2007, Act 53-05 on Electronic Exchanges of Legal Data established that: “import, export, supply, operation or use of means or cryptographic services must be subject to prior authorization” and outlines harsh penalties for those who would disobey (1 year in prison and 100,000 dirhams (approx. US \$10,000) fine).<sup>203</sup> However, the law does not lay down whether the limitations are applicable to business only, or including individuals. The Law also established the National Licensing Authority that monitors licensing standards. However, Decree 2-13-88137 of 2015, shifted control over “electronic certifications,” including encryption, from the ANRT to the military’s General Directorate for the Security of Information Systems. This move was seen by civil society as challenging to data security and personal security given the lack of accountability and oversight at military bodies.<sup>204</sup>

In addition, under a 2014 decision by the ANRT, individuals who buy SIM cards were required to register their names and ID numbers with operators. Unregistered SIM cards are deactivated after one month. Importantly, this information could then be requested and used by authorities. However, cyber cafes still do not require users to provide any personal information.<sup>205</sup>

Moroccan policies in the matters of digital security combine both military and civil responses. Digital security was amongst the goals of the former “Digital Morocco

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<sup>199</sup> Privacy International. State of Surveillance in Morocco. Retrieved from: [https://privacyinternational.org/sites/default/files/2017-12/HRC\\_morocco.pdf](https://privacyinternational.org/sites/default/files/2017-12/HRC_morocco.pdf)

<sup>200</sup> IFEX. (2015). Moroccan NGO targeted by Interior Ministry after reporting on surveillance. Retrieved from: <https://ifex.org/moroccan-ngo-targeted-by-interior-ministry-after-reporting-on-surveillance/>

<sup>201</sup> Kalpakian, Jack. (2011, May 13). Current Moroccan Anti-terrorism Policy. Retrieved from: [http://www.realinstitutoelcano.org/wps/portal/rielcano\\_en/contenido?WCM\\_GLOBAL\\_CONTEXT=/elcano/elcano\\_in/zonas\\_in/international+terrorism/ari89-2011](http://www.realinstitutoelcano.org/wps/portal/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/international+terrorism/ari89-2011)

<sup>202</sup> Human Rights Watch. (2015, November 8). Morocco: Drop Charges Against Activists. Retrieved from: <https://www.hrw.org/news/2015/11/08/morocco-drop-charges-against-activists>

<sup>203</sup> L’actualité juridique marocaine. (2008, January 8). Loi no 53-05 relative à l’échange électronique de données juridiques (intégrale) | L’actualité juridique marocaine. Retrieved from:

<https://droitmaroc.wordpress.com/2008/01/29/loi-n-53-05-relative-a-lechange-electronique-de-donnees-juridiques-integrale/>

<sup>204</sup> Ibid

<sup>205</sup> ANRT. (2016). Identification des abonnés mobiles : Les nouvelles mesures. Retrieved from: <https://www.anrt.ma/sites/default/files/CP-identification-abonnes-Fr.pdf>

2013” strategy<sup>206</sup>. The National Cyber Strategy Security objectives are to provide Moroccan information systems with a capacity for defense and resilience, capable of creating the conditions for an environment of trust and security conducive to the development.

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<sup>206</sup> Ministère de l'industrie du commerce et des nouvelles technologie. (2013). Maroc Numeric 2013 :Stratégie Nationale pour la Société de l'Information et de l'Économie Numérique. Retrieved in (2020, October 9), from: <http://www.egov.ma/sites/default/files/Maroc%20Numeric%202013.pdf>

**The Right to be Forgotten**

## **Right to be Forgotten**

The Right to be Forgotten (referred also as the Right to Erasure) is a rising human right resulting from the massive use of ICT. According to the EU General Data Protection Regulation (GDPR), it's the right to have your data erased, without undue delay, by the data controller. This law gives you the right to almost always be 'forgotten. The correspondingly-named rule primarily regulates erasure obligations. According to this, personal data must be erased immediately where the data are no longer needed for their original processing purpose, or the data subject has withdrawn his support and there is no other legal ground for processing.

The right to be forgotten is an important pillar of digital rights, as it gives citizens the right to erase and remove their personal data and information collected by a given service or online tool whenever they want. The GDPR governs how personal data is collected, processed, and erased by websites and platforms that operate in the EU countries, forming a basic and fundamental human right in the digital realm. Due to the lack of data on the issue of the Right to be Forgotten in the context of Lebanon and Morocco, the researcher covered only Jordan and Tunisia in this chapter.

### **Jordan**

In Oct 2014, a joint declaration establishing a mobility partnership between Jordan and the European Union and its member states was signed in the margins of the Council<sup>207</sup>. The Council also held a policy debate on the "right to be forgotten" principle following the European Court of Justice Judgment in the Google Spain case<sup>208</sup>. That judgment acknowledges that, on the basis of the existing directive, data subjects may exercise their right to erasure of data and their right to object to personal data processing against online controllers such as search engines<sup>209</sup>. Consequently, the draft on Right to Be Forgotten on Personal Data Protection, was published on the website of the Ministry of Digital Economy and Entrepreneurship. The draft Personal Penal Code also spoke about the right to be forgotten in Article 20.

### **Tunisia**

Since 2004, the Tunisian legislator has introduced this concept without providing the necessary details as to the modalities of using it by using vague terms in Article (45), 'personal data must be destroyed upon the expiration of the period set

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<sup>207</sup> Council of the European Union. (2014). Press Release: 3336th Council meeting, Justice and Home Affairs. Retrieved from: <https://www.iem.gov.lv/sites/iem/files/press-release-3336th-council-meeting-justice-and-home-affairs-luxembourg-9-and-10-october-2014-provisional-version-home-affairs-issues1.pdf>

<sup>208</sup> Ibid.

<sup>209</sup> Ibid.

for its conservation, or if the purposes for which they have been collected has passed, or when they become unnecessary for the activity of the controller.<sup>210</sup>

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<sup>210</sup> Association francophone des autorités de protection des données personnelles (AFAPDP). (2004). Organic law n° 2004-63 dated 27 July 2004 relating to protecting personal data. Retrieved from: <https://urlz.fr/dJhm>

**The Right to**

**Access Information**

## Right to Access Information

The right to access information is recognized by the United Nations as an integral part of the Right to Expression, as evident in Resolution 59 of the UN General Assembly adopted in 1946 and Article 19 of the Universal Declaration of Human Rights (1948) which states that the fundamental right to freedom of expression encompasses the freedom to “to seek, receive and impart information and ideas through any media and regardless of frontiers”.<sup>211</sup> The experiences of each MENA country in this regard differ, as Jordan and Tunisia for instance, were ahead of Lebanon and Morocco in introducing acts and laws that guarantee the right to access information, the factual situation among those countries is still almost the same. Even in countries that adopt such laws, the public is still unfamiliar with them and larger efforts to spread awareness remain needed.

### Lebanon

While Lebanon passed a law on the right to access information in 2017, it is not abided by in practice. For example, when the Gherbal Initiative (a Lebanese NGO) sent access-to-information requests to 133 administrations, they only received 34 responses.<sup>212</sup> Similarly, the Lebanese authorities have continued to restrict citizens' access to content on the Internet. In late April of 2020, the Lebanese Public Prosecutor announced the restriction of 28 mobile applications that, as he claimed, spread incorrect information on the USD to Lebanese Lira exchange rate.<sup>213</sup> In mid-June of 2020, the website ‘shinmimlam.com’, which presents and promotes the publication of information that is readily available on the Lebanese Justice Ministry’s website was blocked.<sup>214</sup> This decision was promulgated by the Urgent Matter Judge of Beirut, who is supposed to act as the first-line defense for public freedom.<sup>215</sup> This was not the first time a website was blocked without a legitimate excuse. In 2019, the website ‘blogspot.com’ was also restricted by the two cellular operators in Lebanon.<sup>216</sup> Another case is the 2018 judicial order to block an Israeli web-hosting platform, Wix, without properly informing its users.<sup>217</sup> This caused debates as advocates of digital rights argued that small organizations should have been warned

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<sup>211</sup> United Nation. (1948). Universal Declaration of Human Rights. Retrieved from:

<https://www.un.org/en/universal-declaration-human-rights/>

<sup>212</sup> Euro-Med Monitor. (2020). Lebanon: Public Records Website Blocked Without Legal Basis. Retrieved from:

<https://euromedmonitor.org/en/article/3699/Lebanon:-Public-records-website-blocked-without-legal-basis>

<sup>213</sup> Euro-Med Monitor. (2020). Lebanon: Public Records Website Blocked Without Legal Basis. Retrieved from:

<https://euromedmonitor.org/en/article/3699/Lebanon:-Public-records-website-blocked-without-legal-basis>

<sup>214</sup> Scoop World. (2020). Lebanese Public Records Website Blocked Without Legal Basis. Retrieved from:

<https://www.scoop.co.nz/stories/WO2007/S00238/lebanese-public-records-website-blocked-without-legal-basis.htm>

<sup>215</sup> Euro-Med Monitor. (2020). Lebanon: Public Records Website Blocked Without Legal Basis. Retrieved from:

<https://euromedmonitor.org/en/article/3699/Lebanon:-Public-records-website-blocked-without-legal-basis>

<sup>216</sup> Scoop World. (2020). Lebanese Public Records Website Blocked Without Legal Basis. Retrieved from:

<https://www.scoop.co.nz/stories/WO2007/S00238/lebanese-public-records-website-blocked-without-legal-basis.htm>

<sup>217</sup> Freedom House. (2019). Freedom on The Net 2019: Lebanon. Retrieved from: <https://freedomhouse.org/country/lebanon/freedom-net/2019>

so they can transfer their websites to other hosts.<sup>218</sup> Overall, a 2015 report by SMEX revealed that around 40 websites have been blocked in Lebanon, with more than 23 sites related to escort services, around 10 Israeli websites, 8 websites related to gambling, and 2 breaching copyright.<sup>219</sup>

However, in the wake of the protests that began in October 2019, there were demands for stronger enforcement of the Access to Information Law, and the law is now being viewed as a potential tool to reduce corruption.<sup>220</sup> In July 2020, the Implementation Decree of the Right to Access Information Law No. 28/2017 was adopted by the current caretaker government.<sup>221</sup> This decree, in line with the Right to Access to Information Law, obliges public administrations to assign an information officer to ensure the delivery of information and maintain the right to access information, as well as publishing this assignment decision on the organization's website to enhance transparency and information dissemination.<sup>222</sup> Notably, the Implementation Decree described "abuse of the right" guaranteed by the law, referring to "unclear specification of the requested information, even after being asked to, by the applicant, or submitting repetitive requests of the same nature, or the refusal to pay the due expenses of a former answers-request by the same applicant."<sup>223</sup>

## **Jordan**

The Jordanian Constitution does not in any way guarantee the right to access information. In September 2011, the constitution was amended, incorporating several legal reforms. However, Article 15 on freedom of expression has not been amended to include the right to obtain information despite the demands of civil society. Instead, this article has been reformulated to include an obligation on the state to "guarantee" freedom of opinion and freedom of the press.<sup>224</sup>

However, two legal bodies address the right to access information in Jordan. First, the National Charter 20 of 1991 was the first document in Jordan to refer to the right to access information as a part of freedom of expression. Chapter 6 of the document states that "Citizens must have access to facts and information from

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<sup>218</sup> Boutros, Philippe. (2018, December 24). Blocking Wix in Lebanon: The Knowns and The Unknowns. L'Orient Le Jour. Retrieved from: <https://www.lorientlejour.com/article/1149839/blocking-wix-in-lebanon-the-knowns-and-the-unknowns.html>

<sup>219</sup> Freedom House. (2019). Freedom on The Net 2019: Lebanon. Retrieved from: <https://freedomhouse.org/country/lebanon/freedom-net/2019>

<sup>220</sup> Merhej, Karim . (2020, March 11). Lebanon's New Law on Illicit Enrichment: A Step Forward in Fighting Corruption? Tahrir Institute for Middle East Policy. Retrieved from: <https://timep.org/commentary/analysis/lebanons-new-law-on-illicit-enrichment-a-step-forward-in-fighting-corruption/>

<sup>221</sup> Hayek, Sabeen. (2020, October 9). Delivering "information": Will the state continue to prevent access to information for the seekers? Annahar. Retrieved from: <https://www.annahar.com/arabic/section/140-%D8%B1%D8%A3%D9%8A/09102020085512354>

<sup>222</sup> Ibid.

<sup>223</sup> Ibid.

