

**TALLINN UNIVERSITY OF TECHNOLOGY**

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**The Impact of Cybercrime Law on  
Freedom of Expression in Jordan**

Master Thesis

Supervisor: PhD. Agnes Kasper

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I hereby declare that I am the sole author of this Master Thesis and it has not been presented to any other university for examination.

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## **Table of Abbreviations**

EU	European Union
USA	United States of America
NITC	National Information Technology Centre
ICT	Information and Communication Technology
ISP	Internet Service Provider
TRC	Telecommunications Regulatory Commission
ETL	Electronic Transaction Law
UNHCR	United Nations High Commissioner for refugees
PPL	Press and Publication Law
UGC	User-Generated Content
NGOs	Non-Governmental Organizations
CDFJ	Center for Defending Freedom of Journalists
UDHR	Universal Declaration of Human Rights
ICCPR	International Covenant on Civil and Political Rights
MENA	Middle East and North Africa
CRC	Convention on the Rights of the Child
NIACSS	National Information Assurance and Cyber Security Strategy

## Introduction

The world is experiencing an unprecedented transformation because of rapid developments in the field of information technology. The smooth integration of technology with many human activities has added tremendous value to society by offering new and diverse patterns that allow people to practice their human rights and achieve their goals through the “Cyberspace”.

In accordance to many humanitarians’ opinion,<sup>1</sup> the Jordanian government suppresses any position that threatens its power by limiting basic human rights, such as the right to access to information and the right to freedom of expression. People expressing negative comments about the legal system, the government, their entities or practices may find themselves banned or facing criminal charges or penalties. While Article 15 of the Constitution of Jordan supposedly guarantees citizens the right to hold opinions without interference, it is not an absolute right because like many human rights it carries both duties and responsibilities. The right to freedom-of-expression may be restricted under certain circumstances (e.g. violations of another’s human rights, national security or public health) as set-out by the law.<sup>2</sup>

A growing body of media literature<sup>3</sup> on broader political freedom of a country increasingly acknowledges that a critical component in the development of any country is having a healthy and stable media sector. The author hypothesizes that having an independent media sector that is free from either public or a government’s control and great access to information together will have a significant positive impact on countries’ political risk. However, an independent media is not the only requisite for freedom of expression. A free press cannot serve its purpose unless it can reach an entire population of the country, and where the majority of those people understand and rely upon the press as a true and critical source of information.

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<sup>1</sup> Hamed. M, Jordan Events of 2016, Sep 25, Human Rights Watch, available at <https://www.hrw.org/world-report/2017/country-chapters/jordan> (29.11.2016)

<sup>2</sup> ICCPR, Article 19 (2) and (2)

<sup>3</sup> Media Development’s Role in Social, Economic, And Political Progress, Media Development Investment Fund, available at <https://www.mdif.org/wp-content/uploads/2014/08/Media-Developments-Role-in-Social-Economic-and-Political-Progress-Literature-Review.pdf> (29.11.2016)

In this context, freedom of expression is not a recent development specific to modern, ICT-based societies.<sup>4</sup> For instance, Islam points out the three most critical attributes of an effective media sector are independence, quality and reach. These attributes<sup>5</sup> ensure that information is reported without fear of government interference or other factors that may interfere with the freedom of the press. This would allow a wide variety of perspectives to be expressed and produce political, social and economic content for all segments of the society. A healthy media sector exists when the press and the peoples of a nation have the right to hold their opinions freely without any fear or prejudice. In order for this to happen, the author's opinion is that an adequate legal framework that ensures people right to freedom of expression and access to information should be presented.

It must be noted that this thesis investigates Jordanian society and government policy. His Majesty The King of Jordan launches one initiative after the other to promote democracy and political reform<sup>6</sup> but if one looks at the Jordanian government's practices, one notices some very authoritarian tendencies that have the effect of limiting the citizens' right to freedom of expression. These restrictions are justified by the government on the grounds of political stability and security. However, the author thinks that repressing freedom of expression hides corruption and does not create a stable country. Indeed, this combination of factors creates a country that is heading for instability and chaos.

In 2010, Jordan first attempted to address issue of cybercrime when the Council of Ministers approved the Information Systems and Cybercrimes Law.<sup>7</sup> This law was aimed at addressing criticisms relating to the broad police powers provided under the law, the broad definition of a cybercrime, and a number of alleged human rights violations; for example, using the law in

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<sup>4</sup> Bokova, I. World Trends in Freedom of Expression and Media Development. United Nations Educational 2014, p5, available at <http://unesdoc.unesco.org/images/0023/002349/234933e.pdf> (29.11.2016)

<sup>5</sup> Independence implies that a media outlet has the ability to report information without the fear of getting penalized and that it is not under the control of any interest group. Islam stresses that second benchmark, quality, is hard to judge. Islam defines quality media as that which objectively reports basic economic, social and political information, publishes a diversity of opinions for which it can be held accountable, and is attentive to providing information that has real value to society. Finally, reach implies the extent of access the populace has to the print, electronic or broadcast media.

<sup>6</sup> Jonasson. A, Is Monarchy Compatible with Democracy? The Constitutional Framework and Royal Initiatives for Democracy in Jordan, available at [http://pol.gu.se/digitalAssets/1381/1381199\\_jonasson--in---zdalga---persson--eds-.pdf](http://pol.gu.se/digitalAssets/1381/1381199_jonasson--in---zdalga---persson--eds-.pdf) (20.11.2016)

<sup>7</sup> American Bar Association, The International Lawyer, 1966, available at <http://www.copyright.com/search.do?operation=detail&item=122804460&detailType=advancedDetail> (29.11.2016)

inappropriate way<sup>8</sup> to restrict the right to freedom of expression on both levels professional and non-professional.<sup>9</sup> The existing law had broad definitions that were problematic in their interpretation resulting in the criminalization and penalization of online activities that were not related to cybercrime; those provisions were used to restrict the right to freedom of expression online.

In this thesis the author will analyze the facts to see if the Jordanian government is exceeding its powers as set out in the law, especially with regard to the current Information Systems and Cyber Crime Law which was enacted with the purpose of protecting citizen's online activities. I will examine claims that basic human rights are being restricted in contravention of the guarantees set out in the Jordanian Constitution and further supported in many international human rights agreements.

This thesis is devoted to the problems related to the protection of freedom of expression and the safeguard of online activities, or in the context of the presented work, the protection of freedom of expression in cyberspace in Jordan. Moreover, the author considers the Jordanian Constitution, national legal framework and international agreements as existing legal tools for protecting citizen's basic human rights from infringements, especially those relating to the right to freedom of expression in cyberspace. The relevance of this subject arises because of the growing developments in information technology, the influence of the Internet in our daily lives and the fact that the Jordanian government misuses its power to hinder basic human rights,<sup>10</sup> especially those rights which can be exercised online and are recently gaining awareness amongst legal scholars and practitioners.

New challenges arising from the Information Systems and Cybercrimes Law, such as those that give the authorities the legal power to hinder the right to freedom of expression, need to be addressed given the role of the Internet today in facilitating openness to the whole world. Therefore, a careful study is needed on the online practices of Jordanian citizens as related to

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<sup>8</sup> Freedom house, Jordan 2016. Available at <https://freedomhouse.org/report/freedom-press/2016/jordan> (29.11.2016)

<sup>9</sup> Human Rights Watch, Jordan: Journalists, Writers Facing Terrorism Charges. Available at <https://www.hrw.org/news/2015/07/15/jordan-journalists-writers-facing-terrorism-charges> (29.11.2016)

<sup>10</sup> Human Rights Watch, Shutting Out the Critics: Restrictive Laws used to Repress Civil Society in Jordan, 2007, available at <https://www.hrw.org/report/2007/12/16/shutting-out-critics/restrictive-laws-used-repress-civil-society-jordan> (29.11.2016)

their exercising of their human rights online within the context of existing legal tools provided by the state.

The author's inspiration for this study relates to the apparent rising number of cybercrimes and infringements on citizens' Constitutional and human right to freedom of expression since the introduction of the Information Systems and Cybercrimes Law.

**The hypothesis of this thesis is that the Information Systems and Cybercrimes Law, as legislated by the Jordanian government, infringes on citizens' right to freedom of expression, as set out in Jordan's Constitution and international treaties, by failing to limit the scope of criminal activity within that body of law.**

**This thesis seeks to answer:**

- 1. What are the main elements of the Jordanian legal system that protect citizens' right to freedom of expression? And, what is the role of the cybercrime law therein?**
- 2. Do government practices comply with Jordan's international human rights obligations? And, how can the government provide a healthy environment to exercise the right to freedom of expression while protecting national security and political stability?**

The author assumes that it is possible to amend the current provisions of the Jordanian cybercrime law to establish clear and exact legal definitions of cybercrimes and allows people the right to practice their freedom of expression in ways commonly accepted with a certain culture and society. Although the topic is not new in Jordan and there is much local and foreign research on the topic, the existing research is limited in its analysis of the impact of the Jordanian cybercrime law on freedom of expression. The body of Jordanian law and a number of international agreements are used in this thesis to explore this connection. The author used a variety of books, reports and news article to test his hypothesis and support his arguments.

The author limits this study to infringements on the right to freedom of expression by the state and legal authorities; an area considered to be one of the dilemmas in the cybercrime debate (i.e. freedom of expression vs. political stability). The protection of other legitimate interests related to freedom of expression, such as the right to privacy in communications and the right to access to public information, will also be discussed.

The structure of the thesis will be as following:

A general introduction.

**Chapter 1:** Assessment of ICT strategy and Internet usage in Jordan.

**Chapter 2:** The legal framework governing freedom of expression in Jordan.

**Chapter 3:** Legal analysis of the Information Systems and Cybercrimes Law.

Lastly, I present my conclusions and recommendations.

The thesis is divided into three main chapters as mentioned above. The first chapter is devoted to analyzing the Jordanian society and its dependency on information and communication technology (ICT), as ICT can be considered not only as a mean of exchanging and disseminating information but also can be a tool to enhance human rights.<sup>11</sup> I present statistics and records showing the rate of Internet penetration in the country and discuss how the Jordanian government uses information technology through the ICT sector. I also describe the main shift in news consumption and the way people exercise their freedom of expression in practice online and in the real world.

The second chapter discusses the national and international legal protections of freedom of expression in Jordan. The author examines the legal tools available in Jordan and whether the existing legal protection of freedom of expression extends to the online environment. The author also addresses other fundamental aspects related to the right to freedom of expression, such as the right to access to information and the right to privacy in communications, and analyze how the legal system in Jordan regulates them.

In the third chapter, the author will underline the need for stronger protection against cybercrimes by including all known forms of cybercrimes. The author will analyze the Information Systems and Cybercrimes Law to highlight weaknesses and strengths of the law, and recommend amendments to allow citizens to exercise their right to freedom of expression in cyberspace in compliance with the common international human rights standards. The author will stress the need for an independent media and explain implications of to having a balanced freedom of expression law within the Jordanian society.

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<sup>11</sup> Bermtzen. L, and Karamagioli. E, Human Rights in The Context of the Digital Society Input to an ongoing discussion on regulatory issues, Second International Conference on the Digital Society.

The method used in this thesis is descriptive and analytical, as is commonly used in social science research papers. This paper will describe the Jordanian society and its dependency on the Internet in a variety of aspects, especially those relating to freedom of expression.

Further, the author will examine Jordanian legislation and its support for freedom of expression within the body of both national and international law as duly signed and ratified by the government. Particular emphasis is placed on the Information Systems and Cybercrimes Law and the claim that its broad definitions of cybercrimes are infringing on citizens' basic human rights. The author will also analyze the Jordanian legal system and its impact on freedom of expression within the country generally.