<sup>224</sup> Shukair, Yahya. (2012) "The extent to which the Law on Ensuring the Right to Information Complies with International Standards." Unpublished Master Thesis. Middle East University, Jordan, Amman.

legitimate transmission and publication sources within Jordan and abroad. Censorship of classified material should not prevent the citizens from exercising this right”.<sup>225</sup>

Also, in 2007, Jordan enacted the Access to Information Law No. 47, which was the first of its kind in the Arab world. The draft law states that “freedom of access to information has become the cornerstone of freedom of the press and public freedoms.” Article 7 of the law states that “every Jordanian has a right to obtain information pursuant to the Law, if he has a legitimate interest or reason therein.”<sup>226</sup>

There are a few limits to this law nonetheless. First, most information in Jordan is in the possession of the executive authority and its institutions. While the law covers a wide range of such public authorities, it fails to cover private bodies that receive funds from the government. The law is further hindered by exceptions it makes that allow authorities to refuse to grant access to information. Specifically, the law bars public requests for information involving religious, racial, ethnic, or gender discrimination as in Article 10, allows officials to withhold all types of classified information, a very broad category as in Article 13, and lastly limits such requests to Jordanian nationals only as in Article 7.

## **Tunisia**

The legal bodies that govern access to information in Tunisia are threefold. First, Article 32 of the Tunisian Constitution states that “the State guarantees the Right to Information and the Right of Access to Information”.<sup>227</sup> In March 2016, Tunisia adopted a basic law on the right to access information, which guarantees public access to information from governmental bodies (constitutional bodies, the central bank, local municipalities, the parliament, publicly funded NGOs, the presidency and ministries). Furthermore, in September 2018, The Ministry of Communications Technologies and Digital Economy held the third public consultation on the Digital Code that would replace the current Telecommunications Code and its amendments. The law guarantees the right to access the internet and the right to freedom of opinion, information, expression, publication, thought, and communication on the internet. The draft law was approved by the cabinet in December 2019.<sup>228</sup>

Nevertheless, the instruments and the measures necessary for the effective implementation of the Right of Access to Information in Tunisia have not yet been

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<sup>225</sup> National Legislative Bodies/ National Authorities. (1991). Jordan: Jordanian National Charter of 1991. Retrieved from: <https://www.refworld.org/docid/3ae6b53b4.html>

<sup>226</sup> Jordanian Legislation; Opinion Department. (2007). Law on Securing the Right to Information Access. Retrieved from: <http://www.rti-rating.org/wp-content/uploads/Jordan.pdf>

<sup>227</sup> Constitute Project. (2014). Tunisia's Constitution of 2014. Retrieved from: [https://www.constituteproject.org/constitution/Tunisia\\_2014.pdf](https://www.constituteproject.org/constitution/Tunisia_2014.pdf)

<sup>228</sup> Freedom House. (2019). Freedom on the Net 2020. Retrieved from: [https://freedomhouse.org/country/tunisia/freedom-net/2020#footnote5\\_3u9174t](https://freedomhouse.org/country/tunisia/freedom-net/2020#footnote5_3u9174t)

sufficiently developed. There remains a pressing need to inform the citizens of Tunisia of these new laws and the rights they grant them, as well as to train state officials on the new processes and procedures these laws entail. In 2020, the Access to Information Authority (an independent commission established by the 2016 law to monitor violations of the right to access information), announced that it had received some 2,452 cases of unjustified withholding of information since its inception in 2016, 1,690 of which have already been settled as of October 2020.<sup>229</sup>

## **Morocco**

The right to information is one of the fundamental rights and freedoms stipulated in the Moroccan Constitution in Article 27. Public and elected administrations are obligated to provide information to citizens. In 2018, Morocco finally adopted an Access to Information Law after many years of advocacy and discussion.<sup>230</sup> The new law came to fulfill conditions for Morocco's accession to the Open Government Partnership (OGP) initiative. For context, in 2014 Morocco joined the OGP, an international initiative that secures commitments from governments to empower citizens, promote transparency, fight corruption and use new technologies to strengthen the methods of governance.<sup>231</sup> The International Organisation for Economic Co-operation and Development (OECD) contends in the case of Morocco, that “despite the growing momentum in favor of access to information, these frameworks and draft laws must still be reviewed in order to incorporate the evolutions of digital technologies and the open data movement”<sup>232</sup>

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<sup>229</sup> Webmanagercenter. (2020). L'Instance d'accès à l'information émet 12 nouvelles décisions. Retrieved from: <https://www.webmanagercenter.com/2020/10/23/457809/linstance-daccès-a-linformation-emet-12-nouvelles-decisions/>

<sup>230</sup> Krüger, Steffen. (2019, December 12). The Right of Access to Information. Konrad Adenauer Stiftung (KSA). Retrieved from:

<https://www.kas.de/en/web/auslandsinformationen/artikel/detail/-/content/the-right-of-access-to-information#:~:text=The%20Access%20to%20Information%20Act,of%20the%202011%20Moroccan%20Constitution.&text=The%20information%20should%20normally%20be,for%20processing%20the%20relevant%20documents>

<sup>231</sup> The U.S.-Middle East Partnership Initiative (MEPI). (2018). With MEPI's Support, Morocco Joins the Open Government Partnership. Retrieved from: <https://mepi.state.gov/morocco-ogp/>

<sup>232</sup> OECD. (2017). Benchmarking Digital Government Strategies in MENA Countries. Retrieved from: <https://www.oecd.org/mena/governance/digital-governance-mena.pdf>

**Right to**

**Freedom of Expression**

## Right to Freedom of Expression

The right to freedom of speech includes the right to seek, receive and communicate information and ideas of all kinds, without interference and regardless of frontiers, and the relevance of a wide diversity of sources, as well as access to the information society for all.<sup>233</sup> The right to freedom of expression is safeguarded under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which states that “everyone shall have the right to hold opinions without interference” and the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his or her choice.”<sup>234</sup>

Although the right of expression is sufficiently mentioned within the legal frameworks or even the political mottos of the leaders and kings, the practical application of such right is still minimal due to the facts regarding security and judicial apparatus within these states. More comprehensive awareness campaigns must be present on the scene with enough governmental support to overcome the obstacles towards the democratic process the MENA region countries seek.

According to article 20 of the UN universal declaration of Human rights, everyone has the right to freedom of peaceful assembly and association where no one may be compelled to belong to an association. Although the digital environment has opened new space for the rights to freedom of peaceful assembly and of association, it has also brought a variety of new threats and risks to these fundamental rights. Severe legal restrictions and digital surveillance policies are applied by many governments. Forming a high risk eliminating the space in which civil society can promote or defend collectively a field of mutual interest. Digital technology companies' actions and lack of action have worsened these risks or created new challenges for individuals and organizations that seek to exercise assembly and association rights online and offline. These challenges will likely intensify in an increasingly digitized future.

Online assemblies and unions have become increasingly common. Activists and protect organizers continue using WhatsApp, Facebook Messenger, and other social media platforms to organize, regulate, and coordinate demonstrations.<sup>235</sup> Authorities are using this strategy to identify, persecute, and arrest the protest leaders.<sup>236</sup> This invasion of the public's digital space has sparked fear among protestors and

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<sup>233</sup> 7amleh - The Arab Center for the Advancement of Social Media. (2020). Know Your Digital Rights. Retrieved from: [https://7amleh.org/storage/Research%20and%20Position%20Papers/Digital\\_Rights\\_English.pdf](https://7amleh.org/storage/Research%20and%20Position%20Papers/Digital_Rights_English.pdf)

<sup>234</sup> UN General Assembly. (1966, December 16). International Covenant on Civil and Political Rights. United Nations, Treaty Series, vol. 999, p. 171. Retrieved from: <https://www.refworld.org/docid/3ae6b3aa0.html>

<sup>235</sup> Cherici, Sofia. (2020). Lebanon protests: Authorities prey on digital spaces to silence criticism. Global Voices. Retrieved from: <https://globalvoices.org/2020/09/18/lebanon-protests-authorities-prey-on-digital-spaces-to-silence-criticism/>

<sup>236</sup> Social Media Exchange. (2020). Lebanon protests: Authorities prey on digital spaces to silence criticism. Retrieved from: <https://smex.org/lebanon-protests-authorities-prey-on-digital-spaces-to-silence-criticism/>

participants as it posed a risk to their anonymity and identity.<sup>237</sup> Digital freedom of assembly and association activists were under authorities' surveillance and watch. Although it is constitutionally ensured, the states should comply with other corresponding principles as non-discrimination transparency access to justice and all relevant values that emphasize the practical dimensions of the Right to Freedom of Assembly & Association (FoAA).

## **Lebanon**

The Lebanese Constitution guarantees freedom of assembly, freedom of expression, and freedom of the press.<sup>238</sup> However, articles in the penal code and the military justice code place restrictions on freedom of expression.<sup>239</sup> Additionally, the judiciary also lacks independence and is subject to great political influence.<sup>240</sup>

Lebanon has fifteen separate religion-based sects, and as a result of this sectarian characteristic of the country and its respective media, the vast media institutions usually limit their focus to issues related to particular religious sects, rather than issues related to the Lebanese community.<sup>241</sup> Both broadcast and print media tend to revert to the sectarian monologue, sometimes threatening the social and political stability of the small country.<sup>242</sup> Additionally, Lebanon is considered a country of a relatively small population, to allow for the financial stability of the various newspapers, radios, and television stations of Lebanon, and so the media professionals and institutions are compelled to pursue outside subsidies in exchange for editorial support.<sup>243</sup> Accepting bribes have become so common in the media realm, and is sometimes legitimized by the low salaries and deficiency in benefits.<sup>244</sup>

Despite the presence of liberal laws managing the media institutions of Lebanon, the application of these laws is somewhat selective.<sup>245</sup> Print media, for example, still operates under the 1962 Press Law with very minor amendments, which allowed minimal formal-state censorship of the press. The main laws governing the Lebanese media are the Press Law of 1962, amended by Decree No. 104/1977, and the

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<sup>237</sup> Cherici, Sofia. (2020). Lebanon protests: Authorities prey on digital spaces to silence criticism. Global Voices. Retrieved from: <https://globalvoices.org/2020/09/18/lebanon-protests-authorities-prey-on-digital-spaces-to-silence-criticism/>

<sup>238</sup> WIPO. (1990). Constitution of Lebanon. Retrieved from: <https://www.wipo.int/edocs/lexdocs/laws/en/lb/lb018en>

<sup>239</sup> Human Rights Watch. (2019). There Is a Price to Pay: The Criminalization of Peaceful Speech in Lebanon.

Retrieved from: <https://www.hrw.org/report/2019/11/15/there-price-pay/criminalization-peaceful-speech-lebanon>

<sup>240</sup> Ibid.

<sup>241</sup> Dajani, Nabil. (2013). The Myth of Media Freedom in Lebanon. Arab Media and Society, 18, Pp. 1- 9;

Freedom House. (2019). Freedom on The Net 2019: Lebanon. Retrieved from: <https://freedomhouse.org/country/lebanon/freedom-net/2019>

<sup>242</sup> Fawaz, May. (2013). The Role of the Media in a Precarious Plural Democracy: The Case of Lebanon (PhD Dissertation). Georgia State University, Atlanta, United States. Retrieved from: [https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1045&context=communication\\_diss;](https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1045&context=communication_diss;)

Morcos, Paul. (2019). A Fight on Many Sides: Press Freedom in Lebanon Today. Executive Magazine. Retrieved from: <https://www.executive-magazine.com/opinion/press-freedom-in-lebanon-today>

<sup>243</sup> Abu Laban, Baha. (1966). Factors in Social Control of the Press in Lebanon. **Journalism and Mass Communications Quarterly**, 43(3), Pp. 510-515.

<sup>244</sup> Dajani, Nabil. (2013). The Myth of Media Freedom in Lebanon. Arab Media and Society, 18, Pp. 1-9.

<sup>245</sup> Ibid.

Audio-visual Media Law No. 382/1992, implemented in 1996.<sup>246</sup> The latter law was the first of its kind in the Arab World, as it revoked the governance of state television and legalized private transmission.<sup>247</sup> This was necessary for the regulation of the media before the civil war, due to the presence of several unlicensed radio and television stations.<sup>248</sup> Moreover, it established a Higher Council for Audio-visual Media (AVM), with ten members who are elected for their sectarian alliances, rather than media expertise. In addition, the authority to grant or dissolve licenses lies with the Council of Ministers, and thus their advisory is rendered relatively ineffective.<sup>249</sup> The main goal of this law was not to issue licensing based on professional skill, but rather to secure the sectarian and political entity's interests.<sup>250</sup>

### **Jordan**

The Jordanian Constitution guarantees freedom of expression in general in Article 15 that states: "The State shall guarantee freedom of opinion. Every Jordanian shall be free to express his opinion by speech, in writing, or by means of photographic representation and other forms of expression, provided that such does not violate the law."<sup>251</sup> Several constitutional amendments introduced in 2011 however, specifically engaged Internet freedom.<sup>252</sup> However, this also concomitantly allows for the limitations of Internet freedom during states of emergency, among other provisions. Several laws, including the penal code, enforce unbalanced or unnecessary restrictions on its practice. The Anti-Terrorism Law includes sections on freedom of expression in the mainstream media and online.<sup>253</sup> The Press and Publications Law has placed more restrictions on online media by also applying all its provisions to online content, putting pressure on journalists who publish their work online to practice self-censorship.<sup>254</sup>

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<sup>246</sup> El Meouchi, Chadia; Marc, Dib. (2016). Media Law in Lebanon: An Overview. Media Law International. Retrieved from: <http://www.medialawinternational.com/page148.htm>

<sup>247</sup> Boyd, Douglas. (1999). **Broadcasting in the Arab World: A Survey of Electronic Media in the Middle East**. Iowa: Iowa State University.