# 1. Assessment of ICT Strategy and Internet Usage in Jordan

## 1.1 Information and Communication Strategy in Jordan

The Internet first began in the United States of America (USA) in 1960. It was initially used to send information from one computer to another via telephone lines. The first attempt to connect computers resulted from a governmental project initiated by the US Department of Defense. The US administration created an Advanced Research Project Agency (ARPA),<sup>12</sup> where they developed several projects including the creating of a secret network designed for use in the event that the public network came under attack. This project was known as ARPANet and was used for the first time in 1966.<sup>13</sup>

This created a common communication system capable of traversing different networks in 1986, which formed the basis of what we now know as 'The Internet'.<sup>14</sup> The rapid development of the Internet that took place in the early 1990s was primarily the result of the US government's decision to open up the network to commercial activity, having formerly being restricted to government agencies, educational institutions, research institutions, and to a few private companies that were collaborating with the public sector.<sup>15</sup> During this short period the world advanced rapidly in its capability of exchanging information via the Internet. It managed to overcome all the geographical, political and physical obstacles and as a result, individuals today are able to access information from around the world from the comfort of their computer screens. No one is any longer constrained by access to a single newspaper. The Internet user now has access to thousands of local and international newspapers, magazines, public opinions (political, economic, artistic, and athletic), as well as specialized journals fitting their individual interests and aspirations.<sup>16</sup>

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<sup>12</sup> K. Lee Lerner, DARPA (Defense Advanced Research Projects Agency)." Encyclopedia of Espionage, Intelligence, and Security. Available at <http://www.encyclopedia.com/social-sciences-and-law/political-science-and-government/us-government/defense-advanced-research> (29.11.2016)

<sup>13</sup> Robert H. Zakon, Hobbes' Internet Timeline v4.2. Available at [http://paginaspersonales.deusto.es/abaitua/konzeptu/w3c/internet\\_h.htm#Sources](http://paginaspersonales.deusto.es/abaitua/konzeptu/w3c/internet_h.htm#Sources) (29.11.2016)

<sup>14</sup> Internet Society, A Brief History of the Internet and Related Networks, 1999. Available at <http://www.isoc.org/internet/history/cerf> (29.11.2016)

<sup>15</sup> Ibid.

<sup>16</sup> It became possible for users through local networks to read news and magazines, like for example <http://www.sarayanews.com> (29.11.2016)

In Jordan, the Internet officially started in 1994<sup>17</sup>, beginning with the establishment of the National Information Technology Center (NITC) network infrastructure. In the following year, it launched the first Internet Service Provider (ISP). In 1997, Jordan acquired the ‘.jo’ top-level domain. Soon after, ISPs began competing for business leading to the widespread availability of the Internet in Jordan. The NITC was originally established in 1994 to support initiatives to bring Jordanians better governmental services via electronic means. Its goal was to implement the government’s information technology strategies by utilizing the latest technologies needed to first implement and second manage the nation’s ICT resources.<sup>18</sup> Some of the services offered by the NITC included:

- Internet Service Provider (ISP); an exclusive government Internet provider.
- Hosting: secure web hosting, mail inboxes hosting, disaster recovery and backups.
- Knowledge station: computer and Internet usage training for citizens, 190 stations, and more than 15000 citizens.
- Security services: through penetration testing, risk assessment, incident forensics, awareness, and consultations.

In 1995, Jordan became the first country in the Middle East to establish a modern telecommunications law with an independent telecommunication regulator tasked with creating a competitive market suitable for attracting investment capital. The Telecommunications Regulatory Commission (TRC)<sup>19</sup> was made responsible for regulating and monitoring telecommunications and information technology across the kingdom. During this period, Jordan’s legal framework continued to evolve to meet the changing dynamics of technologies and business models. By the end of 2015, the number of Internet users in Jordan had reached 5.7 million, which equated to 86.1% of the population at that time.<sup>20</sup> This ranked Jordan 6<sup>th</sup> amongst the Middle Eastern countries in terms of absolute numbers of Internet users.

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<sup>17</sup> Mellor, N., Rinnawi, K., Ayish, M. Arab media: Globalization and emerging media industries. United Kingdom, Polity 2011.

<sup>18</sup> [www.nitc.gov.jo](http://www.nitc.gov.jo) (29.11.2016)

<sup>19</sup> [www.trc.gov.jo](http://www.trc.gov.jo) (29.11.2016)

<sup>20</sup> Internet World Stats Usage and Population Statistics, Jordan Internet Usage and Marketing Report. Available at <http://www.internetworldstats.com/me/jo.htm> (29.11.2016)

In 2000, a private support association was founded for the ITC sector called the Information & Communications Technology Association – Jordan (int@j).<sup>21</sup> Its vision was to be the primary and exclusive private sector representative of ICT industry, while its mission is “to provide its members with a platform of products and services that support their continuous growth, expansion, and prosperity towards a mature sector that contributes to the national economy and provides quality jobs for Jordanians”.

In 2003, the Jordanian government aspired to be the ICT hub in the Middle East with several policies and programs being introduced to encourage the ICT sector and foster ICT in schools and universities. This led to several Arabic online social media platforms being established in Jordan. In 2005, television media was the universal source of information with nearly 100% of Jordanian households owning a television. In contrast, Jordanians using radio receivers fell from 71% to 38.7% in 2008.<sup>22</sup> Much of this fall can be explained by platform convergence; a trend where people access the same source of information by a more general channel, such as the Internet, takes place. As the government’s initiative to build the network infrastructure took hold, households with Internet access began to grow rising from 23% in 2005 to 36.3% in 2009.<sup>23</sup> Furthermore, competition has risen between the leading telecommunication companies in Jordan (Zain, Orange and Umniah) which led to more affordable rates of Internet connectivity by providing several different types of Internet subscription fees and speed rates for different consumer groups.

In 2011, Jordan ranked 91<sup>st</sup> globally and 10<sup>th</sup> regionally with regard to the affordability of ICT services, according to the ICT Price Basket (IPB) survey.<sup>24</sup> All the statistics indicated steady growth of the telecoms industry in Jordan, despite high Internet penetration rates; computer ownership and Internet subscription rates remained low due to their high costs. Internet penetration has increased over the last decade.

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<sup>21</sup> [www.intaj.net](http://www.intaj.net) (29.11.2016)

<sup>22</sup> Department of Statistics (DOS), 2008. Available at [http://www.dos.gov.jo/dos\\_home\\_e/main/linked-html/jordan\\_no.htm](http://www.dos.gov.jo/dos_home_e/main/linked-html/jordan_no.htm) (02.01.2017)

<sup>23</sup> Ibid, 2009.

<sup>24</sup> Ghazal. M, Jordan 10<sup>th</sup> regionally in affordability of ICT services, The Jordan Times, available at <http://vista.sahafi.jo/art.php?id=83513136b770d6cc10245a9844587e8e5aefb986> (01.02.2017)

Based on the statistics provided by the Telecommunication Regulatory Commission (TRC), Internet reached about 55.9% of the population by the end of 2012, amounting to 3.353 Million users.<sup>25</sup> Jordan has been a regional leader in ITC development although in recent years, Jordan's lead has decreased due to recent economic difficulties; this was mainly due to the poor state of the economy and a high dependence on international donors. However, it is important for Jordan to develop an independent economic competitiveness model in order to reduce its dependence on international funds. Jordan could overcome this problem by utilizing and investing more in ICT sector, as well as, employ the talent, creativity, and education from its own population.

The following summarizes the Jordanian strategy in ICT sector:

## **1. E-Governance**

Aligning with the National Agenda and National ICT strategy, E-government will be achievable, and this with no doubt will contribute to Jordan's economic and social development. In addition, it is expected that this initiative will transform Jordan into a competitive and innovative knowledge-based society. In order for this to be achieved, however, Jordan's assets must be engaged by combining government resources, involving citizens in local economic development, and facilitating citizens' access to government services thereby demonstrating more citizen empowerment and less control over open information.<sup>26</sup>

## **2. E-Health**

In 2009, Jordan began implementing the "Hakeem" national E-health records program.<sup>27</sup> This program was designed to automate the public healthcare sector in Jordan, and aims to facilitate efficient, high-quality healthcare within the Kingdom through the nationwide implementation of an Electronic Health Record Solution (EHR).

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<sup>25</sup> Ghazal. M, Internet penetration tops 55%by end of June, The Jordan Times, available at <http://vista.sahafi.jo/art.php?id=f5922612410e08e4c319478d71f0a3427f69436e> (01.02.2017)

<sup>26</sup> Alshboul, M., Rababah, O., Al-Shboul, M., Ghnemat, R., Al-Saqqa,S. Challenges and Factor Affecting the Implementation of E-Government in Jordan. *Journal of Software Engineering and Application* 2014, 7 (1), pp 1111-1127.

<sup>27</sup> Hakeem Program, Electronic Health Solutions, technology for better healthcare in Jordan. Available at <http://ehs.com.jo/hakeem-program> (20.01.2017)

### 3. E-Education

His Majesty King Abdullah II strongly believes that the ICT sector in Jordan offers a great positive transformation of the education systems future in the Kingdom.<sup>28</sup> This was demonstrated through the Jordanian Education Initiative (JEI) project, which was launched in 2003, the project focused on a partnership development with Cisco Systems, Inc. to create an effective model for Internet-enabled learning.<sup>29</sup> Efforts have been made by the Ministry of Education and they have successfully implemented E-learning initiatives in local schools. Although students recognize the potential of E-learning to support teaching and learning, the infrastructure often limits student-to-student and tutor-to-student interactivity.<sup>30</sup>

### 4. E-Commerce

Jordan has adopted the latest technologies in the communication sector as well as other ones such as Internet services of E-banking and E-government.<sup>31</sup> In 2011, Jordan adopted a temporary Electronic Transaction Law (ETL), number 85 for the year 2001. In the one hand, it was the first law among the information technology legislations, on the other hand, the second law related to the regulation of E-commerce in the Arab region.<sup>32</sup> Still, E-commerce in Jordan has poor demand for several factors:

- Most of the transactions are conducted on cash-on-delivery basis;<sup>33</sup> 70% of the Jordanians pay using cash-on-delivery.<sup>34</sup>
- Lack of legislative support; disparate laws are an impediment to the development of E-commerce services.<sup>35</sup>

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<sup>28</sup> The e-readiness Assessment of the Hashemite Kingdom of Jordan. MoICT. Available at <http://moict.gov.jo> (21.01.2017)

<sup>29</sup> Jordan education initiative the way for global e-learning opportunities, Cisco, 2005. Available at [http://www.cisco.com/c/dam/en\\_us/about/ac48/pdf/EU\\_Case\\_Study\\_JEI.pdf](http://www.cisco.com/c/dam/en_us/about/ac48/pdf/EU_Case_Study_JEI.pdf) (21.01.2017)

<sup>30</sup> Alomari, A. Investigation online learning environments in a web-based math course in Jordan. *International Journal of Education and Development using Information and Communication Technology* 2009, 5 (3), pp 19-36.

<sup>31</sup> Abbad, M., Abbad, R., Saleh, M. Limitation of e-commerce in developing countries: Jordan case. Emerald Group Publishing Limited 2011, 4 (4), pp 280-291.

<sup>32</sup> Alomari, K., Sandhu, K., Woods, P. E-government adoption in the Hashemite Kingdom of Jordan: Factors from social perspectives. *International Conference for Internet Technology and Secured Transactions* 2009, pp 1-10.

<sup>33</sup> Saeed, N.M., "E-Commerce Commercial Bank obstacles in Egypt." Benha University, 2004.

<sup>34</sup> Messieh, N, "E-commerce in the Middle East grew 300% in the Past Year." *The Next Web*.

<sup>35</sup> Turban, K., Lee, J., Warkentin, M., Chung, H. *Electronic commerce, a managerial perspective*. New York, Englewood Cliffs 2002.

- Security of online systems; Jordan ranked in the top of the lists when it comes to malicious threats such as Trojan horse and other viruses. According to figures by Trend Micro Incorporated, Jordan ranks 9<sup>th</sup> among Middle Eastern countries in terms of malware threats.<sup>36</sup>

Despite this, statistics show that the number of people using the Internet to buy goods and services is increasing, according to a report by the Arab Advisors Group.<sup>37</sup> In 2011, Jordanian users spent around 370 million US dollars online, an increase of 92% (from 192 million US dollars) from 2010.<sup>38</sup>

## 5. Internet and Mobile Banking

Banks in Jordan were launched in 1930. Nowadays, Jordan has 25 commercial banks that are listed on the official website of Central Bank of Jordan.<sup>39</sup> The banking sector plays a major role in the Jordanian economy by providing the economy with the necessary finance and intermediation services. In 2000, the appearance of Internet banking started with the Jordan Kuwait Bank. When it installed the first Internet banking (Net Banker)<sup>40</sup> service, all the other Jordanian banks soon followed and installed their own Internet banking services. Considering that the banking sector faces similar pressures to other services, it is continuously innovating to meet modern trends and technologies.

Today, the availability of E-banking and mobile banking have transformed how the bank's customers conduct day-to-day transactions. Now customers can conduct transaction at their convenience from any location.

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<sup>36</sup> Ghazal, M, "1.8M detections of malware recorded in Jordan in 12 months," The Jordanian Times. Available at <http://www.jordantimes.com/news/local/18m-detections-malware-recorded-jordan-12-months> (21.01.2017)

<sup>37</sup> Abbasi, J, Insights into Arab consumers broadcast and online consumption habits, 2011, joint ITU – AICTO Workshop, Arab Advisors Groups, available at [https://www.itu.int/dms\\_pub/itu-t/oth/06/5B/T065B0000060043PDFE.pdf](https://www.itu.int/dms_pub/itu-t/oth/06/5B/T065B0000060043PDFE.pdf) (21.01.2017)

<sup>38</sup> Ghazal, M, "Laws, awareness needed to increase e-transactions," Ammon News, available at <http://en.ammonnews.net/article.aspx?articleNO=17852#.WINPTrF7E3E> (21.01.2017)

<sup>39</sup> Directory of Banks, Central Bank of Jordan. Available at [http://www.cbj.gov.jo/pages.php?menu\\_id=34](http://www.cbj.gov.jo/pages.php?menu_id=34) (21.01.2017)

<sup>40</sup> Jordan Kuwait Bank, 2012. Available at <http://www.jkb.com> (21.01.2017)

## **6. Smart Cities**

In 2015, the Greater Amman Municipality signed an agreement with Microsoft Jordan for three years, in order to provide modernity and advanced technology and turn Amman (the capital of Jordan) into a smart city<sup>41</sup> that will develop and obtain best techniques to enhance productivity and facilitate workflow.

### **1.2 Main Shifts in News Consumption**

The penetration of digital technologies has altered media consumption patterns affecting all channels such as television, newspaper, the Internet, and radio. Television still remains the most widely accessed platform despite the fact that digital services are still not available. The popularity of television can be explained by the dramatic increase in the use of satellite services in a short period of time, owing to the free-to-air broadcasts of news and regional political analysis.

As far back as 2006, the Internet offered Jordanians a variety of means to access news as an alternative to the government-owned Jordan Radio and Television Corporation (JRTV). The rise of online news platforms resulted in the decline of traditional news channels such as newspapers which are widely considered to be under government control. When Internet penetration reached 23%, AmmonNews developed the first online news portal in Jordan, introducing a new trend in media consumption. Within a few years, hundreds of other online news portals emerged but were considered to be less professional but more independent of the government.

According to Alexa.com,<sup>42</sup> Jafranews.com<sup>43</sup> was the sixth-most visited news website in Jordan in 2013. In short, the Internet has offered Jordanians the ability to share news and information, especially on social media platforms including text messaging, Facebook, Twitter, and Google+. These technologies have become a seamless part of everyday interaction for the “Web Generation”; not a day passes without users checking their emails and scanning their

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<sup>41</sup> Greater Amman Municipality official website, GAM and Microsoft Jordan sign an agreement to transform Amman into a smart city. Available at <http://www.ammancity.gov.jo/en/resource/snews.asp?id=79E4321D-E602-4F71-BC12-5B556D30292F> (20.01.2017)

<sup>42</sup> Alexa is a digital marketing tools help to engineer growth and drive success; it has been used for measuring websites trafficking.

<sup>43</sup> An online news portal that posts blogs and articles about local news, politics, governments, etc.

social media networks.<sup>44</sup> About 95% of Jordanian citizens now own mobiles, 47% of whom use Internet services on them. This ranks the Kingdom of Jordan 3<sup>rd</sup> in Internet usage among the Arab states, according to a 2013 survey conducted by Spring Pew Global Attitudes.<sup>45</sup>

The fact that most social media platforms are free at the point-of-use has made them widely accessible to all socioeconomic classes. Anyone can share information and express opinions at a minimal cost.<sup>46</sup> It has also opened up the opportunity for readers to provide feedback by rating articles and expressing their opinions in online comments. This interactive dimension was not available before the rapid evolution of information technology services.

News providers in Jordan publish through the following:

### 1.2.1 Leading Sources of News

With a variety of transnational satellite channels, such as Al-Jazeera and Al-Arabiya, readers are now exposed to academic, domestic and political discourses across the entire Arabic world and beyond. This has presented a challenge to the local government-run Jordan TV (JRTV) as it struggles to meet growing viewer demands.

#### *1.2.1.1 Print Media*

For the last five years, the circulation rates of the most popular daily newspapers in Jordan have remained constant; the top two are the Al-Rai and Al-Ghad newspapers.<sup>47</sup>

The newspaper sector accounts for 72% of the total advertising spend in the country. In contrast, 44% of locals use the Internet as a news source on daily basis.<sup>48</sup>

#### *1.2.1.2 Online Media*

Despite the fact that newspapers' circulations during the last five years have remained steady, online news portals have continued to emerge. Most online new platforms emerged in 2010

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<sup>44</sup> 15 U. Pa. J.L. & Soc. Change 577 2011-2012, available at <http://www.copyright.com/search.do?operation=detail&item=100993016&detailType=advancedDetail> (03.01.2017)

<sup>45</sup> Ghazal. M, 95% of Jordanians own mobiles; 47% use the Internet, The Jordan Times. Available at <http://www.jordantimes.com/news/local/95-jordanians-own-mobiles-47-use-internet> (03.01.2017)

<sup>46</sup> Joseph, S. Social Media, Political Change, and Human Rights. Boston College International and Comparative Law Review 2012, 35 (1), pp 145- 188.

<sup>47</sup> SimilarWeb an overview of comparison between local newspapers. Available at <https://www.similarweb.com/website/alghad.com?competitors=alrai.com> (03.01.2017)

<sup>48</sup> Arab Media Outlook, 4<sup>th</sup> Edition, 2011 – 2015. Available at <http://www.arabmediaforum.ae/userfiles/EnglishAMO.pdf> (03.01.2017)

and 2011. By 2013, the government of Jordan decided to block around 300 online news portals under a new law. This caused outrage among human rights and media organizations, many of whom condemn the law as a mere step to quell government critics.<sup>49</sup> As a result of the rise in users' exposure to regional media, it has boosted the local media industry. A variety of news outlets, such as Roya TV for instance, have been established to cover Jordanian news and have become a reliable source of information for consumers. The power of information technology and the transformational effect of digitization have radically increased the coverage of domestic, local and community news in Jordan.

#### *1.2.1.3 Radio*

In 2010, a Jordan Media Survey found that 54% of radio listeners were 30 years old or over, with 15 to 29 years olds making up the remaining 46%. This study also found that compared to previous years, radio consumption had fallen due to increasing use of Internet services and changes in listening habits with mobile telephone technologies.<sup>50</sup>

### **1.3 The Impact of the Internet on Media Industry**

As information technology has advanced, access to websites and social-media tools has greatly increased too. This has had a profound impact on politics and civil society in general.<sup>51</sup> The Internet and advanced telecommunication outlets have become the fastest and easiest way for people to express their opinions, chat and exchange information,<sup>52</sup> thus, profoundly affected the Jordanian government's capability to control the media narratives.

Mohammad Shamma, a correspondent covering human rights issues for Radio Al-Balad as well as AmmanNet, said: "Despite the challenges we face today in Jordan, the introduction of news websites and community radio stations has been able to push the envelope and provide

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<sup>49</sup> Jordan Blocks Access to News Sites, New York Times, 2013. Available at <http://www.nytimes.com/2013/06/04/world/middleeast/jordan-blocks-local-access-to-300-news-web-sites.html> (03.01.2017)

<sup>50</sup> Strategies-HarrisInteractive conducted the third independent Jordan Media Survey in March 2010

<sup>51</sup> Ford, P. Freedom of Expression Through Technological Networks: Accessing The Internet As A Fundamental Human Right. Wisconsin International Law Journal 2014, 32 (1), pp142- 168.

<sup>52</sup> Ensour, H. Hidden Crimes: Freedom of Expression on the Internet. Petra University. Journal of Emerging Trends in Computing and Information Science 2013, 4 (12), pp 934- 938.

the freedom that did not exist in traditional print and broadcast media”.<sup>53</sup> Despite this, online news portals continued to face severe restrictions on their freedom of expression.

According to the Freedom House, Jordan’s press freedom has deteriorated from “partly free” in 2009 to “not free” in 2012.<sup>54</sup> Reporters Without Borders “Worldwide Press Freedom” report now ranks Jordan 120<sup>th</sup> out of 178 countries in terms of press freedom.<sup>55</sup> Press freedom has largely declined as a result of amendments to the Press and Publication Law that restrict freedom of expression and Internet freedoms. These amendments also increase the government’s powers of surveillance and put indirect pressure on journalists and editors.<sup>56</sup> As a consequence, more Jordanians are turning away from traditional media and towards the Internet to obtain their news and information and finding it a useful tool in expressing their views on a wide range of matters.

According to the Jordan New Media Survey, a study funded by the U.S Agency for International Developments (USAID), Jordanians are largely visiting online news portals to view content that is less subject to government control, and secondly, for the possibility to comment on what has been posted online as a means to express their own opinions. An astonishing 44% of Jordanians surveyed said that the opportunity to comment and interact with online news platforms was the main reason for visiting those websites.<sup>57</sup>

#### **1.4 User-Generated Content (UGC)**

Surveys show that most Jordanians use the Internet for general browsing, researching, listening and viewing content, and chatting with others.<sup>58</sup> According to an Alexa.com study in 2013, the most frequently visited websites in Jordan were: Facebook, Google.jo, YouTube, Yahoo! Windows Live, Sarayanews.com, Twitter.com.<sup>59</sup>

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<sup>53</sup> Jordanians Debate Role of Press, The New York Times, 2011. Available at <http://www.nytimes.com/2011/09/15/world/middleeast/jordanians-debate-role-of-press.html> (03.01.2017)

<sup>54</sup> Freedom House, Jordan 2012. Available at <https://freedomhouse.org/report/freedom-world/2012/jordan> (03.01.2017)

<sup>55</sup> 2013 World Press Freedom Index: Dashed hopes after spring, Reporters Without Borders for freedom of information. Available at <https://rsf.org/en/news/2013-world-press-freedom-index-dashed-hopes-after-spring> (03.01.2017)

<sup>56</sup> Freedom House, freedom on the net 2012 Jordan. Available at <https://freedomhouse.org/report/freedom-net/2012/jordan> (03.01.2017)

<sup>57</sup> Strategies-HarrisInteractive conducted the third independent Jordan Media Survey in 2010. Available at [http://ar.ammannet.net/wp-content/files\\_mf/1274876633JordanMediaSurvey-Internet-2010.pdf](http://ar.ammannet.net/wp-content/files_mf/1274876633JordanMediaSurvey-Internet-2010.pdf) (03.01.2017)

<sup>58</sup> Ibid.

<sup>59</sup> Top Websites for all categories in Jordan 2013, SimilarWeb. Available at <https://www.similarweb.com/top-websites/jordan> (03.01.2017)

The rise in use of user-generated content has provoked much political debate about the ethics and legitimacy of online news with some parliamentarians heavily criticizing both, citing the quality of news websites and the fact that readers are able to comment on news blogs and express their opinions. Mr. Karim Dughmi, a member of parliament, said in 2011: “Certain news websites and TV channels directly or indirectly instigate social violence by allowing people to anonymously post on comment sections attached to stories and news reports.”<sup>60</sup>

## 1.5 Social Networks

As already noted, by the beginning of 2013, social networks services, such as Facebook, LinkedIn, and Twitter, were the most commonly visited websites from Jordan.<sup>61</sup> According to the Telecommunications Regulatory Commission (TRC), there were approximately 2.6 million Facebook users in Jordan in 2013 of whom approximately 58% were male. The study showed that 41% of Jordanian Facebook users were aged between 18 and 24, and the remaining 59% were aged between 25 and 34.<sup>62</sup>

Social media played a key role during the Arab Spring.<sup>63</sup> The political movement encouraged the growth of online start-ups across the Arab region. Many Jordanian bloggers and writers, such as The Black Iris, 7iber, 360 East and many others, have surfaced and attracted both national and international attention. Most of these blogs are written in English and discuss local and global politics, society, culture, and technology, and provide readers the opportunity to comment on the posts. They typically address issues that are not normally covered by the local media or opine on content published by the mainstream media. Nowadays, most local news websites publish articles on a Facebook page and a Twitter feed where users can interact and discuss the content.