<sup>248</sup> Fawaz, May. (2013). "The Role of the Media in a Precarious Plural Democracy: The Case of Lebanon." (PhD Dissertation). Georgia State University, Atlanta, United States. Retrieved from: [https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1045&context=communication\\_diss](https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1045&context=communication_diss)

<sup>249</sup> Karam, Zeina; Hinnant, Lori. (2020). Lebanese Have Little Hope Blast Probe Will Lead to Truth. The Boston Globe. Retrieved from: <https://www.bostonglobe.com/2020/08/14/world/lebanese-have-little-hope-blast-probe-will-lead-truth/>

<sup>250</sup> Fawaz, May. (2013). "The Role of the Media in a Precarious Plural Democracy: The Case of Lebanon." (PhD Dissertation). Georgia State University, Atlanta, United States. Retrieved from: [https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1045&context=communication\\_diss](https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1045&context=communication_diss)

<sup>251</sup> The Constitution of The Hashemite Kingdom of Jordan. Retrieved from: <https://www.refworld.org/pdfid/3ae6b53310.pdf>

<sup>252</sup> Max Planck Institute for Comparative Public Law and International Law. (2012, May 4). Constitution of Jordan. Retrieved from: [http://www.mpil.de/shared/data/pdf/overview\\_amendments.pdf](http://www.mpil.de/shared/data/pdf/overview_amendments.pdf)

<sup>253</sup> Ibid.

<sup>254</sup> Al-Hamouri, Muhammad (2005) From Constitutional Rights and Freedoms begins the first step in reform and development, Jordan Bar Association Journal.

## **Tunisia**

The Tunisian state made a commitment following Ben Ali's departure to break with past practices, evidenced in the abolition of the Ministry of Communication and the Tunisian Agency for External Communication (ATCE) in early 2011, both of which had been used by the previous regime for propaganda, disinformation and censorship.<sup>255</sup>

Freedom of expression, opinion, thoughts, information, and publication became guaranteed by Article 31 of the 2014 new Constitution.<sup>256</sup> However, the text still contained vague articles that task the state with “protecting sanctities” and banning “takfir” (accusations of apostasy).<sup>257</sup> If exploited, these articles can act as constitutional restrictions on freedom of expression on the Internet.

In the same spirit after the revolution, a group of independent journalists and civil society actors created the National Authority for Information and Communication Reforms (INRIC), as an independent body to be responsible for the reform and regulation of the information and communications sector in Tunisia.<sup>258</sup> To do so, on November 2, 2011, INRIC drafted two central legislative decrees: Legislative Decree No. 2011-115 which focuses on the Freedom of the Press, and Legislative Decree no. 2011-116 which focuses on audio-visual communication.<sup>259</sup> Decree no. 2011-115 provided protection for journalists against imprisonment, and decree no. 2011-116 provided for the creation of an Audio-visual Communication Body responsible for regulating audio-visual media.

However, freedom of expression in Tunisia can be considerably challenged by the country's press codes and emergency laws. For instance, while Tunisia's press codes provide protection for “journalists”, they do not provide the same for bloggers and citizen journalists. Article 7 defines a “professional journalist” as a person holding a bachelor's degree who “seeks the collection and dissemination of news, views and ideas” to disseminate to the public on a regular basis. A journalist is also defined as a person whose employment “in an institution or institutions of daily or periodical news agencies, or audiovisual media and electronic media” is their main source of income.<sup>260</sup>

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<sup>255</sup> Media Ownership Monitor Tunisia. (2014). A censored Media Landscape during the Ben Ali regime. Retrieved from: <https://tunisia.mom-rsf.org/en/context/history/>

<sup>256</sup> Tunisian Constitution. Retrieved from: [https://www.constituteproject.org/constitution/Tunisia\\_2014.pdf](https://www.constituteproject.org/constitution/Tunisia_2014.pdf)

<sup>257</sup> Ibid.

<sup>258</sup> National Authority for the Reform of Information and Communication. (2012) INRIC Report. Retrieved from: <https://www.menamedialaw.org/sites/default/files/library/material/inric-report-eng-final.pdf>

<sup>259</sup> Tunisian Republic. (2011). Décret-loi no 2011-115 du 2 novembre 2011, relatif à la liberté de la presse, de l'impression et de l'édition. Retrieved from: <https://haica.tn/instance/textes-legislatifs/decree-loi-n2011-115-du-2-novembre-2011-relatif-a-la-liberte-de-la-presse/>

<sup>260</sup> Republic of Tunisia. (2011, November 2). Decree No. 115 of 2011 dated November 2, 2011 relating to freedom of the press, printing and publishing. Retrieved from: [http://www.legislation.tn/detailtexte/Décret-loi-num-2011-115-du-02-11-2011-jort-2011-084\\_2011084001152](http://www.legislation.tn/detailtexte/Décret-loi-num-2011-115-du-02-11-2011-jort-2011-084_2011084001152)

Furthermore, Draft law no. 2015/25 on the “Repression of Offences against Armed Forces” allows for serious limitations on Freedom of Expression if passed.<sup>261</sup> Since 2015, the law was brought into the discussion after every terrorist attack that was carried out in Tunisia.<sup>262</sup>

Moreover, the situation regarding the ownership of media in Tunisia is also very concerning. According to Media Ownership Monitor (a German-Tunisian initiative to fight the lack of transparency of media ownership in Tunisia), the media sector in Tunisia is predominantly owned by either political or politically affiliated actors.<sup>263</sup> This has created ample space for political control or influence over the content in the media.<sup>264</sup> Naturally, this can be a significant threat to the right to freedom of expression, offline and online.

Nonetheless, compared with the period before the revolution, Tunisians currently enjoy more media plurality. For example, the number of media authorized by the High Independent Authority of the Audiovisual Commission in Tunisia (HAICA) reached 49 in 2020 not accounting to other online and print news sites and other media that are operating without approval.<sup>265</sup> Reporters without Borders (RSF) World Press Freedom Index ranked Tunisia 72nd out of 180 countries in 2019 which represents a significant improvement compared to 164th place in 2011.<sup>266</sup>

## **Morocco**

Article 10 in the Moroccan Constitution guarantees “freedom of opinion, of expression, and of assembly”.<sup>267</sup> However, authorities have been able to violate this constitutional principle using articles in the press code, the penal code as well as anti-terrorism law. Specifically, inconsistencies between the press and penal codes created loopholes that authorities exploit to crackdown on journalists and activists. Namely, while there are no longer prison sentences for journalists, parts of the penal code still justify such imprisonment, especially those relating to national security.<sup>268</sup> Furthermore, because journalists must obtain a state-issued press card, they do not only risk prosecution under the penal code if they lack this card, but the state uses such obligation to exclude critical journalists from the profession.<sup>269</sup> Further, Article

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<sup>261</sup> Draft law no. 2015/25 on the “Repression of Offences against Armed Forces. Retrieved from: <https://legislation-securite.tn/ar/node/54196>

<sup>262</sup> Iola aliaga; O’Farrell. Kloe T.. (2015). Counter-terror in Tunisia: a road paved with good intentions?. Retrieved from: <https://www.saferworld.org.uk/downloads/pubdocs/tunisia-v2-counter-terror-in-tunisia-v2.pdf>

<sup>263</sup> Media Ownership Monitor, Tunisia. (2014). A Very Politicized Ownership of TV Stations. Retrieved from: <https://tunisia.mom-rsf.org/en/findings/affiliations/>

<sup>264</sup> Ibid.

<sup>265</sup> The archive of HAICA. Retrieved from: <https://haica.tn/category/بيانات-وقرارات-الهيئة/>

<sup>266</sup> Reporters Without Borders. (2020) World PRes Freedom Index. Retrieved from: <https://rsf.org/en/ranking>

<sup>267</sup> The Moroccan Constitution. Retrieved from: [https://www.constituteproject.org/constitution/Morocco\\_2011.pdf](https://www.constituteproject.org/constitution/Morocco_2011.pdf)

<sup>268</sup> Moroccan Penal Code. Retrieved from: <https://www.refworld.org/docid/54294d164.html>

<sup>269</sup> Zaid, Bouzaine. (2015, October 19). New press code in Morocco to still send journalists behind bars. Media Power Monitor.

218 of the antiterrorism law sentences those who condone acts of terrorism through offline or online speech to two to six years and fines of 10,000 to 200,000 dirham (\$1,000 to \$21,000).<sup>270</sup>

In 1997, Morocco enacted Law 24-96 relating to the post and telecommunications, which led to the establishment of the National Agency for the Regulation of Communications (ANRT), Maroc Telecom (an independent limited company owned by the state) and Maroc Poste, (the company responsible for postal services) as well as the granting of new licenses for communication.<sup>271</sup> These bodies would later on become key agents in shaping the ICT sector in Tunisia and regulating the content that gets shared via its platforms.

Further, in 2020 the government drafted bill number 22.20 on the “use of social networks, open broadcast networks and similar networks”. Articles in the bill allowed authorities to force providers to restrict content, and enforce penalties against users who share “false information.”<sup>272</sup> According to the government the bill was designed to harmonize the Moroccan legal system with international standards related to cybercrime, particularly after the government ratified the Budapest Treaty on Cybercrime on 29 June, 2018.<sup>273</sup> On April 27th 2020 a Moroccan YouTube influencer known as "Swinga" published leaks of the bill which led to a wide denunciation of the law by civil society.<sup>274</sup> The law was heavily protested and thus temporarily suspended in May 2020.<sup>275</sup>

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<sup>270</sup> Law no 03-03 in Anti-terrorism law. Retrieved from:

<http://adala.justice.gov.ma/production/legislation/fr/penal/luttecontreterrorisme.htm>

<sup>271</sup> ICT Policy Africa. (1997). Law 24-96 relating to the Post and telecommunications. Retrieved from: <https://ictpolicyafrica.org/en/document/dnpejxsh98?page=1>

<sup>272</sup> Freedom House. (2020). Freedom on the Net 2020 - Morocco. Retrieved from: <https://www.ecoi.net/en/document/2039106.html>

<sup>273</sup> Euro-Med Monitor; ImpACT International. (2020). Draft law would violate right to freedom of expression in Morocco. Retrieved from: <https://euromedmonitor.org/uploads/reports/moroccoen.pdf>

<sup>274</sup> Kasraoui, Safaa. (2020, April 28). Thousands of Moroccans Sign Petition Against Bill on Social Network Use. Morocco World News. Retrieved from: <https://www.moroccoworldnews.com/2020/04/300943/thousands-of-moroccans-sign-petition-against-bill-on-social-network-use/>

<sup>275</sup> Ibid.

# Combating Fake News

## **Combating Fake News**

Fake news is a type of news that provides or contains false or misleading information that deceives or causes harm, whether deliberately or not.<sup>276</sup> The fake news and disinformation phenomena became a major concern not only in the MENA region but the whole world in the last few years. The COVID-19 pandemic increased the severity of the effects of fake news in the region and the governments of the MENA countries started to pay more attention to fight the phenomena to support the official efforts controlling the pandemic. Among the MENA region countries, Tunisia and Jordan have enacted laws fighting cyber-crime and fake-news included. The recent nature of the laws makes their impact relatively minimal countering the phenomena. On the other side, Morocco and Lebanon still lack an enacted legal framework regarding this right, although scattered efforts had been applied to counter the phenomena by the security apparatus and some civil society components in these countries.