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<sup>60</sup> Omari. R, MP’s Call for Professionalism, Regulations in Online Media, The Jordan times. Available at <http://www.sahafi.jo/arc/art1.php?id=1b78f1774061b7189cc6ce29081e53c0b696a2bb> (03.01.2017)

<sup>61</sup> Top Websites for all categories in Jordan 2013, SimilarWeb. Available at <https://www.similarweb.com/top-websites/jordan> (04.01.2017)

<sup>62</sup> 41% of Jordanians use Facebook, The Jordan Times. Available at <http://jordantimes.com/41-of-jordanians-use-facebook> (04.01.2017)

<sup>63</sup> Sabiha, G, The Role Of Social Media In The Arab Spring, available at <http://sites.stedwards.edu/pangaea/the-role-of-social-media-in-the-arab-spring/> (04.01.2017)

Non-Governmental Organizations (NGOs), such as Leaders of Tomorrow (LoT)<sup>64</sup> whose aim is to develop youngsters using conferences to address social and political issues, have also played a role in social networking by providing citizens with training needed to take part in online political dialogue. One such initiative, called #Fadfed,<sup>65</sup> meaning “Free Space for Expression” in Arabic, provides users with space to write their opinions about a specific topic and post it on Twitter.

### 1.5.1 Coverage of Sensitive Matters

The government of Jordan does not monitor English-language news sites as much as Arabic-language ones mainly because most readers of news in the region have limited English-language skills. However, according to the Center for Defending Freedom of Journalists 2014 report “Dead End”,<sup>66</sup> a total of 93.2% of journalists avoid writing about the armed forces, and 90% admit to being afraid of criticizing members of the royal family.

According to the above-mentioned report that addressed the complaints and violations committed against people who exercise their right of free speech, a total of 153 violations were committed against journalists and other people in the media in 2014. The most commonly used sanction was blocking their website, which occurred on 317 occasions during the last five years, 291 of which occurred in 2014 as a result of compulsory licensing amendments to the PPL.<sup>67</sup>

Local media and human rights experts gathered for a CDFJ workshop to discuss the status of media in the region and the challenges facing the profession. They produced a report detailing violations and complaints documented by Ayn unit during the past five years.<sup>68</sup> The report noted that when journalists reported violations they were often subjected to indirect punishment; this resulted in fewer reported violations.

Furthermore, self-censorship, work security, and the law were being used as tools to restrict journalists’ freedoms and membership of the mandatory Jordan Press Association. Mr. Nidal

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<sup>64</sup> NGO promote a culture of social innovation in which free speech, human rights, social equality and educational opportunities are widespread and accessible to all. Available at <http://www.leadersot.org> (04.01.2017)

<sup>65</sup> Critical community discussions on white papers in streets #FADFED. Available at <http://www.fadfed.org> (04.10.2017)

<sup>66</sup> Dead End Report of 2014, Center for Defending Freedom of Journalists, available at <http://english.cdfj.org/cdfj-launches-its-2014-annual-report-on-media-freedom-status-in-jordan-dead-end/> (04.10.2017)

<sup>67</sup> CDFJ Launches its 2014 Annual Report on Media Freedom Status in Jordan – “Dead End”. Available at <http://english.cdfj.org/cdfj-launches-its-2014-annual-report-on-media-freedom-status-in-jordan-dead-end/> (04.01.2017)

<sup>68</sup> Ibid.

Mansour, the President of CDFJ said, “2014 was not different from any other year but the drawbacks have peaked in it”.<sup>69</sup> In addition, he noted that self-censorship has become the norm in the mainstream media as a result of years of government interference, intimidation, and lawsuits.

Current laws and regulations continue to restrict freedom of the press and freedom of expression in Jordan. During the eight years between 2008 to 2016, opinion polls of journalists showed more than half of all journalists in Jordan believed that the current legislation tends to restrict media freedom. The PPL was passed three years ago, and implemented two years ago and yet journalists continue to express negative opinions about it and its influence, especially with regard to electronic media and the new mechanism of licensing for online news portals. This indicates that the PPL has failed to produce a professional media industry and has not ended the negative aspects of the industry such as corruption in the electronic media.

### 1.5.2 Violations and Complaints

According to local media freedom reports, violations of media freedom have not dramatically changed since 2013.<sup>70</sup> The media environment continues to be not free; as there were a series of violations linked to physical assaults against journalists persists. For example, detention is still considered to be a just measure to disperse protestors in practice resulting in journalists being detained for covering the event. The president of Amman-Based CDFJ said, “While international conventions specify how security officials may deal with suspects, Jordanians officers ignore such guidelines with the result that a simple arrest could lead to an all-out physical attack on the detainee”.<sup>71</sup>

In 2014, media freedom deteriorated as a result of the legislative changes designed to tackle security and stability in the region. The government used the law to restrict media freedom by issuing circulars to media outlets demanding journalists refrained from publishing materials on particularly sensitive issues. More concerning was the continuing referral of media personnel to the State Security Court under the Anti-Terrorism Law where normally such cases fell under

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<sup>69</sup> Ibid.

<sup>70</sup> Khetam, M, and Ghazal, M, “Press freedom better in Kingdom, but ‘more needs to be done’, 2016, The Jordanian Times, available at <http://www.jordantimes.com/news/local/press-freedom-better-kingdom-more-needs-be-done>’ (04.01.2017)

<sup>71</sup> Jordan’s Media at ‘Dead End’, Laws Restrictive: Study, The Huffington Post. Available at [http://www.huffingtonpost.com/magda-abufadil/jordans-media-at-dead-end\\_b\\_7478032.html](http://www.huffingtonpost.com/magda-abufadil/jordans-media-at-dead-end_b_7478032.html) (04.01.2017)

prevue of the PPL. Media are important component mechanism to safeguard against abuse of government power.<sup>72</sup>

### 1.5.3 Freedom Of The Net

According to a Freedom House report on Internet freedom,<sup>73</sup> Jordan is rated as “not free” and scored 5.5 overall on a scale of one (best) to seven (worst). In the same report, Jordan score 5 on civil liberties and 6 on political rights. Several laws that criminalize defamation, anti-government beliefs, and the incitement of sectarian strife limit freedom of expression. Journalists working both in online and traditional media have been arrested under the PPL for allegedly violating media objectivity requirements after criticizing the royal family or raising the issue of corruption within religious organizations. While most local online news portals today remain under state control, satellite television channels and online media manage to provide locals with wide access to foreign media free of state control. Although there are many “independent” local newspapers and magazines operating in private sector, the government has retained the power to revoke a publisher’s license and has often exercised its privilege to censor content prior to publication.<sup>74</sup>

Nearly all online news portals that were blocked in 2013 were unblocked after they registered with the Ministry of Commerce and obtained publishing licenses from the Press and Publication Department with one notable exception: the blog “7iber” refused the new mechanism of mandatory licensing in protest. Despite this, 7iber continued operating subversively using mirror sites after the government had blocked its primary web address. The government continued to pursue 7iber until it eventually blocked its mirror site in 2014.

Many government actions against publishers are a result of the amendments to the PPL and its provisions. These amendments extended the government’s powers to all content published in cyberspace including news websites, bloggers accounts, and other online media portals.<sup>75</sup> In response to criticism, the government claims that the PPL amendments were enacted for the benefit of all parties and that its purpose is to protect people from blackmail and defamation.

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<sup>72</sup> Caidi, N, and Ross. N Information Rights and National Security, Faculty of Information Studies, University of Toronto, Ontario, Canada M5S 3G6, Government Information Quarterly.

<sup>73</sup> Freedom House, Freedom of Net in Jordan 2015. Available at <https://freedomhouse.org/report/freedom-world/2015/jordan> (05.01.2017)

<sup>74</sup> Ibid.

<sup>75</sup> Chocked Media Struggles to Speak Out in Jordan, AmmonNews. Available at <http://en.ammonnews.net/article.aspx?articleno=22713#.WG4QNbF7E3E> (05.01.2017)

However, many technical experts believe that the amendments are not the best way of achieving the government's stated aims.<sup>76</sup>

This government's agenda harks back to an era passed when authorities believed that maintaining a tight grip on the media in all its forms is the best means for maintaining social and political stability in society. It is not surprising, therefore, that given Jordan's body of law, it finds itself amongst a list of authoritarian states that are generally hostile to all forms of Internet freedom. This is despite the fact that the right to freedom of expression is supposedly guaranteed under the constitution. Together, the body of law, including the PPL and Cybercrime Law 2010<sup>77</sup>, criminalize the publishing of defamatory content and slander by any means including emails, instant text messaging or websites. Punishment for such offenses may include imprisonment and/or fines.

Many journalists and activists have petitioned HM King Abdullah II to intervene on behalf of publishers and citizens to protect their rights to freedom of speech and free access to the Internet. The request stated, "Freedom of the press and the Internet is crucial to building a strong democracy, but such amendments to the law obstruct freedom of expression and tarnish Jordan's image abroad".<sup>78</sup> There is an urgent need in Jordan today to restore the freedoms of speech, expression and the press as guaranteed under the country's constitution. By allowing a free and frank public discourse on the amendments to the PPL and Information Systems and Cybercrime laws, the country may avoid nullifying social and democratic reform efforts within the kingdom territory.<sup>79</sup>

For example, the Information Systems and Cybercrime law, which is designed to address the delicate issues of cybercrime, includes overly broad definitions that could hinder legitimate online expression and restrict the ability of law-abiding journalists to report on the news. The law empowers authorities with sweeping powers to restrict the flow of information in the cyberspace and limit public debate at a whim. Article 8 of the above-mentioned law

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<sup>76</sup> Ibid.

<sup>77</sup> The author will discuss the provisions of the law in the next chapter more in details.

<sup>78</sup> Journalists Appeal to Defend Internet, Press Freedoms in Jordan, AmmonNews. Available at <http://en.ammonnews.net/article.aspx?articleno=17791#.WG4QSbF7E3E> (05.01.2017)

<sup>79</sup> Ibid.

criminalizes “sending or posting data or information through the Internet or any information system that involves defamation or contempt or slander”.<sup>80</sup>

Jordan has a history of court cases where Article 8 many others such provisions have been used to control and censor the online activities of citizens, especially journalists. The vague definition of what is termed “an insult” or “a system of governance” gives too much latitude to claimants in the law’s legal interpretation. Jordanian laws may criminalize people’s expression on the Internet where it is deemed to “offend the public morals” without specifying what constitutes these morals.

According to the Penal Code, an individual shall be criminalized if found guilty of participating in the activities of selling or distributing, printing or reprinting any slanderous material or speech, drawing, photo, sketch, module or any other thing that shall lead to the corruption of morals.<sup>81</sup>

## **1.6 Summary**

After analyzing the Jordanian society, it can be seen that while Internet penetration rates are high, with high levels of smartphone and Internet connectivity, the dependency of citizens on information technology is generally quite low, with citizens opting for more traditional real-world services.

Despite this, the E-government concept has been growing steadily, with nearly all government services now being available online. However, the country’s poor ICT infrastructure and people’s lack of computer skills in both the private and public sectors remains an obstacle to development. As a result, there are still several services that are not yet available such as digital signature and online parking systems. To further develop the E-government strategy, a practical study needs to be conducted with a focus on raising awareness and education levels in the field of electronic government services to make people aware of the benefits such programs provide. The study should identify risk factors and lay out clear success criteria for future development.

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<sup>80</sup> Article 8 of the Information Systems and Cybercrime Law. Available at [https://www.unodc.org/res/cld/document/information-systems-crime-law\\_html/Jordan\\_Information\\_Systems\\_and\\_Cyber\\_Crime\\_Law.pdf](https://www.unodc.org/res/cld/document/information-systems-crime-law_html/Jordan_Information_Systems_and_Cyber_Crime_Law.pdf) (05.01.2017)

<sup>81</sup> The Penal Code of Jordan, Article 319.

Furthermore, many obstacles remain in front of the development of a truly robust and comprehensive media sector. The lack of press freedom, authoritarian anti-media legislation, and journalistic self-censorship are among the greatest of these obstacles. Without a doubt, digitization of media services has contributed enormously to the improvements in diversity of news content and allowed users to participate in the conversation of the news. Despite this, there is much still debate in parliament about how to regulate the new media channels. A number of parliamentarians have criticized online news portals for publishing “harmful journals and articles that tarnishing their reputation and that of the country”.