### **Lebanon**

In Lebanon, combating fake news became a vital concern on both the international and national levels, especially at a time when information and news can spread quickly and with very little verification across social media platforms. This has become ever more significant during this time as a result of the COVID-19 Pandemic. The concerns about fake news are not only a concern for individual countries, but as this is a global health crisis; United Nations agencies, international organizations, local initiatives, and governmental bodies highlighted the importance of combating fake information as an essential part of protecting the public health.<sup>277</sup>

Despite several initiatives to counter misinformation, the efforts remain modest. There's no regulation in place, and the fundamental aspects of; awareness and responsibility are missing from those who share news or information with the public. The most significant initiatives in Lebanon include those promoted by UN agencies, which have released several campaigns in collaboration with governmental bodies as well as NGOs. For example, the Lebanese Ministry of Information, in partnership with the United Nations, a national campaign under the title of "Check Your Facts," to detect fake news related to COVID- 19 in Lebanon. Additionally, in partnership with the UN, the LBCI TV station released an awareness campaign to counter unreliable information under the slogan "Count to ten before sharing unverified news." Moreover, the UN in Lebanon engaged youth in training across the

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<sup>276</sup> Masharqa, Saleh. (2020). Fake News in Palestine. 7amleh – The Arab Center for Social Media Advancement. Retrieved from:

<https://7amleh.org//storage/Research%20and%20Position%20Papers/Fake%20News%20Research.pdf>

<sup>277</sup> World Health Organization. (2020). How to report misinformation online. Retrieved from: <https://www.who.int/campaigns/connecting-the-world-to-combat-coronavirus/how-to-report-misinformation-online>

country to build their capacity to detect and combat fake news on social media platforms under the headline “Real news contributes to your health and wellbeing.”<sup>278</sup>

## **Jordan**

On March 2, 2020, Jordan's first case of Covid-19 was published. On March 17, in an attempt to avoid further spread of the coronavirus, King Abdullah II issued a decree granting the Jordanian government expansive powers. Prime Minister at that time, Omar Razzaz, announcing the activation of the National Defence Law, said that the law would be practiced "at a minimal level" and that the freedom of speech was guaranteed. While a rich source of knowledge, the Jordanian social media space also has been one containing disinformation and conspiracy theories. After telling Jordan Television, in February, that the “Shamgh” traditional headdress/head covering is as efficient as a medical face mask, then in very short supply, in preventing the spread of COVID-19, Health Minister Saad Jaber came under serious criticism. Afterward, Jaber apologized for being the source of this spread of misinformation.<sup>279</sup>

Jordan has seen extensive demonstrations and widespread rejection in recent months of the revised Cybercrime Bill, which contains clauses limiting Internet freedom of speech and the right to privacy. As a result, the Jordanian government announced the removal of the 2015 draft law in December 2018. The withdrawal came at the behest of the Speaker of the Jordanian Parliament, Representative Atef Tarawneh, under the pretext of re-evaluating and amending the legislation.<sup>280</sup>

However, 48 hours after the withdrawal, the government added new amendments to the bill before returning it to Parliament for a vote in February 2019. The 2015 Electronic Crimes Law would restrict freedom of expression by imposing criminal penalties for posting “fake news” or engaging in “hate speech” online.<sup>281</sup> The amendments maintain criminal penalties for online defamation but, in a positive move, would eliminate pretrial detention for this offense. Authorities should seize the opportunity to amend the Electronic Crimes Law and other Jordanian legislation to protect freedom of expression. The amendments must be approved by parliament to become law.<sup>282</sup> The new amendments allow the accused, as a defense, the right to prove the truth of the claims if the claims refer to a government official’s

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<sup>278</sup> UNDP. (2020). UN Combats spread of fake news at local and national levels, Beirut, Lebanon. Retrieved from: <https://www.lb.undp.org/content/lebanon/en/home/presscenter/pressreleases/pr22-05.html>

<sup>279</sup> Al-Najjar, Abeer. (2020). Jordan: Coronavirus and the media , Ethics And Quality, Media And Politics, Press Freedom. EJO. Retrieved from: <https://en.ejo.ch/ethics-quality/jordan-coronavirus-and-the-media>

<sup>280</sup> Samara, Dima; Sayad, Emna. (2019). Cybercrime law in Jordan: pushing back on new amendments that could harm free expression and violate privacy. Retrieved from: <https://www.accessnow.org/cybercrime-law-in-jordan-pushing-back-on-new-amendments-that-could-harm-free-expression-and-violate-privacy/>

<sup>281</sup> HRW. (2016). Jordan: ‘Fake News’ Amendments Need Revision. Retrieved from: [https://www.hrw.org/news/2019/02/21/jordan-fake-news-amendments-need-revision#:~:text=\(Amman\)%20%E2%80%93%20Proposed%20amendments%20to,Human%20Rights%20Watch%20said%20today](https://www.hrw.org/news/2019/02/21/jordan-fake-news-amendments-need-revision#:~:text=(Amman)%20%E2%80%93%20Proposed%20amendments%20to,Human%20Rights%20Watch%20said%20today)

<sup>282</sup> Human Rights Watch. (2019). Myanmar: Events of 2019. Retrieved from: <https://www.hrw.org/world-report/2020/country-chapters/myanmar-burma#:~:text=The%20FFM's%20final%20report%20in,the%20government's%20persecution%20of%20the>

official duties. These provisions, however, would not apply for claims about anyone else or under any other circumstances.<sup>283</sup>

Although many users of social media play a role in spreading misinformation and conspiracy theories by leading their followers in the direction of non-credible news outlets, others are proactive in identifying misinformation, as well as racial and religiously offensive remarks. A few programs aimed at combating fake news are also available. These include Fatayyano.net and the Jordanian Media Reputation Monitor, a youth-led fact-checking website that is a signatory to the International Fact-Checking Network (IFCN).<sup>284</sup>

## **Tunisia**

In Tunisia, several articles are applicable when the spread of fake news is associated with defamation; such as article 245 of the Penal Code,<sup>285</sup> Article 86<sup>286</sup> of the Telecommunications Code, and Article 55 of Decree No. 115 of 2011.<sup>287</sup> These articles define "defamation" as an offense and penalize it.

Regarding the publication of fake news itself, Article 54 of Decree No. 115 of 2011 states that: "Anyone who, by the means mentioned in article 50 of this decree-law, intentionally propagates false information which could disturb public order is punished with a fine of 2,000 to 5,000 dinars."<sup>288</sup> According to Article 128 of the penal code: "Is punished by two years' imprisonment and a 120 dinars fine, anyone who by public speech, press or any other means of publicity, accuses a public official or assimilated illegal facts in connection with his functions, without establishing the veracity."<sup>289</sup>

The spread of fake news, defamation, and disinformation campaigns on social media, especially on Facebook<sup>290</sup> constitute a threat to the democratic process. The lack of knowledge to verify the information before publication and non-compliance with journalistic ethics are reviving past conflicts. In 2018 in Tunisia, citizens have been arrested for spreading rumors about the president and publishing a fake news article, which was unfortunately circulated by hundreds of journalists in Tunisia.<sup>291</sup>

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<sup>283</sup> Ibid.

<sup>284</sup> Akeed; Ethical Journalism Network. (2019). Study: Social media are the first platforms that help in the emergence of hate speech. Retrieved from: <https://tinyurl.com/s5ubqsm>

<sup>285</sup> Legislation Tunis. (2015). Tunisian Code penal. Retrieved from: <http://www.legislation.tn/sites/default/files/codes/Penal.pdf>

<sup>286</sup> Jurisite Tunisie. (2018). Code des Télécommunications. Retrieved from: <https://www.jurisitetunisie.com/tunisie/codes/telecom/telcom1065.htm>

<sup>287</sup> INRIC. (2011). Décret-loi n°2011-115 du 2 novembre 2011 relatif à la liberté de la presse, de l'imprimerie et de l'édition. Retrieved from: [http://www.inric.tn/fr/Decret-loi\\_relatif\\_a\\_la\\_liberte\\_de\\_la\\_presse.pdf](http://www.inric.tn/fr/Decret-loi_relatif_a_la_liberte_de_la_presse.pdf)

<sup>288</sup> Ibid.

<sup>289</sup> Legislation Tunis. (2015). Tunisian Code penal. Retrieved from: <http://www.legislation.tn/sites/default/files/codes/Penal.pdf>

<sup>290</sup> Delmas, Benoît. (2019). Tunisie: les fake news ne font pas ramadan. Le point. Retrieved from: [https://www.lepoint.fr/afrique/tunisie-les-fake-news-ne-ont-pas-ramadan-28-05-2019-2315621\\_3826.php#](https://www.lepoint.fr/afrique/tunisie-les-fake-news-ne-ont-pas-ramadan-28-05-2019-2315621_3826.php#)

<sup>291</sup> Attia, Syrène. (2018). Tunisie: six mois de prison pour avoir propagé une rumeur sur le décès du président. Jeune Afrique. Retrieved from: <https://www.jeuneafrique.com/507820/politique/tunisie-six-mois-de-prison-pour-avoir-propage-une-rumeur-sur-le-deces-du-president/>

In 2020, the Tunisian High Independent Authority of the Audiovisual Commission (HAICA) gathered representatives of public media and community radios and emphasized that the regulatory role of the authority is to help the media acquire all necessary tools to fight against fake news, especially in the digital space and social media. According to the ETT, this project is part of an initiative of HAICA, in partnership with the United Nations Development Programme, the Geneva Centre for Security Sector Governance, with funding from the European Union.<sup>292</sup> HAICA has begun holding training sessions for journalists working in community radio stations on how to combat the dissemination of fake news.<sup>293</sup> As a part of this program, the Tunisian Establishment of Television and Radio (ETT) and Tunis Afrique Presse also provided journalists and the public with a platform to combat fake news and misleading data relayed on social media and blogs. The platform was hosted on the websites [tunisiacheknews.com](http://tunisiacheknews.com) and [factchecking.watania1.tn](http://factchecking.watania1.tn). Similarly, Nawaat, a multi-awarded news online platform, is working systematically “to fact-check and debunk false stories both with articles (Nawaat Fact-Check) and with short explainer videos in both French and Arabic.”<sup>294</sup>

## **Morocco**

The Moroccan legal system currently lacks a legislative framework for addressing rights violations on the Internet or fake news and spreading misinformation. However, Moroccan police have arrested at least a dozen people for spreading rumours about the coronavirus. “Fake news is the first cause of panic among citizens,” said Prime Minister Saad Eddine El-Otmai, comparing the spread of misinformation with the contagion of the disease.<sup>295</sup>

On March 19, 2020, the Government Council approved draft law No. 22.20 on the use of social media, open broadcast networks, and similar communication networks. According to the Minister of Justice, the draft law aimed at combating false information.<sup>296</sup> However, articles of the draft law 22.20 use broad terms and grant certain bodies authority to prosecute those who share opinions on social media. They also impose heavy fines or imprisonment for three months to five years. In response, Moroccan activists, journalists, and influencers started a social media campaign that pushed the government to withdraw the bill.<sup>297</sup>

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<sup>292</sup> Tunisia Check News. Tunisia Fact Checking. Retrieved from:

<https://tunisiacheknews.com/?fbclid=IwAR3GTwsuEHdg4Ptg8H-WnWWHe2WP8ZD6y9sMcJBNiRVXCKxPJ0NJLZanoA>

<sup>293</sup> ATAP. (2020). HAICA expresses full support to public media and community radios to combat fake news. Retrieved from:

<https://www.tap.info.tn/en/Portal-Politics/13203092-haica-expresses>

<sup>294</sup> Nawaat. Nawaat Fact-check. Retrieved from: <https://nawaat.org/tag/nawaat-fact-check/>

<sup>295</sup> Reuters. (2020). Morocco makes a dozen arrests over coronavirus fake news. Retrieved from:

<https://www.reuters.com/article/us-health-coronavirus-morocco-idUSKBN2162DI>

<sup>296</sup> Article 19. (2020, July 10). Morocco: Government must FULLY WITHDRAW draft law on social media.

Retrieved February 22, 2021, from [https://www.article19.org/resources/morocco-social-media/#\\_ftn2](https://www.article19.org/resources/morocco-social-media/#_ftn2)

<sup>297</sup> Euro-Med Monitor. (2020). *Draft law would Violate Right to freedom of expression in Morocco* (Rep.). Retrieved February 22, 2021, from Euro-Med Monitor and ImpACT International website:

<https://euromedmonitor.org/uploads/reports/moroccoen.pdf>

Several provisions in the bill are not in line with international standards on freedom of expression online. On June 4, 2020, civil society organizations ARTICLE 19 and MENA Rights Group submitted a legal analysis of the controversial draft law to the UN Special Rapporteur on freedom of opinion and expression and called for a complete withdrawal of this bill.<sup>298</sup> The introduction of this bill followed the 2018 “Moukatioun”<sup>299</sup> boycott campaign.<sup>300</sup> Facebook pages with more than 2 million users have backed the campaign, which no political or civil society group has claimed.<sup>301</sup> Some provisions of the draft law appear to benefit commercial enterprises by criminalizing criticism of the quality of goods and calls for boycotts.<sup>302</sup>

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<sup>298</sup> MENA Rights Group. (2020). Morocco: Government must fully withdraw draft law on social media. Retrieved from: <https://www.menarights.org/en/articles/morocco-government-must-fully-withdraw-draft-law-social-media>

<sup>299</sup> Eljehtimi, Ahmed. (2018). Morocco consumer boycott has big business in its sights. Reuters. Retrieved from: <https://www.reuters.com/article/morocco-protests/morocco-consumer-boycott-has-big-business-in-its-sights-idUSL5N1SP35Z>

<sup>300</sup> Ibid.