At the same time, Jordanian citizens continue to take advantage of the new media to express their views and engage in forms of civil and political activism. Social media platforms such as Facebook and online news portals have provided channels for people to express themselves on a range of issues including social and political reform. Furthermore, digital media offers citizens the opportunity to view regional, international and taboo social subjects while local channels have restricted themselves to covering local, general and national issues.

To underscore the problem of lack of trust in the local media, the government of Jordan currently owns more than 60% of Jordan’s leading daily newspaper ‘Al-Rai’, and more than 30% of the other main paper ‘Al-Dustour’<sup>82</sup>. Several media groups have criticized the PPL and Information Systems and Cybercrimes Law, urging amending the laws<sup>83</sup> in order to guarantee the freedom of the press. Despite the government’s claims to protect journalists and to promote a free and independent media, extrajudicial trials and threats against journalists persist. In order fulfil its promises for a free and independent media, it is recommended that the government needs to reform its policies and lift arbitrary publishing restrictions.

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<sup>82</sup> Mansour. N, The Slow Death of Jordan’s Newspaper, The New Arab. Available at <https://www.alaraby.co.uk/english/comment/2015/4/23/the-slow-death-of-jordans-newspapers> (06.01.2017)

<sup>83</sup> Open Letter to Honorable Members of Parliament. Available at <https://www.article19.org/data/files/pdfs/analysis/jordan-press-law-letter.pdf> (06.01.2017)

## **2. The Legal Framework Governing Freedom of Expression in Jordan**

### **2.1 National and International Legal Framework of Jordan Governing Freedom of Expression**

Based on fundamental values of freedom and equality, human rights represent a constitutive element of any democratic society,<sup>84</sup> it has gained enormous public awareness in developing countries like Jordan, in large part due to the decentralized character of the Internet. Furthermore, the fact that the public has become aware that these rights have been agreed, signed and ratified into international law and are intrinsic to international relations has emboldened citizens to enforce their individual rights as they perceive them.<sup>85</sup>

According to the author's opinion; freedom of expression is one of the fundamental human rights that everyone of any nation, color, race or even religion in the world should enjoy; people have the right to their opinions, a right to seek, receive and share information and ideas. For everyone, this right is fundamental to speak out; without freedom of expression, nobody can interview people or request information from public officials.

Everyone has the freedom to share their opinions and ideas publicly; freedom of expression plays a significant role so that people can make informed decisions about their lives. Not only do journalists need freedom of expression to do their jobs, but the kind of job that journalists do also helps others to practice their right to freedom of expression by providing people with important, timely and accurate information upon which to base their ideas and hold their opinions. In order for that to happen, the media must be able to work freely without unnecessary censorship or imposed restrictions that will result in its inability exercising these rights fully.

This chapter provides an overview of the legal framework in Jordan governing the right to freedom of expression. It begins with the Constitution of Jordan and other national laws that guarantee the right to freedom-of-expression to its citizens, and then examines the international human rights agreements that the Jordanian government signed and ratified on behalf of its citizens. Furthermore, this chapter will point out other essential rights that are connected to the

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<sup>84</sup> Smet, S. Freedom of Expression and The Right to Reputation: Human Rights in Conflict. HeinOnlin 2010, 26 (1), pp 184- 236.

<sup>85</sup> Joanna. K, Protecting Human Rights Online An Obligation of Due Diligence, Jean Monnet Working Paper 24/14, available at [www.JeanMonnetProgram.org](http://www.JeanMonnetProgram.org) (09.02.2017)

right to freedom of expression; for example, the right to access to information and the right to privacy.

While it is widely acknowledged that freedom of the press is a valuable principle in any free and democratic state, it is also recognized that the dissemination of certain information poses a threat to the stability of that state, such as during times of war. Finding the appropriate balance between the interests of the press and the state is a universal dilemma and one that Jordanian government has been grappling with over the past 15 years as it continues to amend the media laws.

Since the establishment of the Hashemite Kingdom of Jordan and its movement towards democracy and the rule of the law, Jordan has been searching for a model of rules and institutions that offer an appropriate balance between individual rights, such as freedom of expression, and the broader public interest.<sup>86</sup> Jordan, on the one hand, has a broad commitment to the democratic model with its fundamental freedoms; but on the other hand, there is a tendency to towards absolute control over activities within the state. Jordanian parliamentarians fear that if they permit unfettered democracy and individual openness, it would unleash individual expression that would be detrimental to Jordan's international relations, internal stability, and other national interests.<sup>87</sup>

Jordan has travelled on a challenging journey towards parliamentary democracy in what is a very troubled region. Jordan is unique in the region in being relatively stable. However, concerns have increased in Jordan about those groups of people who would like to destabilize the Kingdom by exploiting democratic freedom for their own ends. The government has therefore taken a number of security measures to restrict the freedom of expression and the independence of media sector. However, from the outset of this journey, Jordan enshrined the right to freedom of expression and opinions within its national legal framework.

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<sup>86</sup> Robinson, G. Defensive Democratization in Jordan. *International Journal of Middle East Studies* 1998, 30 (3), pp 387-410.

<sup>87</sup> Ibid.

### 2.1.1 The Constitution of Jordan (1952)

The Constitution of Jordan is a written document that sets the framework for all law within the Kingdom. As the supreme law of the land, all subsequent acts of parliament, judiciary or the executive must conform to its provisions.<sup>88</sup> Acts can therefore be deemed unconstitutional, and thus unenforceable, if they contravene provisions with the Constitution.

Provisions for the freedom of expression and freedom of the press are stipulated in Article 15 of the Constitution. Article 15 states (emphasis added by the author):

1. The State shall guarantee freedom of opinion; and every Jordanian shall freely express his opinion by speech, writing, photography and the other means of expression, provided that he does not go beyond the limits of the law.
2. The State shall guarantee the freedom of scientific research and literary, technical, cultural and sports excellence provided that such does not violate the provisions of the law or public order and morality.
3. The State shall guarantee the freedom of the press, printing, publication and information media within the limits of the law.
4. Newspapers and information media may not be suspended nor the license thereof be revoked except by a judicial order in accordance with the provisions of the law.
5. In the event of the declaration of martial law or an emergency, the law may impose a limited censorship on newspapers, publications, books and information and communication media in matters related to public safety and national defense purposes.
6. The law shall regulate the method of control of the resources of newspapers.

The Constitution provides a positive obligation on the State to “guarantee” specified freedoms including expressly the freedom of opinion. One notices from the Article that the protection for freedom of expression is limited to Jordanian citizens and by license in the case of

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<sup>88</sup> In a historic ruling, the Higher Court of Justice declared the unconstitutionality of the Press and Publications Law no 27 of 1997 (ref. Journal of the Bar Association, Volume 1&2, January-February 1998, p. 289). Although the Constitution (in Article 33) does not explicitly determine the status of treaties and agreements in the Jordanian legal system, and whether they are equal of national law or overriding, the Jordanian Court of Cassation has issued several rulings granting international treaties a higher status over national laws in the case of a conflict between the two. One example is the Court of Cassation’s ruling (25/4/2000 in case No. 2426/1999), which reads: "Bilateral or international treaties or agreements are binding and it is in a higher rank than the domestic law in case of contradiction”.

newspapers and information media; a condition that is considered to be incompatible with international law. Furthermore, one notices that the Constitution expressly permits restrictions on all freedoms in the event of martial law or a state of emergency.<sup>89</sup>

The Constitution does, however, provide unconditional freedom of speech and expression of opinion (within the limits of the by-laws) to parliamentarians during parliamentary sittings. Article 87 of the Constitution states:

“Every member of the Senate or the House of Representatives shall have complete freedom of speech and expression of opinion within the limits of the by-laws of the House to which he belongs; and the member may not be answerable because of any voting or opinion he expresses or speech he makes during the sittings of the House.”<sup>90</sup>

Therefore, parliamentarians cannot be prosecuted for opinions expressed during meetings of the House or committees, and such immunity extends to the media coverage of such meetings except where deliberations are conducted in secret. The House by-laws also exclude House documents and statements from being published unless they are listed on a relevant agenda or referred to a local government.

Article 83 of the Internal Regulations of the Chamber of Deputies of 1996 states:

1. Documents and statements of the Chamber of Deputies, or any part thereof, shall be deemed confidential and may not be published unless listed on the agenda or referred to the government.
2. All means of Media must observe accuracy when covering public meetings of the Chamber.
3. Should any means of Media deliberately alter or misrepresent deliberations conducted in the Chamber, the Chairman may, as may be deemed appropriate thereby, take any disciplinary action there against.

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<sup>89</sup> Article 15 of the Constitution of The Hashemite Kingdom of Jordan. Available at <http://www.refworld.org/pdfid/3ae6b53310.pdf> (12.01.2017)

<sup>90</sup> Ibid, Article 87.

Article 101(3) of the Constitution of Jordan states:

“Court sittings shall be public unless the court decides that they be in camera in consideration of public order or in preservation of morals. In all cases, the pronouncement of the verdict shall be in a public sitting”.<sup>91</sup>

It should be noted that the press is not prohibited from covering court proceedings (except in those cases that involve minors and family disputes) although sentencing is always public.<sup>92</sup> No legal framework prohibits publication of a final decision of judicial ruling.

Article 33 of the Constitution provides the King with legal authority to conclude international treaties and agreements. Parliament must pass these agreements into domestic law unless they “entail any expenditures to the Treasury of the State or affect the public or private rights of Jordanians”, in which case they must obtain parliamentary approval. Once passed and ratified, the bill will be published in the official Gazette and become law.

### 2.1.2 The National Charter (1991)

The year 1990 was the start of a new era for Jordan when martial law was terminated and parliament held fresh elections. His Majesty King Hussein also appointed a 60-member royal commission to draft guidelines for the conduct of political parties in Jordan. The commission included representatives of all political groups within the country and drafted a written consensus called the “National Charter”. The National Charter was adopted at a national conference in 1991 that was attended by 2000 eminent Jordanians. Although the National Charter was never meant to be legally binding, it does provide, along with the Constitution of Jordan, a compass for national debate on fundamental issues and is generally considered to be a social contract between parliament and the King. In the National Charter, the section entitled “Information and Communication”, clearly states that mass media “plays an important role in strengthening democratic processes”.

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<sup>91</sup> Ibid, Article 101/2.

<sup>92</sup> Article 183/4 of the amended Criminal Procedures Law No. (9) of 1961 states that: “the presiding judge, or anyone authorized thereby, shall recite judgment in a public session and said judgment shall be dated as on the day of explanation thereof.”

The National Charter goes on to make the following important statement on the freedom of thought and expression:<sup>93</sup>

“Freedom of thought and expression and access to information must be viewed as a right of every citizen, as well as of the press and other mass media. It is a right enshrined in the Constitution and should under no circumstances be abridged or violated.”

And on freedom of the press:

“The circulation of news and information must be regarded as an indivisible part of the freedom of the press and information. The state must guarantee free access to information to the extent that it does not jeopardize national security or the national interest.

It must enact legislation to protect journalists and other information personnel in the fulfillment of their duties and to provide them with material and psychological security.”

Although these statements were widely welcomed when published, since then no concerted attempt has been made to bring existing law into line with these proclamations.

### 2.1.3 The National Agenda (2007-2017)<sup>94</sup>

HM King Abdullah II issued a royal decree in 2005 to establish a 26-member steering committee, including representatives of parliament, civil society, the private sector, the media and political parties, to devise a national agenda. The report they produced, entitled “The National Agenda”, described its aims as follows:

“The National Agenda represents an ambitious effort to create a master plan for the reform, future growth, and development of Jordan. His Majesty King Abdullah II ibn Al Hussein introduced the concept in 2005 as a way to create a comprehensive strategy

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<sup>93</sup> The official website of King Abdullah II. Available at <http://www.kingabdullah.jo> (12.01.2017)

<sup>94</sup> Initiatives, National Agenda 2007-2017. Available at [http://kingabdullah.jo/index.php/en\\_US/initiatives/view/id/2.html](http://kingabdullah.jo/index.php/en_US/initiatives/view/id/2.html) (12.02.2017)

for social, political and economic transformation, which would put Jordan on a trajectory toward rapid, sustainable economic growth, and greater social inclusion.”