<sup>301</sup> Ibid.

<sup>302</sup> MENA Rights Group. (2020, June 30). Morocco: Government must FULLY WITHDRAW draft law on social media. Retrieved February 22, 2021, from <https://www.menarights.org/en/articles/morocco-government-must-fully-withdraw-draft-law-social-media>

**Hate Speech,**

**Discrimination,**

**& Cyber Harassment**

## Hate Speech, Discrimination, & Cyber Harassment

The Internet provides a platform for people to anonymously and confidently share racist ideologies, expose their hateful attitudes, and commit cyberbullying and harassment without fear of consequence and direct responsibility.

Racism is defined as;

“The idea that there is a direct correspondence between a group’s values, behavior, and attitudes, and its physical features.” Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination states that “the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”<sup>303</sup>

Hate speech is defined as;

Bias-motivated, hostile, malicious speech aimed at a person or a group of people because of some of their actual or perceived innate characteristics. It expresses discriminatory, intimidating, disapproving, antagonistic, and/or prejudicial attitudes towards those characteristics, which include gender, race, religion, ethnicity, color, national origin, disability, or sexual orientation. Hate speech is intended to injure, dehumanize, harass, intimidate, debase, degrade, and victimize the targeted groups, and to foment insensitivity and brutality against them. As for cyber sexual harassment, it is a range of sexually aggressive or harassing visuals or texts delivered through the use of digital mediums. The extensive usage of digital media and social networking platforms in particular raises concerns regarding the issue<sup>304</sup>

The main target affected by these cyber crimes is minority groups.<sup>305</sup> Minorities can be defined as a non-dominant group of citizens of a state that are usually numerically less and have different ethnic, religious, or linguistic characteristics than the majority of the population, that are aware of having a different identity and are

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<sup>303</sup> Williams, Matthew L; Burnap, Pete; Javed, Amir; Liu, Han; & Ozalp, Sefa. (2020). Hate in the Machine: Anti-Black and Anti-Muslim Social Media Posts as Predictors of Offline Racially and Religiously Aggravated Crime. *The British Journal of Criminology*, 60(1), Pp. 93–117. Retrieved from: <https://doi.org/10.1093/bjc/azz049>

<sup>304</sup> Cohen-Almagor, R. (2011, January). *Fighting Hate and Bigotry on the Internet*. Retrieved from [https://www.researchgate.net/publication/215660527\\_Fighting\\_Hate\\_and\\_Bigotry\\_on\\_the\\_Internet](https://www.researchgate.net/publication/215660527_Fighting_Hate_and_Bigotry_on_the_Internet). doi:10.2202/1944-2866.1059

<sup>305</sup> Williams, Matthew L; Burnap, Pete; Javed, Amir; Liu, Han; & Ozalp, Sefa. (2020). Hate in the Machine: Anti-Black and Anti-Muslim Social Media Posts as Predictors of Offline Racially and Religiously Aggravated Crime. *The British Journal of Criminology*, 60(1), Pp. 93–117. Retrieved from: <https://doi.org/10.1093/bjc/azz049>

willing to express it publically.<sup>306</sup> These groups are called “persons belonging to national, ethnic, religious, or linguistic minorities.”<sup>307</sup> They have become minorities within the state they live in as a result of historical events that are against their will. These minorities seek to preserve their ethnic, linguistic, or religious identity, which differs from the national identity of the rest of society. In addition to these minorities listed in the international charters, there is another class of minorities called social minorities. Sociologist Louis Wirth defines social minorities as a group of individuals who are excluded from the rest of society as a result of physical or cultural characteristics and who suffer in their communities from unequal treatment and collective discrimination.<sup>308</sup>

## **Lebanon**

While hatred towards religion is criminalized by the Lebanese Penal Code and the Publications Law these laws do not address racism more generally.<sup>309</sup> Addressing issues of racism, hate speech, and gender-based violence in Lebanon is made especially challenging because Lebanon has one of the highest refugee counts in the world, including one million Syrian and 470,000 Palestinian refugees.<sup>310</sup> These refugees are also joined by 250,000 migrant workers who are living and working in Lebanon and do not enjoy the same rights that are exclusively afforded to citizens.

In recent years, at the same time that social media outlets provided marginalized groups in Lebanon the opportunity to express their opinion and call for their rights online,<sup>311</sup> they also created an environment where racist attacks from politicians and mainstream media, among others, could be used to shrink the space for freedom of expression and advances in human rights. In 2017, the former Minister of Foreign Affairs, Gebran Basil, posted on Twitter; ‘*We are racist in our Lebanese identity*’, as a way to support discrimination in the naturalization of non-Lebanese<sup>312</sup>. Mainstream media outlets have published content and campaigns that are racist and discriminatory based<sup>313</sup> including Lebanese MTV, whose website included a statement from a doctor claiming that Syrians are the reason for the rising rates of cancer in Lebanon,<sup>314</sup> Syrian refugees, especially women, also have very few protections in

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<sup>306</sup> M.KOPPA, “Minorities in post-communist Balkans: central policies-minorities reactions”, IDIS Library, Athens, 1997.

<sup>307</sup> M.KOPPA, “Minorities in post-communist Balkans: central policies-minorities reactions”, IDIS Library, Athens, 1997.

<sup>308</sup> Gleason, Philip. (1991). Minorities (Almost) All: The Minority Concept in American Social Thought. **American Quarterly**, 43(3), Pp. 392-424.

<sup>309</sup> Social Media Exchange. (2018). State of Privacy Lebanon. Retrieved from: [https://smex.org/wp-content/uploads/2018/02/State\\_of\\_Privacy\\_01\\_18.pdf](https://smex.org/wp-content/uploads/2018/02/State_of_Privacy_01_18.pdf)

<sup>310</sup> Anera. (2020). Lebanon. Retrieved from: <https://www.anera.org/where-we-work/lebanon/>

<sup>311</sup> Middle East Monitor. (2019). Palestine Refugees Protest Against Discrimination in Lebanon. Retrieved from: <https://www.middleeastmonitor.com/20190716-palestine-refugees-protest-against-discrimination-in-lebanon/>

<sup>312</sup> Shebaya, Halim. (2017). Lebanon Has a Racism Problem. Al Jazeera. Retrieved from: <https://www.aljazeera.com/opinions/2017/10/21/lebanon-has-a-racism-problem/>

<sup>313</sup> Euro-Med Monitor. (2019). Growing Racism Towards Refugees in Lebanon Alarms of Wide Scale Violence. Retrieved from: <https://euromedmonitor.org/en/article/2929/Growing-racism-towards-refugees-in-Lebanon-alarms-of-wide-scale-violence>

<sup>314</sup> Al Jazeera Institute. (2018). Avoiding Discrimination and Hate Speech in Media Handbook. Retrieved from: <https://institute.aljazeera.net/sites/default/files/2019/Avoid-Discrimination-HateSpeech-Media.pdf>

Lebanese society and are often exploited by landlords and employers. Thus, these women's accounts of online harassment and blackmail are under-reported.<sup>315</sup> In response to this increasingly racist and discriminatory environment, activists have organized multiple online campaigns to fight racism which include the campaigns in Support of Syrians Facing Racism, #No\_to\_Racism, and the Anti-Racism Movement.<sup>316</sup>

Similarly, migrant workers in Lebanon are also being targeted online when they try to organize<sup>317</sup> and raise awareness<sup>318</sup> about the abuses they suffer.<sup>318</sup> In April 2019, the administrators of the Facebook page 'This Is Lebanon', who shared and documented the various cases of abuse against migrant domestic workers in Lebanon, were informed that their site was blocked by the Lebanese authorities.<sup>319</sup> At the same time, the government has been using social media to address the human trafficking of migrant workers and in April 2020 arrested a Lebanese man for trafficking on Facebook.<sup>320</sup>

Attempts to spy on and potentially criminalize people for sexual orientation based on their activity online is an increasing concern in Lebanon. In May 2017, a Facebook page that posts content on crime and asks followers to identify the criminals, *Where is The State*, posted a video of a transgender woman engaging in a consensual act with another individual.<sup>321</sup> In December 2019 Ogero, a fixed infrastructure operator in Lebanon, at the orders of the Public Prosecutor's Office, blocked the dating application popular with the LGBTQI+ community, grindr. This was followed by the blocking of the application by all other Internet service providers.<sup>322</sup>

As women have also been working to raise awareness about sexual harassment using social media, it is clear that there is also significant amounts of gender-based violence directed towards women online. There have been many offline and online campaigns by activists and civil society organizations to address issues of gender-based violence, including online, who used social media to address issues of

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<sup>315</sup> Amnesty. (2016). Lebanon: Refugee Women from Syria Face Heightened Risk of Exploitation and Sexual Harassment. Amnesty International. Retrieved from: <https://www.amnesty.org/en/latest/news/2016/02/lebanon-refugeewomen-from-syria-face-heightened-risk-of-exploitation-and-sexualharassment/>

<sup>316</sup> Irshaid, Faisal. (2014). Anti-Syrian Hostility in Lebanon Spawns Social Media Backlash. BBC News. Retrieved from: <https://www.bbc.com/news/world-middle-east-26871736>

<sup>317</sup> Human Rights Watch. (2015). Lebanon: Recognize Domestic Workers Union. Retrieved from: <https://www.hrw.org/news/2015/03/10/lebanon-recognize-domestic-workers-union>

<sup>318</sup> Human Rights Watch. (2018). Lebanon: Migrant Worker's Abuse Account. Retrieved from: <https://www.hrw.org/news/2018/04/06/lebanon-migrant-workers-abuse-account>

<sup>319</sup> Maharat Foundation. (2019). Report on the Occasion of World Press Freedom Day About Freedom of Opinion and Expression in Lebanon between May 2018 and April 2019. Retrieved from: <http://maharatfoundation.org/media/1584/maharat-report-world-press-freedom-day-english.pdf>

<sup>320</sup> Egbunike, Nwachukwu. (2020). Harrowing Tales from African Domestic Workers in Lebanon. Global Voices. Retrieved from: <https://globalvoices.org/2020/06/25/harrowing-tales-from-african-domestic-workers-in-lebanon/#>

<sup>321</sup> Freedom House. (2019). Freedom on The Net 2019 Lebanon. Retrieved from: <https://freedomhouse.org/country/lebanon/freedom-net/2019>

<sup>322</sup> Hall, Richard. (2019). Lebanon Blocks Grindr in Latest Attack on LGBT+ Community. Independent. Retrieved from: <https://www.independent.co.uk/news/world/middle-east/grindr-lebanon-ban-lgbt-rights-dating-app-gay-a8933556.html>

sexual harassment.<sup>323</sup> In 2014, three women launched an online sexual harassment tracker in Beirut to raise awareness of sexual assault issues to empower the survivors.<sup>324</sup> In 2017, the American University of Beirut initiated a social media campaign challenging sexual harassment called #MeshBasita, leading the university to expand its policies to include cyber-harassment.<sup>325</sup>

Several cases of children and young adults committing suicide due to cyberbullying have been reported in Lebanon. Most notably, there was a recent case of a 12-year-old girl, who was blackmailed by her friend, boyfriend, and an adult male who had a nude video of her, which was shared on social media.<sup>326</sup> In response to this and other similar events, Latifa Al-Hassanyeh initiated anti-cyberbullying workshops and campaigns to hinder and diminish this crime, as well as spread awareness via social media platforms. The workshops were aimed at children, teenagers, and parents and encouraged individuals to spend time away from the online world and to report and call out for help when needed.<sup>327</sup>

## **Jordan**

Jordan hosts the second-highest number of refugees per capita where 1 out of 15 people is a refugee.<sup>328</sup> By late 2020, the number of refugees and asylum seekers from Syria, Yemen, Iraq, Sudan, Somalia, and other countries reached around 749,849.<sup>329</sup> This complex context has made it difficult for the Jordanian government to establish the necessary legislative framework to protect against racism, hate speech, and gender-based violence and to extend it to all people living in Jordan.

In 2017, a study by the "Akeed" Observatory of the Jordan Media Institute<sup>330</sup>, in cooperation with the Ethical Journalism Network, entitled "Monitoring Hate Speech in Jordanian media", revealed that social media platforms came first in terms of the emergence of hate speech, then Jordanian radio stations, followed by the daily print press, and finally the websites.<sup>331</sup> The study showed that "hate speech" is on the rise in Jordan, although it is still not a phenomenon in the Jordanian media neither in terms of its prevalence, nature, topics, sources nor the parties it targets. The results revealed that hate speech, incitement, stigmatization, in addition to profiling, had

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<sup>323</sup> Ibid.

<sup>324</sup> Ibid.

<sup>325</sup> Cuthbert, Olivia . (2019). Arab Women Fight Back Against Online Sexual Harassment. Al-Fanar Media. Retrieved from: <https://www.al-fanarmedia.org/2019/09/arab-women-fight-back-against-online-sexual-harassment/>

<sup>326</sup> Hassanyeh, Latifa. (2019). A Call to End Cyberbullying in Chouf Villages of Lebanon. Retrieved from: <https://druzetimes.com/news/2019/07/17/a-call-to-end-cyberbullying-in-chouf-villages-of-lebanon/>

<sup>327</sup> Ibid.

<sup>328</sup> The United Nations Population Fund. (2019). Jordan Humanitarian Emergency. Retrieved from: <https://www.unfpa.org/data/emergencies/jordan-humanitarian-emergency#:~:text=Jordan%20hosts%20one%20of%20the.is%20a%20refugee%20in%20Jordan.>

<sup>329</sup> Human Rights Watch. (2020). World Report: Jordan. Retrieved from: <https://www.hrw.org/world-report/2021/country-chapters/jordan>

<sup>330</sup> Al-Sarhan, Faysal. (2017). New Media and Hate Speech: Strategies for Confrontation. **The Journal of Arab Research and Studies**, 2017(66) Pp. 259-289.

<sup>331</sup> Ibid.

high rates on social media and Jordanian sites, followed by defamation, while the call for murder and violence ranked last.<sup>332</sup>

In the same year, the Jordanian government decided to amend the Jordanian Cybercrime Law with a law that criminalizes "hate speech."<sup>333</sup> However, "hate speech" remains an unclear and broad term, which causes challenges in terms of implementation. Without such clarification, it will be left to the discretion of the law and could be manipulated to silence individuals or even institutions.<sup>334</sup> Another benefit of the amendments was that they attempted to protect vulnerable groups within the society from exploitation, particularly women and children, as well as establish protections against fraudulent use of social media. However, protection against cyber sexual exploitation was limited to males and females under 18 years of age.<sup>335</sup>

Despite criminalizing hate speech, the Ministers of Justice and Interior wrote official letters to the Minister of Political and Parliamentary Affairs stating their intolerance of LGBTQ+ people and making it clear that the government would not defend their rights. This came after a parliament member directed the Jordanian Media Commission to open an inquiry into the legality of a Jordanian LGBTQ+ website.<sup>336</sup> This not only undermines the right to freedom of expression but also propagates hate speech against LGBTQ+.

It is noteworthy that the Jordan Media Institute, in partnership with the Ethical Journalism Network, launched a "glossary" of concepts, terminology, and expressions that bear connotations of hate, after analyzing the content of the Jordanian media. They also released the study sample; to help journalists improve their skills in dealing with hate speech and enable them to submit accurate reports accurate of high quality and on an ethical basis.<sup>337</sup>

Furthermore, an online poll by the United Nations International Children's Emergency Fund (UNICEF) Jordan country office revealed that 64 percent of young people in Jordan have been bullied online at least once.<sup>338</sup> The National Council for Family Affairs and UNICEF launched a 30-day national online campaign to raise

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<sup>332</sup> Akeed; Ethical Journalism Network. (2019). Study: Social media are the first platforms that help in the emergence of hate speech. Retrieved from: <https://tinyurl.com/s5ubqsm>

<sup>333</sup> Al-Khattaba, Kholoud. (2017, September 28). Jordanian law criminalizing "hate speech." Ammon News Agency article. Retrieved from: <http://bitly.ws/amdz>

<sup>334</sup> Al-Sarhan, Faysal. (2017). New Media and Hate Speech: Strategies for Confrontation. **The Journal of Arab Research and Studies**, 2017(66) Pp. 259-289.

<sup>335</sup> Ibid.

<sup>336</sup> Human Rights Watch. (2017). World Report: Jordan. Retrieved from: <https://www.hrw.org/world-report/2018/country-chapters/jordan#>

<sup>337</sup> Fayyad, Muhammad Ahmad. (2017). "Combating hate speech and enhancing intellectual security in the media - developing a communication model." International Refereed Media Conference. Media between Hate Speech and Intellectual Security, Zarqa University: Faculty of Journalism and Media.

<sup>338</sup> UNICEFJordan. [@UNICEFJordan]. (2020, February 11). (UNICEF Jordan). *More than half of young people we surveyed in Jordan have been bullied online at least once!*[Tweet]. Twitter. <https://twitter.com/UNICEFJordan/status/1227226644106153984/photo/1>

awareness about cyber-bullying. The campaign themed “the new epidemic at the time of the pandemic” provided online safety tips and prevention tools against cyber-bullying.<sup>339</sup>

As for sexual harassment on the Internet, a study by the Jordanian National Commission for Women (JNCW), published in 2017, revealed that 80.8 percent of respondents (above 18 years of age) experienced one or more forms of online sexual harassment. However, there is no information available on the exposure of boys and girls below 18 years of age to such a crime. The study also indicated a low percentage of respondents reporting sexual harassment in cyberspace to the Cyber Crimes Unit or even filing a complaint with the security authorities. Instead, the respondents would block the perpetrator. Moreover, most of the victims of harassment in cyberspace were females of all ages.<sup>340</sup>

## **Tunisia**

In Tunisia, as in many other countries in this study, the rapid adoption of social media has created new challenges for addressing racism, hate speech and gender-based violence. This phenomenon is not only growing on social media, but also traditional media (radio, press, television) which also includes racism, hate speech and gender-based violence.<sup>341</sup> In 2020, Democracy Reporting International found that advertising of political content before the presidential and legislative elections in 2019 had been designed to manipulate public opinion and spread racism and hate speech.<sup>342</sup> Tunisian police unions have also been known to use social media to smear journalists and create distrust between the media and the public.<sup>343</sup>

In Tunisian society, legal protections against racism, hate speech and gender-based violence have been developing in recent years. This includes a government definition of hate speech, which was adopted as a part of Article 52 of Legislative Decree No. 2011-115 established on November 2, 2011.<sup>344</sup> The legislative decree focuses on the freedom of the press, printing, and publishing and defines hate speech as incitement "to hatred between races, religions, or populations by inciting discrimination and the use of hostile means, violence, or propaganda for ideas based

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<sup>339</sup> McKeever, Claire. (2020, February 10). Cyberbullying: What is it and how to stop it. UNICEF. Retrieved in (2021, February 20), from: <https://www.unicef.org/jordan/stories/cyberbullying-what-it-and-how-stop-it>

<sup>340</sup> The Jordanian Commission for Women. (2017). Sexual Harassment in Jordan. Retrieved from: <https://womeninleadership.hivos.org/assets/2018/12/%D9%85%D9%84%D8%AE%D8%B5-%D8%A7%D9%84%D8%AF%D8%B1%D8%A7%D8%B3%D8%A9-%D8%A7%D9%86%D8%AC%D9%84%D9%8A%D8%B2%D9%8A.pdf>

<sup>341</sup> SNJT. (2016). The journalism ethics observatory in newspapers and online press. Retrieved from: <https://bit.ly/399dqok>

<sup>342</sup> Democracy Reporting International. (2019). Monitoring of electoral campaigning on social media Tunisia. Retrieved from: <https://urlz.fr/dJPN>

<sup>343</sup> Haddad, Mohamed. (2018, February 2). Journée de colère de la presse tunisienne. Le monde. Retrieved from: [https://www.lemonde.fr/afrique/article/2018/02/02/journee-de-colere-de-la-presse-tunisienne\\_5251140\\_3212.html](https://www.lemonde.fr/afrique/article/2018/02/02/journee-de-colere-de-la-presse-tunisienne_5251140_3212.html)

<sup>344</sup> INRIC. (2011). Décret-loi n°2011-115 du 2 novembre 2011 relatif à la liberté de la presse, de l'imprimerie et de l'édition. Retrieved from: [http://www.inric.tn/fr/Decret-loi\\_relatif\\_a\\_la\\_liberte\\_de\\_la\\_presse.pdf](http://www.inric.tn/fr/Decret-loi_relatif_a_la_liberte_de_la_presse.pdf)

on racial discrimination.”<sup>345</sup> However, these protections do not equally protect people – with noted omission of members of the LGBTQI+ community,<sup>346</sup> atheists or those with non-Islamic beliefs and migrants suffering from violence, discrimination, and extortion.<sup>347</sup>

Since August 11, 2017, Tunisia has passed its first law on violence against women.<sup>348</sup> However, it is not clear how effective the law is for addressing issues related to gender-based violence more broadly and how effective it is at addressing gender-based violence online. A 2019 study by the Centre for Research, Studies, Documentation, and Information on Women found that “89 percent of Tunisian women have experienced or been victims of online violence in one way or another.”<sup>349</sup> It was also noted that Facebook has become “a virtual space where the rhetoric of humiliation against women spreads on many levels.”<sup>350</sup> The use of the word “whore” accounts for 52 percent of such insults while 78 percent of insults are using the names of animals. The word “Bayra” (old unmarried woman) is also one of the most used insults to intimidate women because of their marital status. The perpetrators of violence also often used the term “disbeliever,” infringing on people’s freedom of belief.

In October 2018, the Assembly of People’s Representatives adopted the Organic Law on the Elimination of All Forms of Racial Discrimination in Tunisia.<sup>351</sup> The purpose of this law is to protect people against all forms of discrimination, under the principles set out in the Tunisian Constitution; in particular, “the equality of all citizens in rights and duties without discrimination, and following international conventions that protect citizens against all abuses without distinction of color, sex,

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<sup>345</sup> INRIC. (2011). Decree 115,” Republic of Tunisia, Prime Ministry, November 2, 2011. Retrieved from: [http://www.inric.tn/fr/Decret-loi\\_relatif\\_a\\_la\\_liberte\\_de\\_la\\_presse.pdf](http://www.inric.tn/fr/Decret-loi_relatif_a_la_liberte_de_la_presse.pdf)

<sup>346</sup> HRW. (2020). Tunisia: Two-Year Sentence for Homosexuality. Retrieved from: <https://www.hrw.org/news/2020/07/06/tunisia-two-year-sentence-homosexuality>

<sup>347</sup> Forum Tunisien pour les Droits économiques et sociaux. (2020). From Sub-Saharan African States to Tunisia A quantitative study on the situation of migrants in Tunisia: general aspects, pathways and aspirations. Retrieved from: <https://ftdes.net/en/from-sub-saharan-african-states-to-tunisia-a-quantitative-study-on-the-situation-of-migrants-in-tunisia-general-aspects-pathways-and-aspirations/>

<sup>348</sup> Législation Tunis. (2017). Loi organique n° 2017-58 du 11 août 2017, relative à l’élimination de la violence à l’égard des femmes. Retrieved from: <http://www.legislation.tn/sites/default/files/news/tf2017581.pdf>

<sup>349</sup> Sayadi, Hela. (2019, December 7). résultats préliminaires de l’étude sur les violences faites aux femmes sur les réseaux sociaux : Mettre fin à la violence en ligne. La presse. Retrieved from: <https://lapresse.tn/38831/resultats-preliminaires-de-letude-sur-les-violences-faites-aux-femmes-sur-les-reseaux-sociaux-mettre-fin-a-la-violence-en-ligne/>

<sup>350</sup> Ibid.

<sup>351</sup> Legislation Tunis. (2018). Loi organique n° 2018-50 du 23 octobre 2018, relative à l’élimination de toutes les formes de discrimination raciale Organic Law No. 2018-50 of 23 October 2018, relating to the elimination of all forms of racial discrimination. Retrieved from: <https://legislation-securite.tn/fr/node/104416#:~:text=La%20pr%C3%A9sente%20loi%20fixe%20les.et%20de%20r%C3%A9primer%20ses%20auteurs.>

or creed.”<sup>352</sup> The adoption of this law was considered a huge victory for minorities and human rights activists,<sup>353</sup> However, its implementation is still a major challenge.<sup>354</sup>

## **Morocco**

While there have been some attempts to respond to racism and gender-based violence in Morocco, most government responses do directly acknowledge racism and are not designed to support systemic change offline or online. There is also a lack of access to information about racism and gender-based violence online, making it very difficult to address systemically.