The committee unanimously adopted the National Agenda as a national consensus expressing the aspirations and ambitions of Jordanian citizens. Proposals related to basic human rights and freedoms were enshrined in the document in order to expand individuals’ freedom of expression and foster a free and independent media.<sup>95</sup>

#### 2.1.4 International Agreements

For over 60 years, the international law on human rights – through various treaties, agreements, international customs and international tribunal rulings – has guaranteed individuals’ right to freedom of expression, access to information, privacy and communications. International law places obligations on nation states to promote, protect and uphold these rights on behalf of their citizens. These rights are fundamental and universal and therefore extend to the Internet where such rights are necessary for the free flow of information.

It should be noted, however, that some human rights are not absolute because they need to be balanced against others, for example, the right to privacy should be balanced when it comes to state or public safety. Although all 192 Members of United Nations have accepted the Universal Declaration of Human Rights, as a declaration, rather than a treaty, the provisions set out within it are non-binding on member states.

In contrast, the International Covenant on Civil and Political Rights is binding, even if the enforcement mechanisms are limited. While there are other similar binding agreements throughout the world, such as in United States of America, Europe, and Africa, none have yet been agreed in Asia or the Middle East. Both regions have only just started to acknowledge the basic rights of freedom of expression in its declaratory form. However, the common characteristic of many international agreements is their limited means to enforce them.

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<sup>95</sup> Assessment of Media Development in Jordan; Based on UNESCO’s Media Development Indicators, United Nations Educational, Scientific and Cultural Organization, IPDC the international programme for the development of communications.

Notwithstanding, human rights declarations have served to flourish freedom of expression all over the world by becoming part of the body of international law which in turn influences domestic laws. The numerous international treaties and agreements form part of an international consensus on the scope of the right to freedom of expression. It applies to all forms of media, providing the possibility to receive and impart information with few limitations or restrictions.

With the rapid development of technology and the way in which Internet has become part of our daily lives, a question arises as to how these human rights instruments apply to new communication media? At first glance, some aspects are encouraging. The instruments are drafted clearly and with straightforward language with powerful implications for the borderless medium. Human rights' supporters recognize that the full range of rights, including freedom of expression, apply to cyberspace and are therefore worthy of legal protection.

However, there are troubling matters that need to be addressed. It is acknowledged that Jordan has signed several legally binding international treaties that guarantee the right to freedom of expression, yet Article 33 of the Jordanian Constitution does not explicitly determine the status of these treaties and agreements in Jordanian law. Despite this, the Jordanian Court of Cassation has issued several rulings granting international treaties a higher status than the national laws.<sup>96</sup> We can therefore assume that international treaties that are signed and ratified by the Hashemite Kingdom of Jordan take precedence over national laws.

Despite the Court of Cassation's rulings, there remains a disparity between Jordanian national law and the ratified international treaties, especially with regard to press freedom. However, the commitment to the right to freedom of expression, as stated in a series of fundamental agreements including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, remains strong.

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<sup>96</sup> Report on The Implementation Of International Human Rights Treaties in Domestic Law and The Role Of Courts, European Commission For Democracy Through Law, Venice Commission, 2014. Available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)036-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)036-e) (13.01.2017)

#### *2.1.4.1 Universal Declaration of Human Rights*

In 1948 members of the United Nations first announced the right to freedom of expression as an international norm in the Universal Declaration of Human Rights.<sup>97</sup> Articles 12, 19 and 27 of the Universal Declaration of Human Rights, frame a scheme to protect the right to freedom of expression generally, including in the cyberspace.

Article 12 of the Universal Declaration of Human Rights states:

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.”

The language used in this article is broad enough to include all kinds of communications directed to a person or group of people including emails, chat and other forms of one-to-one communications. Moreover, it is protecting individuals from “arbitrary interference” with the right to privacy and family life.

Article 19 of the Universal Declaration of Human Rights states:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any medium and regardless of frontiers.”

One notices the broad language used in this article. The phrase “through any medium” indicates that it is clearly applicable to thoughts expressed over the Internet. The term “to seek ... information” lends support to Internet browsing using portals and hyperlinks. Similarly, the term “impart information” lends support to blogging activities and the of sharing information via social media networks. The right to “receive ... information” naturally support the use of email services and the reading of web page content.

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<sup>97</sup> U.N.G.A Res. 217, Dec. 10<sup>th</sup> 1948. Available at <http://www.un.org/en/universal-declaration-human-rights/index.html> (13.01.2017)

The right to “seek, receive and impart information” guaranteed under Article 19 of the Universal Declaration of Human Rights is reinforced by Article 27 of the same document. It upholds the right of each and every individual “freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.” It is notable that the Internet is an exchange mechanism for cultural life, arts and scientific information, thus Article 27 can be seen particularly supportive of the right to freedom of communications in cyberspace.

Some rights are absolute and others are not. Like other human rights instruments they are subjected to exceptions and restrictions. Article 29(2) proclaims that:

“In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in democratic society.”

One can notice that freedom of expression is not an absolute right and subjected to limitations and restrictions for pre-defined reasons; for example, if it interferes with other people’s rights, is in conflict with public morality, is in conflict with order and stability within a democratic society. On the subject of enforcement of the Universal Declaration of Human Rights, it is not a legally binding treaty but rather a non-binding declaration with no legal force of its own. However, over time, the Declaration has become a normative instrument that creates some legal and moral obligations for the Member States of the United Nations through to their domestic law.<sup>98</sup> Furthermore, many principles that were established by the Universal Declaration of Human Rights have entered the corpus of international law as evidenced by an overwhelming consensus of opinion and practice among states; the consensus is illustrated in subsequent international and regional treaties and agreements, domestic constitutions and legislations.<sup>99</sup>

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<sup>98</sup> United Nations Association in Canada, “Questions and answers about the Universal Declaration,” In 1968, the United Nations International Conference on Human Rights agreed that the Declaration constitutes an obligation for the members of the international community to protect and preserve the rights of its citizenry.

<sup>99</sup> Although a particular state may not recognize the principle of free expression in its domestic law, it is bound by international norms that are “supported by patterns of generally shared legal expectation and generally conforming behavior.” Jordan J. Paust, “The Complex Nature, Sources and Evidences of Customary Human Rights Law,” 25 Ga. J. Int’l & Comp. L. 147, 151 (1996).

#### *2.1.4.2 International Covenant on Civil and Political Rights*

The standards initially enunciated in the Universal Declaration of Human Rights were emphasized and expanded upon in the 1966 International Covenant on Civil and Political Rights (ICCPR).<sup>100</sup> It took effect in 1976 and has now been approved by 165 countries. Article 19 of the ICCPR re-states Article 19 of the Universal Declaration of Human Rights almost to the letter. It proclaims that: “Everyone shall have the right to hold opinions without interference ... everyone shall have the right to freedom of expression...”

In words that are to some degree more broad than the Universal Declaration of Human Rights, Article 19 of the ICCPR additionally explicitly expresses that the right to freedom of expression extends to all forms of media: “this right shall include 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 choice”.

Article 17 of the ICCPR also re-states the crux of Article 12 of the Universal Declaration of Human Rights: “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.” The ICCPR guarantees freedom of expression but expressly notes which areas justify limits being placed upon it; protection of reputation, defamation, national security and public order, and public health and morals. However, that limitation on freedom of expression should be narrowly characterized and not be arbitrary.<sup>101</sup> Looking at enforcement, the ICCPR is quite restricted. ICCPR was established by United Nations Human Rights committee<sup>102</sup> and obliges signatories to submit reports (usually every four years) on the measures they have taken to ensure and protect human rights.

In Jordan, the ICCPR was integrated into the Jordanian law by being published in issue No.4764 of the official Gazette in June 2006, hence gaining the force of national law.

Nevertheless, Jordan did not approve the ICCPR’s first supplementary protocol, which permits people to file complaints before the United Nations Human Rights Committee against signatory states for affirmed infringement of the rights stipulated in the Covenant.

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<sup>100</sup> UN Documents, Gathering a body for global agreements, ICCPR. Available at <http://www.un-documents.net/iccpr.htm> (13.01.2017)

<sup>101</sup> Duffy, M., College, B. Arab Media Regulations: Identifying Restraints on Freedom of the Press in the Laws of Six Arabian Peninsula Countries. *Berkeley Journal of Middle Eastren & Islamic Law* 2014, 6 (2), pp 1-32.

<sup>102</sup> Article 28 of the ICCPR

In accordance with Article 2 of the ICCPR, being a party of the ICCPR shall be construed as a state's undertaking to:

- a) adopt legislation that guarantees rights provided for in this Covenant, and to amend existing legislations accordingly; and
- b) ensure that any person whose rights are violated by anyone acting in an official capacity shall have an effective remedy and that violators are prosecuted.

The ICCPR binds each state that is party to the agreement to respect the rights set out in the ICCPR and to enshrine the said rights for all peoples within their jurisdiction. If existing legislation or different legal measures of a state do not provide these rights, the ICCPR requires every party to make the fundamental steps, in accordance with their own constitutional process and arrangements of the present ICCPR, to adopt laws and other legal measures to implement the rights perceived in the present ICCPR.

#### *2.1.4.3 International Covenant on Economic, Social, and Cultural Rights*

Restrictions on the Internet may also involve rights established by the International Covenant on Economic, Social, and Cultural Rights (ICESCR) that has been ratified by 160 countries.<sup>103</sup> The ICESCR re-states Article 15 the Universal Declaration of Human Rights Article 27, which proclaims that state parties recognize the right of everyone “(a) to take part in cultural life; (b) to enjoy the benefit of scientific interests resulting from any scientific, literary or artistic production of which he is the author.” One can understand that state parties should respect the freedom of people who are interested in scientific research and creative activities. These provisions and terms initiate direct ties of social, scientific, and cultural activities to freedom of expression and cross-border contacts and cooperation. This would include the Internet being an effective tool for cooperating internationally in the scientific and cultural fields.<sup>104</sup>

In recent years, the term “access to knowledge” has become popular with many legal scholars, activists, and others have developed new ways of looking at laws and policies concerning a

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<sup>103</sup> An Introduction to Economic, Social, and Cultural Rights, ESCR-Net. Available at <https://www.escr-net.org/rights> (13.01.2017)

<sup>104</sup> Malcolm. J, “Access to Knowledge: Access to Information and Knowledge – Advancing Human Rights and Democracy (2009). Available at <http://a2knetwork.org/access-knowledge-access-information-and-knowledge---advancing-human-rights-and-democracy> (15.01.2017), Frederick Noronha and Jeremy Malcolm, editors, “Access to Knowledge: A Guide for Everyone (2010). Available at <http://a2knetwork.org/sites/default/files/handbook/a2k-english.pdf> (15.01.2017)

diverse range of matters, such as intellectual property, access to governmental documents and information, public media and freedom of expression. In Jordan, the access to such information is restricted by law; for example, there are restrictions imposed on who can file a request for public information. Moreover, in accordance with the Jordanian law 47/2007, under Article 7, restrictions are imposed on the information seeker to have a legitimate reason or interest in order to access information.<sup>105</sup>

#### *2.1.4.4 The Middle East and North Africa (MENA)*

The Arab Charter on Human Rights enforcement took effect in March 2008 and has been accepted by ten Arab states including Jordan.<sup>106</sup> The Arab Charter's significance lies within the fact that it is a legal instrument for the region, therefore it has the potential to diminish and eventually end the questioning by Arab states of their duties in order to respect, protect, as well as promote human rights in different means and different areas.

The process of revising the Arab Charter had revealed tensions among Arab states; The Arab League Secretary General said that the main aim of the revision was to bring the Arab Charter in line with international human rights law.<sup>107</sup>

The Arab Charter emphasized the universality and indivisibility of human rights in order to reaffirm the Arab states commitment to universal human rights. Although the Arab Charter guarantees human rights such as, health, education, fair trial, and freedom from torture and ill-treatment, the Charter does not prohibit cruel and inhuman degrading punishments, nor does it not allow imposition of restrictions on the exercise of freedom of expression, conscience, and religion, which are considered to fall far short of international human rights standards.

Article 32(1) of the Charter states:

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<sup>105</sup> Cairo Institute For Human Rights Studies, Agenda item 3, Right to Access to Information in The Middle East and North Africa. Available at <http://www.cihrs.org/wp-content/uploads/2013/09/Right-to-access-to-information-in-the-Middle-East-and-North-Africa.pdf> (15.01.2017)

<sup>106</sup> Rishmawi. M, "The Arab Charter on Human Rights", Arab Reform Bulletin, Carnegie Endowment for International Peace, Oct. 2009. Available at <http://carnegieendowment.org/sada/?fa=23951> (16.01.2017)

<sup>107</sup> Ibid.

“The present Charter guarantees the right to information and freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.”<sup>108</sup>

One notices that the above-mentioned Article echoing Article 19 of the Universal Declaration of Human Rights.

Many Arab states that took part in the Arab Charter did not lobby actively for the ratification of the Charter due to the fact that it conflicts with international laws in many fundamental areas. As of November 2013, only a few Arab states, including Jordan, had ratified the Arab Charter.<sup>109</sup> It was mentioned in the Charter that states should ratify the Charter to change their laws and policies accordingly to match its provisions. Unfortunately, no country has actually done that so far.

The author’s proposal in order for the Charter to succeed, Arab states and Arab human rights organizations have to take the Charter and its provisions more seriously by making the needed amendments in laws and regulations, and government practices to conform to it.

Arab State have to re-open the debate on some provisions that clearly contradict international human rights standards. In addition, the UNESCO General Conference has adopted the 1996 Declaration of Sana’a on Promoting Independent and Pluralistic Arab Media, which recognized the need to promote the right to free expression principles that will expand information access and Internet penetration in the region. The Declaration proclaimed that Arab states have to “enact and/or revise laws with a view to enforcing the rights to freedom of expression and press freedom and legally enforceable free access to information”.<sup>110</sup> More than fifteen foreign Ministers from MENA countries adopted the Sana’a Declaration on Democracy, Human Rights, and the Role of the International Criminal Court.

The Declaration proclaims:

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<sup>108</sup> League of Arab States, Arab Charter on Human Rights, May, 2004, entered into force Mar. 15,2008. Available at <http://hrlibrary.umn.edu/instreet/loas2005.html> (16.01.2017)

<sup>109</sup> Mattar, Y. Article 43 of the Arab Charter on Human Rights: Reconciling National, Regional and International Standards. Harvard Human Rights Journal 2013, 26 (1), pp 91-147.

<sup>110</sup> UNESCO Official Documents. Available at <http://www.unesco.org/new/en/communication-and-information/resources/official-documents/> (16.01.2017)

“A free and independent media are essential for the promotion and protection of democracy and human rights. Pluralism in the media and its privatization are vital for contributing to the dissemination of human rights information, facilitating informed public participation, promoting tolerance and contributing to governmental accountability. The participants, therefore, agree on to work towards future modalities of democratic consultation and cooperation for strengthening democracy, human rights, and civil liberties, especially freedom of opinion and expression....”<sup>111</sup>

In 2004, more than 270 representatives of international and regional media, non-governmental organizations, media experts from the academic world and the media industry leaders have adopted the Marrakech Declaration, which states that “the time has come to move from the promise of Article 19 to its universal implementation. Freedom of expression and press freedom are at the core of construction of the information society in Africa, the Arab region, and throughout the world...The Internet and other new media forms should be afforded the same freedom of expression protections as traditional media”.<sup>112</sup>

#### *2.1.4.5 The Convention on the Rights of the Child*

All MENA states have ratified the Convention on the Rights of the Child (CRC) since its adoption in 1989.<sup>113</sup>

Article 13 of the CRC states:

1. The child shall have the right to freedom of expression; this right shall include 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 the child’s choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

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<sup>111</sup> Intergovernmental Regional Conference on Democracy, Human rights, and the Role of the International Criminal Court, Jan 2004. Available at <http://www.npwj.org/MENA/Inter-Governmental-Regional-Conference-Democracy-Human-rights-and-Role-International-Criminal-24> (16.01.2017)

<sup>112</sup> The Marrakesh Accords & The Marrakesh Declaration. Available at [http://unfccc.int/cop7/documents/accords\\_draft.pdf](http://unfccc.int/cop7/documents/accords_draft.pdf) (16.01.2017)

<sup>113</sup> Country Profile of Jordan, A Review of the Implementation of the UN Convention on the Rights of the Child. Available at <http://www.ibcr.org/wp-content/uploads/2016/07/Country-Profile-Jordan.pdf> (16.01.2017)

- (a) For respect of the rights or reputations of others; or
- (b) For the protection of national security, public order, public health or morals.

Many people think of the Internet as being an adult medium into which children and legal minors occasionally intrude. However, this is not true. There are millions of children and young people around the world are regular and active users of the Internet and social media, their rights must be considered in any discussion of law, policy, or regulation on the Internet within national and international law.<sup>114</sup>

It can be seen that the right to freedom of expression and information should be viewed as an essential resource with which children with the help and guidance from their parents and communities are able to build a better future for themselves and without this right their horizons will only shrink.

#### *2.1.3.6 The Euro-Mediterranean Association Agreement between Jordan and the European Union and its Member States*

In 1999, the Jordanian Parliament ratified the Euro-Mediterranean Association Agreement. It entered into force in 2002 and constitutes as a legally binding treaty.<sup>115</sup>

Article 2 of the Association Agreement proclaims:

“Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based in respect of democratic principles and fundamental human rights as set out in the Universal Declaration of Human Rights, which guides their internal and international policy and constitutes an essential element of this Agreement”.

One notices that in all such international agreements, Jordan has positive obligations to comply its national legal framework with international standards that support freedom of expression and transparency within a democratic society. While one could argue that Jordan has legislated for human rights within its national and international legal framework, one notices that the

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<sup>114</sup> Powell. A, Hills. M, and Nash. V, Child Protection and Freedom of Expression Online, Oxford Internet Institute Forum Discussion Paper No. 17, University of Oxford, March 2010.

<sup>115</sup> The Euro-Mediterranean Agreement establishes association between the European Union and its member states on one hand and the Hashemite Kingdom of Jordan on the other. Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:r14104> (16.01.2017)

enforcement of these obligations requires change and improve. The current poor human rights record in Jordan is not accepted internationally, considering that Jordan is a democratic country that has ratified several international agreements supporting human rights along with their obligations, it is important to promote open and transparent government.<sup>116</sup>

## **2.2 Definition of Freedom of Expression**

The definition of freedom of expression as recognized by law has been evolving over time. When the United Nations General Assembly met the very first time in January 1946, it passed the recognition of freedom of information as a fundamental human right and “the touchstone of all the freedoms, which the United Nations is consecrated”.<sup>117</sup> Moreover, it provided an early definition of freedom of expression:

“Freedom of information implies the right to gather, transmit and publish news anywhere and everywhere without fetters. As such it is an essential factor in any serious effort to promote the peace and progress of the world”.<sup>118</sup>

In December 1948 the General Assembly adopted the Universal Declaration of Human Rights (UDHR) that protects freedom of expression within its Article 19:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.<sup>119</sup>

This means that everyone has the freedom to seek and access information, only the subject of the information is prescribed to limitations, while the freedom to receive and impart information remains untouched, from the context of the above-mentioned article one can notice that its primary aim is to prevent any government from interfering or restricting the flow of information.

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<sup>116</sup> Ahmad. J, and Dian. A, Freedom of Information: Practices and Challenges in selected ASEAN countries, Faculty of Administrative Science & Policy Studies, University Teknologi, 2011 IEEE Colloquium Humanities, Science and Engineering Research (CHUSER 2011), Dec 5-6 2011, Penang.

<sup>117</sup> UN General Assembly, Calling for an International Conference on Freedom of Information, 14 Dec 1946, UNGA res 59 (1), UN Doc A/229, A/261.

<sup>118</sup> Ibid.

<sup>119</sup> Universal Declaration of Human Rights, 10 December 1948, Article 19.

Freedom to hold opinions or impart them to others implies that the right to freedom of expression includes publication, and that the information and ideas of all kinds will embrace pluralism of thought and tolerance for critical ideas, new and challenging ideas. The term “other media” should be understood to include television, radio, the Internet, mobile phones, theaters and movies, as well as anticipating future media outlet development.

Since then, the United Nations Human Rights Committee has expanded the definition of the right to freedom of expression and how it is connected to our daily life activities by many international human rights treaties and reports. The right to freedom of expression does not exist in isolation; all human rights are interrelated, interdependent and indivisible.

One can notice that freedom of expression is linked with the right to peaceful assembly and association under Article 20 of the UDHR, while the right to freedom of thought, conscience, and religion under Article 18 of the UDHR, for example.<sup>120</sup> The right to freedom of expression has a broad concept and covers other different kinds of freedom that are essential to the work of journalists all over the world.

According to the joint report by the United States Agency for International Developments (USAID) and the International Research Exchanges Board (IREX), there are four fundamental freedoms that rely on the right to freedom of expression. These give authority to journalists to do their work freely and independently. These are:

- 1- Freedom of issuing newspapers and publications
- 2- The independence of broadcast licensing and regulation
- 3- The prohibition from all kinds of censorship
- 4- Freedom of accessing the information.<sup>121</sup>

Debates regarding freedom of expression are both wide reaching and constantly evolving as a result of a response to the development of human’s mind, technology, the globalization of the media, community standards and practices, and political and judicial responses. The only constant is the idea of freedom of expression itself which remains fundamental and designed to protect and enhance democratic ideals.

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<sup>120</sup> Universal Declaration of Human Rights.

<sup>121</sup> Griffin. D & Morgan. L, “Introduction to News Media Law and Policy in Jordan: A primer compiled as part of the Jordan Media Strengthening Program” (USAID & REX). Available at [http://www.mediaact.eu/literature.html?&tx\\_rpublicdatabase\\_pi1%5BshowUId%5D=478&cHash=381a384f40a6c815c356bed51836a58d](http://www.mediaact.eu/literature.html?&tx_rpublicdatabase_pi1%5BshowUId%5D=478&cHash=381a384f40a6c815c356bed51836a58d) (12.01.2017)

### **2.3 The Right to Access to Information**

The right of access to information is one of the essential elements in building democracy. The contribution of people depends on information, which is a fundamental tool to fight against corruption and hold their leaders accountable.<sup>122</sup>

Despite the fact that we live in the age of information, where information and knowledge can be accessed and spread with a click of a button, the lack of public information continues to hinder people's ability to make civic choices, as a result it will narrow people's options and their horizons, being disconnected without up-to-date information in the author's opinion considered being a form of deprivation of liberty.

Article 19(2) of the International Covenant on Civil and Political Rights (ICCPR) embraces the right of access to information; this includes all kinds of information in possession by any public authority regardless of the form the information is stored, its source, or the date of production – all should be accessible.<sup>123</sup>

The right of access to information is one of the fundamental human rights; it is an important tool in order to exercise other rights such as freedom of expression and freedom of the press, these rights cannot be very effective if there is no way for those who wish to access to an information to obtain it, therefore it is considered being an essential element for the right to freedom of expression as it facilitates it. Blocking dissident voices simply cannot spread their message because their message will never be seen or heard by anyone is a simple way for anyone wishing to prevent freedom of expression

At the end of 2005, the Jordanian government drafted and tabled a “law to guarantee of access to information”. The preface to the draft law states: “As a result of the increase in the use of information following the development of contemporary life and the growing democratization process in Jordan, the need has increased to expand the right to access information.” Hence, the draft law comes to organize this right in a balanced way that makes it possible to seek public information. However, at the same time, the draft law maintains the confidentiality of state secrets, especially those related to national security and public order. The draft law also

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<sup>122</sup> Daruwala, M & Nayak, V. (2009). Our Rights Our Information. Empowering people to demand rights through knowledge, Commonwealth Human Rights Initiative. P 10

<sup>123</sup> National Center for Human Right 2013. Annual Report, The section of freedom of expression starts on p. 48 Available at <http://www.nchr.org.jo/arabic/Portals/0/Upload%20Folder/2014/العاشر%20التقرير.pdf> (17.01.2017)

prevents citizens from accessing information related to public health, personal freedom, or infringing upon the rights and reputation of others.”<sup>124</sup>

In 2007 the Law on Guarantee of Access to Information No. 47 (2007) was publicized. Article 7 of the pre-mentioned law proclaims:

“Every Jordanian has the right to obtain the information he/she requires in accordance with the provisions of this law if he/she has a lawful interest or a legitimate reason, therefore”.<sup>125</sup>

Article 8 obligates officials to “facilitate access to information and guarantee the disclosure thereof without delay and in the manner stipulated in the present law”.<sup>126</sup>

One notices from the above-mentioned Articles of the Jordanian law to access to information that it guarantees the right to access to information, however, it qualifies this by requiring a “lawful interest or a legitimate reason”. The practical challenges and problems that have accompanied this law can be summarized as follows:

- The law imposes restrictions on the seeker of information as one must have a “lawful interest or a legitimate reason”, which means that the burden of proving the interest to access to information is on the shoulders of the information seeker. However, the final decision is for the Information Council as it shall or shall not find the reason or interest legitimate to grant access to the information requested. This can lead to abuses by giving officials almost any possible reason to decline requests for obtaining information. The law should be more specific in its definitions of “legitimate” to when and how the officials are allowed to decline requests for information.<sup>127</sup>

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<sup>124</sup> Ali Al-Dabbas, Right to access to Information In the Hashemite Kingdom of Jordan, The National Center for Human Rights, 2008. Available at

[http://www.nchr.org.jo/english/ModulesFiles/PublicationsFiles/Files/Information-Eng1%20\(2\).pdf](http://www.nchr.org.jo/english/ModulesFiles/PublicationsFiles/Files/Information-Eng1%20(2).pdf) (17.01.2017)

<sup>125</sup> Article 7 of the Jordanian law on Guarantee of Access to Information. Available at

<https://ppp.worldbank.org/public-private-partnership/library/jordan-access-information-law> (17.01.2017)

<sup>126</sup> Ibid, Article 8 of the pre-mentioned law.