The Moroccan government argues that Moroccan laws are anti-discriminatory and help to fight discrimination, as they criminalize discrimination of citizens based on race and that all jobs are open to all groups within the framework of equality.<sup>355</sup> There has been a particular emphasis on the rights violations of black migrants from Sub-Saharan Africa who do not have the same rights as other citizens.<sup>356</sup> Along this line, King Mohamed VI passed a law to assist a minority in obtaining working papers. However, in practice, the Moroccan government has often denied that racism is a prevalent issue in Morocco<sup>357</sup> and is blocking Moroccans from forming black anti-racist civil society organizations.<sup>358</sup> Additionally, anti-discrimination laws do not include the protection of sexual orientation and the Moroccan penal code does not criminalize hate crimes.<sup>359</sup>

While black Moroccans are working to raise awareness of racism and discrimination online, most of the discussion is limited to the online and is amongst privileged Moroccans, instead of being taken up more widely by society, media, or politicians.<sup>360</sup> There is yet to emerge a social justice movement for ending anti-Black racism in Morocco, and attempts to create civil society organizations to pursue this, are being blocked by the Moroccan government, according to activists.<sup>361</sup>

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<sup>352</sup> Ibid.

<sup>353</sup> OXFAM. (2017). Victory in Tunisia: new law says "Enough" to violence against women and girls. Retrieved from: <https://www.oxfam.org/en/press-releases/victory-tunisia-new-law-says-enough-violence-against-women-and-girls>

<sup>354</sup> EU Neighbours South. (2019). Tunisia: EU-funded project assesses law on the elimination of violence against women. Retrieved from: <https://www.euneighbours.eu/en/south/stay-informed/news/tunisia-eu-funded-project-assesses-law-elimination-violence-against-women>

<sup>355</sup> UN General Assembly. (2019). Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Retrieved from: <https://undocs.org/pdf?symbol=en/A/HRC/41/54/ADD.1>

<sup>356</sup> Arab Reform Initiative. (2020). Ending Denial: Anti-Black Racism in Morocco. Retrieved from: <https://www.arab-reform.net/publication/ending-denial-anti-black-racism-in-morocco/>

<sup>357</sup> Pouessel, Stephanie. (2012). Noir Au Maghreb: Enjeux identitaires. *Open Edition Journals*, 68(2), Pp. 367-370.

<sup>358</sup> Ibid

<sup>359</sup> U.S. Department of state. (2019). 2019 Country Reports on Human Rights Practices: Morocco. Retrieved from: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/morocco/>

<sup>360</sup> Arab Reform Initiative. (2020). Ending Denial: Anti-Black Racism in Morocco. Retrieved from: <https://www.arab-reform.net/publication/ending-denial-anti-black-racism-in-morocco/>

<sup>361</sup> Arab Reform Initiative. (2020). Ending Denial: Anti-Black Racism in Morocco. Retrieved from: <https://www.arab-reform.net/publication/ending-denial-anti-black-racism-in-morocco/>

The diverse nature of Moroccan society can make it complex for the political and legislative systems in the country to develop an effective legislative framework for combating hate speech, discrimination, and sexual harassment that is in line with international standards and regulations. However, an inclusive policy development process in Morocco, which includes government, civil society, academics, legal experts, activists, and survivors could greatly improve the likelihood that the legislative framework could be effectively developed and widely adopted.

**Right to Access**

**to Digital Economy**

## Right to Access to Digital Economy

E-commerce is becoming a pervasive reality in the MENA region. This shift has renewed customer experiences, and created opportunities for large and small businesses, as well as for a new generation of retailers. The adoption of the trading and commerce paradigm in the MENA region to a digital economy, induce the need for a proper legal framework and community awareness as well.<sup>362</sup>

### Lebanon

Lebanon is ranked 143rd in the world with regards to the ease and simplicity of conducting and building business.<sup>363</sup> In the early months of 2002, the Ministry of Economy and Trade (MET) acknowledged the importance of digital and electronic transactions and commerce, which will make Lebanese firms and organizations more competitive and capable of engaging with the global market.<sup>364</sup> This prompted the MET to devise a legal and regulatory framework for e-Commerce, called the *Ecomleb Project*, which was funded by the European Union. The project considered nine main digital issues in e-commerce: electronic communication and service providers, data protection and privacy, electronic writings and the securitization of digital signatures, online contracts and burden of proof, e-commerce ad digital transactions, cybercrimes, intellectual property rights, consumer protection in e-contracts, and domain names allocation.

The first three titles are self-governing and contain additions to the current Lebanese legislation; these establish and authorize the new Lebanese Internet Code. The remaining six titles, however, directly integrate and incorporate with the current Lebanese codes to address the challenges and issues of electronic means of communication, commercial exchange, and writings.<sup>365</sup> Lebanon ranked 5<sup>th</sup> in the Middle East in its readiness with regard to e-commerce and 56<sup>th</sup> worldwide. In 2016, the e-commerce market generated USD 341M which represents an almost 10 percent growth from the previous year.<sup>366</sup>

The enactment of the new e-transactions and Personal Data Law No.(81) in October 2018, more commonly referred to as the e-Transaction Law, has pushed Lebanon into the era of e-transactions and data protection. The law enabled the Lebanese legislation to adapt to the new business environment, where electronic

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<sup>362</sup> Bain. (2019). *GLOBAL PRIVATE EQUITY REPORT 2019* (Rep.). Retrieved 2021, from Bain & Company website:

[https://www.bain.com/contentassets/875a49e26e9c4775942ec5b86084df0a/bain\\_report\\_private\\_equity\\_report\\_2019.pdf](https://www.bain.com/contentassets/875a49e26e9c4775942ec5b86084df0a/bain_report_private_equity_report_2019.pdf)

<sup>363</sup> Daou, Alain; et al. (2020). *Breaking The Cycle: Proposing a New 'Model'*. The Daily Star Lebanon. Retrieved from: <https://www.dailystar.com.lb/Opinion/Commentary/2020/Sep-09/511451-breaking-the-cycle-proposing-a-new-model.ashx>

<sup>364</sup> Ministry of Economy and Trade. (2011). E-Commerce. Retrieved from: <http://www.economy.gov.lb/en/projects/e-commerce>

<sup>365</sup> Ibid.

<sup>366</sup> UNCTAD. (2017). UNCTAD B2C E-commerce index 2017. Retrieved from: [https://unctad.org/system/files/official-document/tn\\_unctad\\_ict4d09\\_en.pdf](https://unctad.org/system/files/official-document/tn_unctad_ict4d09_en.pdf)

transactions are becoming more common.<sup>367</sup> This was a long-awaited regulation since the Lebanese laws were no longer up-to-date with the electronic transactions which had become more common in civil and commercial transactions. Since the existing Lebanese laws up until the enactment of the above-mentioned law only dealt with traditional transactions based on paper, a new reform was needed to keep the country up-to-date with the current technological advancements in the world.

Any private or public sector that is hosting, delivering, or utilizing digital transactions, services and data, as well as domain names, require regulations, legislations, and control procedures to protect users while online. At the same time, legislation needs to be developed mindfully and not impair the banking sector's work.<sup>368</sup> This should ultimately encourage investors interested in the national economy, which was the main motivation behind the increase in legislation being drafted on the subject in the early 2000s. In 2004, the Lebanese Parliament introduced a draft of the law targeting the Electronic Transactions and Personal Data.<sup>369</sup>

As of November 17, 2012, this law was still pending approval and implementation, which took place in early October, 2018, and was supposed to take effect within three months of its issued date. Despite being altered between the times that the legislation was introduced and 2018, the objective of the law stood unmodified: to promote the amplification of e-commerce, ignoring the influence these actions might have on the protection of information and without referencing General Data Protection Regulation (GDPR).<sup>370</sup>

In terms of electronic writings and e-signature, the law equated and balanced e-signatures and e-documents with paper-based signatures and documents, according to Articles (3) and (7), and also acknowledged the proof power of an electronic document. On the other hand, this power is relative. It only becomes absolute if the person it was issued by is determined. An Implementing Decree is needed to address and devote the legal recognition of electronic authentication certificates, which is used in the process of authenticating digital signatures.<sup>371</sup>

More importantly, until certificated service providers are approved by the Lebanese Accreditation Council, which has not yet determined the conditions for such accreditation, the courts will have discretionary and unrestricted authority to

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<sup>367</sup> Banque Du Liban. (2019). Law No. 81 Electronic transactions and personal data Retrieved from: <https://www.bdl.gov.lb/files/laws/Law81.pdf>

<sup>368</sup> Ibid.

<sup>369</sup> Bakhos, Auguste. (2019). Fit for Purpose: Updated Laws on E-Transactions, Offshore Companies, and Code of Commerce. Executive Magazine. Retrieved from: <https://www.executive-magazine.com/economics-policy/updated-laws-on-e-transactions-offshore-companies-and-code-of-commerce>

<sup>370</sup> Social Media Exchange. (2018). An 'Ugly' New Data Protection Law in Lebanon. Retrieved from: <https://smex.org/an-ugly-new-data-protection-law-in-lebanon/>

<sup>371</sup> Salamé, Georgette. (2019). New Lebanese Law on E-transactions and Data Protection. JD Supra. Retrieved from: <https://www.jdsupra.com/legalnews/new-lebanese-law-on-e-transactions-and-97004/>

assess and evaluate the reliability of all e-documents and corresponding electronic signatures.<sup>372</sup> With concern to the organization of e-commerce, Article (30) binds and obligates the electronic trade to the existing, regular laws that are already in force; namely the Code of Commerce, the Code of Obligations and Contracts, the Code of Civil Procedures, and the Code for Consumer Protection.

The law has also bound e-commerce websites to certain conditions under Article (31) so that more transparent and safe transactions are attained and ensured. This article requires and necessitates the ease of access to information on individuals dealing with electronic commerce for users. Article (33) and following of the law puts electronic contracts to the same legal provisions as regular contracts, except for some special rules and regulations concerning the development of the contract in terms of pre-contractual negotiations and assigning the date and time of its establishment.

The law tackles cyber-criminality and poses punishments to any threats to the integrity of the information technology system and e-commerce. Also, the law further addresses specific marketing practices that are explicit to the e-commerce market, such as aggressive spamming. It also develops and establishes disclosure agreements in an attempt to protect Internet users by fostering more ethical and transparent online business practices. Moreover, this law also acknowledges the existence and authenticity of the digital currency, which had not been earlier introduced by the Central Bank of Lebanon, as it did not have prior authority.

### **Jordan**

The 2015 Jordanian Cybercrime law provides legal protection extending to electronic records and systems related to commercial and economic activity and trade secrets, as well as to personal information and private use information, as long as they are carried out via the Internet. (Cybercrime Law No. 27 of 2013)<sup>373</sup> The new law not only criminalizes assaults on the Internet and electronic records as the subject of the crime, but also punishes crimes committed in the digital space, such as online slander and promotion of prostitution. Furthermore, amendments to the Temporary Information Systems Crimes Act<sup>374</sup>, include penalties imposed for assaulting records, systems and websites.<sup>375</sup>

Therefore, it is clear that the potential success of e-commerce is dependent on a modern legal system capable of dealing with changes in electronic commerce; while at the same time have the ability to protect the parties involved. In other

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<sup>372</sup> Ibid.

<sup>373</sup> Abu Issa, Hamzeh; Ismail, Mahmoud; & Amar, Omar. (2019). Unauthorized access crime in Jordanian law (comparative study). *Digital Investigation*, 28, Pp. 104-111. Retrieved from:

<https://www.sciencedirect.com/science/article/abs/pii/S1742287618302883?via%3Dihub>

<sup>374</sup> ECPAT. (2016). Status of action against commercial sexual exploitation of children. Retrieved from:

<https://www.ecpat.org/wp-content/uploads/2016/04/GlobalMonitoringCountry-for-JORDAN.pdf>

<sup>375</sup> Ibid.

words, the existence of a legislative structure that fights theft and piracy acts and works to secure financial transactions through this type of trade, would need to be in place in order to enable dealers and customers to participate in this marketplace safely. Despite these inherent challenges, the convenience and potential for profit has led many users to sell and buy their goods online. This popularity has only increased the need for clear regulation and protections leading to the need to re-enact electronic commerce legislation and to show the possibility of overcoming its obstacles and developing them<sup>376</sup>.

### **Tunisia**

According to a 2018 study focused on the Barometer of e-commerce in Tunisia, published by the National Institute of Consumption (INC), online sales reached \$63 million dollars in 2017.<sup>377</sup> A relatively low amount compared to other more mature African e-commerce markets. Thus, e-commerce in Tunisia only represents 0.16 percent of trade in goods and services. Also according to the INC, Tunisian electronic commerce faces several constraints, notably those related to the non-convertible currency status of the Tunisian dinar and the general lack of credit cards and electronic means of payment on an international scale. This is also explained by the fact that Tunisians doubt the reliability of online payment methods.

According to the same study, Tunisian internet users tend not to shop online because they do not trust the payment systems. For a large majority of Tunisians, they believe that e-commerce sites should offer more payment methods and a clear refund policy in case of dissatisfaction, according to the same study.

### **Morocco**

The Moroccan e-commerce market is booming and is among the most vibrant in Africa. Morocco is ranked 6th among African states<sup>378</sup>. Ranked 95 of 152 countries in UNCTAD World B2C E-commerce index 2019.

E-commerce continues to grow, increasing by almost 21.3 percent between 2016 and 2018. Nearly one out of five people use e-commerce in urban areas<sup>379</sup>. According to the Global Findex Data, only 1.6 percent of the population in Morocco made an online purchase in 2017. The practice of ecommerce is changing and has more interest in urban than in rural areas. Men use e-commerce more than women.

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<sup>376</sup> ITU. (2012). Understanding cybercrime: Phenomena, challenges and legal response. Retrieved from: <https://www.itu.int/en/ITU-D/Cybersecurity/Documents/CybercrimeE.pdf>

<sup>377</sup> MDWEB. ( 2018). Les Chiffres Clés Du E-Commerce en Tunisie. Retrieved from: <http://www.tunisia-survey.com/barometre-ecommerce/barometre-ecommerce-resultat/>

<sup>378</sup> Scbtrade. (September 2020).Market access procedures customs procedures. Retrieved 09/10/2020

<sup>379</sup> ANRT, (2019). Enquête de collecte des indicateurs TIC auprès des ménages et des individus au niveau national au titre de l'année 2018. Available at:

<https://www.anrt.ma/en/indicateurs/etudes-et-enquetes/enquete-annuelle-marche-des-tic>

Nearly half of those who shop online made it 2 to 5 times in 2018.<sup>380</sup> One major hurdle, however, is a lack of online payment systems. Restrictions on outbound hard currency cash flows also limit international purchases<sup>381</sup>. Clothes are at the top list of products purchased online with nearly 70 percent and far surpass other products and services such as bill payments, cosmetics, travel products and computer equipment.<sup>382</sup>

The reputation of the brand and the security of the commercial site top the criteria for choosing online shopping sites. Three-quarters of the population do not measure the risk of lack of online protection.<sup>383</sup> There is a high instance of credit card fraud in Morocco.<sup>384</sup> Maroc Telecom has offered a mobile money transfer service through the e-payment platform Mobicash since 2010, but the financial services license would allow the operator to expand and use physical retailers as access points. Maroc Telecom already runs mobile banking operations through its subsidiaries in sub-Saharan Africa.<sup>385</sup>

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<sup>380</sup> ANRT, (2019). Enquête de collecte des indicateurs TIC auprès des ménages et des individus au niveau national au titre de l'année 2018. Available at:

<https://www.anrt.ma/en/indicateurs/etudes-et-enquetes/enquete-annuelle-marche-des-tic>

<sup>381</sup> World Bank. (2019). Morocco Infrastructure Review (originally published in French in December 2019). Retrieved from:

<http://documents1.worldbank.org/curated/pt/194961592448114381/text/Morocco-Infrastructure-Review.txt>

<sup>382</sup> ANRT. (2019). Enquête de collecte des indicateurs TIC auprès des ménages et des individus au niveau national au titre de l'année 2018. Available at:

<https://www.anrt.ma/en/indicateurs/etudes-et-enquetes/enquete-annuelle-marche-des-tic>

<sup>383</sup> Ibid

<sup>384</sup> Selectusa. (7/15/2019). Morocco Country Commercial Guide, Morocco – eCommerce. Retrieved from:

<https://www.selectusa.gov/article?id=Morocco-eCommerce>

<sup>385</sup> Oxford Business Group. (2018). Mobile and internet penetration rates in Morocco. Retrieved from:

<https://oxfordbusinessgroup.com/overview/connecting-dots-mobile-and-internet-penetration-rates-are-reaching-new-heights>

**Conclusions**

**and Recommendations**

## Conclusions and Recommendations

While access to the Internet has provided people with opportunities to further fulfill their digital rights and human rights, the policies and practices of governments and authorities (or the lack of) are leading to the violations of citizens' digital rights and human rights. The overall mapping of digital rights in Lebanon, Jordan, Morocco and Tunisia raises some real concerns and shows promising prospects at the same time.

The mapping results showed that the pace of technological innovation and advances outpaced the development of digital rights and human rights protections, and even worse, these advances were often at the cost of digital rights and human rights – despite vocal opposition from civil society and activists. Over the past decade, it has become clear that there is a lack of political will and financial resources to sufficiently develop the environment for the protection of digital rights in the countries studied and likely in the wider MENA region. This is unfortunately likely to lead to increasing human rights violations, as digital rights are increasingly being linked with accessing basic services and fulfillment of one's human rights

The majority of people in the countries studied are using the Internet and that the majority of the population tends to adopt innovation in the middle of the innovation bell curve.<sup>386</sup> In the region, as is well known due to the Arab Spring in 2011, the early adopters of digital media technologies in the MENA region have been authorities and activists. This is in line with classical theories about social systems, where the innovators are at polar opposites of the political spectrum. In the case of digital rights, authorities are many, with national authorities and multinational corporations, impacting people's digital rights.

States are obligated to ensure that people's human rights are protected and that their policies and practices uphold international law and human rights. To do this, it is necessary that they support the development of both the hard infrastructure related to digital advancement and the soft infrastructure like policies and practices that will support the protection of human rights and digital rights. Unfortunately, many states are still failing to develop the necessary legal frameworks to protect people's digital rights. This is made more complex by the fact that particularly in Lebanon and Jordan, there are high numbers of people who are not considered citizens, but are refugees, and their rights, in particular, are not being sufficiently protected. There is a need for governments to develop a legislative framework with the inclusion of the public, private and extra-governmental sector and to work to bring national laws in line with international norms and standards.

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<sup>386</sup> Ene Okon, Patrick; Obukoadata, Presly ; & Eje Uduma, Ngozi. (2020). Deploying Digital Media as Innovations in Marketing Government Policies and Enhancing Civic Engagement among Vulnerable Youths in Calabar. *Media Watch*, 11(2), Pp. 296-309.

Corporations need to build a system of transparency with the public in regards to possible violations of their digital rights. Individual's information is collected by corporations, internet providers, phone companies and social media giants and they are surveyed without prior-knowledge of the user. Furthermore, the information is used without approval from the individual. This practice is a clear violation of right to privacy, the right to be forgotten, and the right to access information. In 2021, access to phones and the internet has become a basic right that is necessary to fully function in today's rapidly changing world. Phone companies and internet providers have an obligation to provide access to these fundamental tools. At this time, it is clear that phone and internet plans have become increasingly expensive, limiting access for members of society who cannot afford them, especially showing a divide between rural and urban neighborhood access. Corporations should take into consideration digital rights of the individual, and to not abuse their power over society.

On the other hand, activists and related rights associations protest in the digital medium to enhance and inequality in power, resources, and thus weaponed with intonations laws, humanitarian declarations and civil rights charters and conventions. The core of digital rights are those emanating from *basic* human rights; The right to online freedom of expression, online Privacy and online FoAA. With the ever-growing pool of activists and rights associations that take on the task of holding those in power accountable, possible violations of these digital rights are being exposed and in turn are exposing the reality of the situation in the MENA region. It is imperative that this be a growing movement, in order to ensure that digital rights are protected.

While there are steps being taken in the MENA region to achieve a better situation regarding digital rights, it is clear that the powers that be have asserted their dominance over platforms that would allow for free public discourse, monopolised the internet companies, and use this to control what the public has access to and in turn their personal information. The legal framework in place to protect digital rights in Lebanon, Jordan, Morocco and Tunisia is not sufficient. This reality has created a lack of trust between the government and the populations. Without fundamental change on all levels, from the government to the corporations to law enforcement to the public themselves, the lack of information surrounding the topic of digital rights and freedoms will continue to be exploited. It is imperative that the system begin to change, or the Middle East and North Africa region will get left behind in the ever-changing, fast pace of a modern digital world.

## Recommendations

The recommendations were developed based on the data collected through the desk research, focus group discussions and questionnaires that enabled 32 participants to discuss recommendations for digital rights in Lebanon, Jordan, Tunisia and Morocco.

Digital rights awareness and media literacy	There is a need to raise the awareness of the public, decision-makers and power holders to better understand their digital rights and how digital rights can be protected through policies and practices of institutions -- particularly government institutions, media, civil society and educational institutions. There is also a need for investment in media literacy education, especially in rural areas in the region, which are generally disadvantaged.
Access to Internet	Internet access providers should respect the principle of net neutrality. They should be transparent about the traffic or information management policies and practices they employ. Policy-makers and regulators should promote competitive and diverse broadband markets in order to reduce the cost of accessing the Internet. Internet access providers should invest a fair proportion of their profits in developing and expanding the infrastructure for providing access to the Internet at an affordable cost for average citizens with average income.
Access to Information	The government and policy-makers should oblige public structures to create official websites and publish and update information in accordance with the requirements of the access to information laws to ensure that domestic laws and their implementation are consistent with international human rights standards.
Access to Digital Markets	There is a need for information on e-commerce for citizens, to create a system of trust for online economic transactions. Governments also need to enact e-commerce laws that solidify a strong legal framework for consumer activity, new customer experiences, and create opportunities for large and small businesses, as well as for a new generation of retailers.
Privacy Laws	Governments should ensure that policy development, policies and practices regarding privacy and data are open to the public and engage multiple stakeholders. This includes establishing privacy laws, enforcement mechanisms and encouraging the development of codes of conduct and awareness-raising programs for institutions and individuals that do not discriminate against anyone. In case of failure to comply with privacy laws, governments must provide adequate remedies.
Data protection	Privacy laws and guidelines or regulations related to personal data, whether in the public or private sector, must address how data is being collected,

	<p>stored, processed and disseminated and not limit freedom of expression. The use of data collected, as well as the identity of the data controller, should be known. Data collection should be limited and obtained in lawful means, including with consent of the data subject, when appropriate and be a part of a privacy management programme that provides safeguards based on privacy risk assessments and that has appropriate oversight and integration into government. Personal data should be protected by security and the use of such data should be specified. Individuals should have the right to obtain information about their data within a reasonable time, without a charge, and in a way that they can easily understand what data has been collected, how it is being stored, processed and disseminated.</p> <p>Private companies must release regular transparency reports and disclose the requests of law enforcement to provide users data. They must also work to ensure that there is a method of management of data and appropriate response mechanisms when there is a threat to people’s privacy. Human rights impact assessments should be conducted throughout programs to ensure that these programs are safe.</p>
National Security Laws and Surveillance	<p>The laws relating to national security and public order should be known to the public and as few as possible. Surveillance and counter-terrorism policies and practices should be assessed for their compliance with international human rights norms and reformed accordingly. Mass or “blanket” surveillance of entire populations or groups of people does not meet the “necessary and proportionate” test of Human Rights Law. Governments should not weaken or undermine encryption standards, ban or limit users’ access to encryption, or enact legislation requiring companies to provide encryption systems.</p>
Digital ID	<p>Digital ID should be only adopted on a voluntary basis when a secure technology infrastructure and cybersecurity framework is in place and should not be a requirement for people to access basic services. Minimum data should be collected and transferred to reduce the harm if data is compromised. Beneficiaries of organizations should not be required to provide biometric information to receive aid or services. Technologies must be designed and data stored a decentralized way that will protect users. Human rights impact assessments should be conducted throughout programs to ensure that these programs are safe.</p>
Right to Be Forgotten	<p>It is imperative that individuals have the right to erase data and their right to object to personal data processing against online databases. Users should be notified of their rights to their personal data, and have access to information regarding the right to be forgotten. Governments should also enact strong policies and regulations that protect this right.</p>
Freedom of Expression	<p>Governments should repeal all legislation that enables arbitrary and unbalanced restrictions on freedom of speech, in cases like “defamation”</p>

	and “violating sanctities” for instance. Governments should additionally publish regular and accessible data disclosing the volume, nature, and purpose of all government requests made to companies affecting users’ freedom of expression and privacy. Companies should also be required by law to disclose meaningful and comprehensive information about the actions they take that may affect users’ freedom of expression.
Discrimination, gender based violence	Racism, discrimination, gender-based violence online and cyberbullying, should be addressed by specific laws and implemented with the oversight of independent bodies. In particular, attention should be paid to how some laws actually further discrimination, by excluding people like members of the LGBTQI+ community.
Fake News	Immediate measures to combat fake news in MENA countries require governments to develop crisis communication plans to provide an immediate response to disinformation. Governments should also focus on transparent communication with the public to win their trust especially in times of crisis. Long-term measures need the collaboration of governments and stakeholders to introduce media literacy in schools, conduct campaigns to promote information sharing, and give technology companies an important role in combating fake news. Moreover, governments need to develop or update their anti-fake news laws in consultation with civil society so that these laws protect the citizens without compromising their rights such as the right to freedom of expression.

# Mapping of Digital Rights

in the Middle East and North Africa (MENA) Region

**Covered Countries:** *Lebanon - Jordan - Tunisia - Morocco*

**January 2021**



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the Advancement of Social Media