<sup>127</sup> By virtue of Article 3 (a) of the Law on Guarantee of Access to Information, the Information Council consists of: The Minister of Culture as Chairman, the Information Commissioner as Vice-Chairman, and the following persons as members: The Secretary General of the Ministry of Justice, the Secretary General of the Ministry of Interior, the Secretary General of the Higher Media Council, the Director General of the Department of Statistics, the director General of the National Information Technology Center, the Director of Moral Guidance at the Armed Forces, and the Human Rights Commissioner General.

- The law does not impose any obligation on public authorities in order to keep the public up-to-date on their activities. Article 7 of the law proclaims to disclose the information solely when requested, and only if the information seeker has a legitimate reason.

It is widely accepted that tolerable exceptions to the right of access to information must exist in democratic countries when implementing international human rights law. Such exceptions typically relate to the state's political stability, personally sensitive information and individual privacy.

The above-mentioned article gives authorities the power to misuse the law and powers guaranteed to officials by allowing them the right to decline any request to access to information on a wide range of reasons. Thus, the author sees that such challenges are due to the implementation of the law by officials being in conflict with international standards.

The UN Convention Against Corruption (UNCAC)<sup>128</sup> as ratified by Jordan, places obligations of public transparency on the government. Articles 10 and 13 of the Convention call on parties to the convention to adopt measures in order to enhance transparency and guarantee its citizens access to information in order for them to practice their right and participate effectively fighting corruption.<sup>129</sup> It should be noted that the right to access to information and the freedom of the press are negatively correlated with levels of corruption.<sup>130</sup>

Moreover, Jordan has joined the Open Government Partnership (OGP). It was launched in 2011 in order to provide an international platform for domestic governance reformers, a major international movement for expanding transparency and civic participation in government. Assisting people to exercise their right to access to information is one of the four main pillars of the OGP. Jordan committed to an "Action Plan" to "improve the access to information by ensuring that it is consistent with international best practices, as well as adopting the right amendments to its existing Access to Information Law".<sup>131</sup>

Public awareness about the right to access to information in Jordan is very low. According to an investigative report from 2010, supported by Arab Reporters for Investigative Journalism

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<sup>128</sup> UN General Assembly Resolution 58/4, 31 October 2003, entered into force 14 December 2005. Available at [https://www.unodc.org/documents/brussels/UN\\_Convention\\_Against\\_Corruption.pdf](https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf) (17.01.2017)

<sup>129</sup> The World Bank, 2000. Anticorruption in Transition: A Contribution to the Policy Debate, p. 18.

<sup>130</sup> Jeff Huther and Anwar Shah, 2000. Anti-Corruption Policies and Program, A Framework for Evaluation, p. 7

<sup>131</sup> Jordan first National Plan, p.3 Available at <http://www.opengovpartnership.org/country/jordan> (17.01.2017)

(ARIJ), it found that “Only 5% of Jordanian journalists used the Access to Information Law”.<sup>132</sup> In addition, there are few reliable studies on public knowledge about the law and how the public exercises their right to access to information.

An independent researcher has noted, “the majority of Jordanians have no knowledge of the law, and those who know about it have not tested government openness fully”.<sup>133</sup> Moreover, in accordance with the former Information Commissioner Ma’oun Al-Tahouni, there was “no government mechanism to monitor the number of applicants for obtaining information, whether among journalists or others”.<sup>134</sup>

When addressing the exceptions to the right to access to information under the current Jordanian law, it can be noticed that under Article 13 of the law, it sets out the main regime of exceptions to this right as following:

- Secrets protected by other legislation,
- Information classified as confidential and provided by another state,
- Secrets pertaining to national defense, state security or foreign policy,
- Personal Information,
- Criminal investigation or cases and investigations relating to customs or banking violations, and
- Information that has a commercial, industrial, financial or economic character, which if disclosed would undermine the rights of the author or fair competition.

In one hand, the current law provides strong protection for the right to privacy, but in the other hand, the law fails to reflect under what circumstances ‘public interest’ overrides the right to access information. Thus, the law protects privacy as a legitimate exception to the right to access to information, however, Jordanian legislators must have interpreted privacy term narrowly<sup>135</sup>, why? Because the right to access to information and privacy are both internationally recognized as human rights, under human rights law there is no right is

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<sup>132</sup> Arab Reporters for Investigative Journalism, 23 November 2010. Law on the Right to Access of Information: Part II. Available at <http://en.arij.net/report/law-on-the-right-to-access-of-information-part-ii/> (17.01.2017)

<sup>133</sup> Almadhoun. S. Access to Information in the Middle East and North Africa Region: An overview of recent developments in Jordan, Lebanon, Morocco and Tunisia.

<sup>134</sup> Ibid.

<sup>135</sup> Khalailah, Y., Kisswani, N. The “Right to Privacy” v. telecommunications interception and access: International regulations and implementation in the Arab Region. *International Review of Law* 2013, 2 (10), pp 2-19.

accorded greater than another.<sup>136</sup> The balance between those rights is needed, in order for this to happen, the rights must be decided on a case by case basis with a view toward the relative importance of various interests.<sup>137</sup>

## 2.4 The Right to Privacy

The right to privacy is a fundamental human right recognized for all individuals as stated in many international conventions; for example, the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, and in many other international and regional treaties.<sup>138</sup> It is fundamental in supporting other human rights such as freedom of expression and association. In this part of the chapter, the author will focus on the right to privacy of communication and freedom of expression, which includes the right to use encryption technology.

Internet intermediaries and service providers play a major role in online communications as they often know the identity of the person who creates a website or publishes materials on a platform. Therefore, Internet Service Providers (ISPs) must ensure that their users' communications and privacy are protected by obtaining users' consent to collect personal information,<sup>139</sup> as they are the actual enablers of Internet communications that has a natural point of control for online content.<sup>140</sup> In many countries, the constitution of the country and national legal instruments have also protected the right to private and family life, the home, and the privacy of communications.<sup>141</sup>

According to an international survey on privacy law and its developments, interception of communications is solely permitted under specific exemptions that must be prescribed by the

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<sup>136</sup> Volker and Markus Schecke (UECJ C-92/09, November 9, 2010, at 85): "No automatic priority can be conferred on the objective of transparency over the right to protection of personal data...even if important economic interests are at stake."

<sup>137</sup> Larsen, K., Atcherley, J. Freedom of Expression-Based on Restrictions on the Prosecution of Journalists Under State Secrets Laws: A Comparative Analysis. *Journal of International Entertainment & Media Law* 2013, 5 (1), pp 49-109.

<sup>138</sup> Universal Declaration on Human Rights (Article 12), the International Covenant on Civil and Political Rights (Article 17), the International Convention on the Protection of all Migrant Workers (Article 14).

<sup>139</sup> Baek, Y., Bae, Y., Jeong, I., Kim, E., Rhee, J. Changing the default setting for information privacy protection: what and whose personal information can be better protected? *The Social Science Journal* 2014, pp 523-533.

<sup>140</sup> Kucerawy, A. Intermediary liability & freedom of expression: Recent developments in the EU notice & action initiative *Computer Law and Security Review* 2015, 31 (1), pp 46-56.

<sup>141</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 8), the Cairo Declaration on Human Rights in Islam, available at <https://www.eff.org/issues/international-privacy-standards> (20.01.2016)

law.<sup>142</sup> In Jordan, for example, the constitution governs the right to privacy under article 18 states:

“All posts and telegraphic correspondence, telephonic communications, and the other communications means shall be regarded as secret and shall not be subjected to censorship, viewing, suspension or confiscation except by a judicial order in accordance with the provisions of the law.”<sup>143</sup>

Despite recognizing the right to privacy and privacy of communications within the framework of international law and countries’ national constitution, there exists an exponential growth in the use of surveillance technologies by national governments. This threatens all legal efforts to protect the right to privacy as more people tend to live their lives in the cyberspace where this growing surveillance is most prevalent.

The right to privacy of communications guarantees the right of everyone to use encryption technology too. In the absence of encryption, all online communications can easily be intercepted and read.<sup>144</sup> Furthermore, ISPs that store and manage people’s online communications are in a position to process and read all the information that passes through their infrastructure.

One can notice the importance of encryption communication in daily activities that both natural persons and government agencies rely on, like the asymmetric encryption (public-key encryption). The importance of encryption falls behind the fact that it protects personal information such as e-mail, medical records, confidential corporate information, etc. Securing this data is a critical matter to peace of mind while communicating, therefore, the author proposes that ISPs should be able to design systems for end-to-end privacy, and internet intermediaries should not block the transmissions of any encrypted communication.<sup>145</sup>

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<sup>142</sup> EPIC, Privacy International, “Privacy and Human Rights 2006. An International Survey of Privacy law and Developments”, 2006. Available at <http://www.worldlii.org/int/journals/EPICPrivHR/2006/PHR2006.html> (20.01.2017)

<sup>143</sup> The Constitution of The Hashemite Kingdom of Jordan.

<sup>144</sup> Encryption allows users to have private conversations over email, web browsing, or cell phones. To learn more: see EFF, Surveillance Self Defense, available at <https://ssd.eff.org/en/module/what-encryption> (20.01.2017)

<sup>145</sup> Tor project. Available at <https://www.torproject.org/about/torusers.html.en> (20.01.2017)

One might wonder what is the correlation between freedom of expression and the right to privacy? The right to privacy includes encryption communications that impacts freedom of expression in two ways:

1. Encryption allows people to speak freely without fear of retribution; and
2. Any attempt to restrict the distribution of encryption technology impacts the right of the software creators to express their point of view through their “creative work” of software.

There is no formal policy regarding encryption in Jordan today. An intention to formulate a policy can be evidenced in two documents: the first concerns the internal procedure to be followed during the work of all government entities and their staff;<sup>146</sup> and the second is the National Information Assurance and Cyber Security Strategy (NIACSS) document.<sup>147</sup>

The NIACSS mentions that “a National Encryption Center (NEC) will be established in order to manage, control, plan, monitor and enforce the policy of using encryption technology within the government organizations and private sector, both should use security measures to protect sensitive and critical information assets”.<sup>148</sup>

Since 2010, the government’s surveillance practices have become more apparent, as the number of people charged with online activity offenses has increased.<sup>149</sup> Moreover, a leak of e-mails by an Italian surveillance malware vendor hacking team, shows that the Jordanian government is interested in further developing surveillance capabilities to monitor its citizens.<sup>150</sup>

As users become more aware of what data about them is being collected and how it is being used and often sold for marketing purposes, they are becoming more critical and more vocal about the kind of application and services that they use and do not respect their wishes

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<sup>146</sup> The National Information Security Technical Committee (NISTC), Document Classification Restricted for Jordanian Government Entities, 2008. Available at <http://www.mot.gov.jo/EchoBusV3.0/SystemAssets/imagesAR/PDFsAR/documentsAR/National%20Information%20Security%20Policy%20Ver%205%200.pdf> (20.01.2017)

<sup>147</sup> Ministry of Information and Communications Technology, National Information Assurance and Cyber Security Strategy. Available at <http://nitc.gov.jo/PDF/NIACSS.pdf> (20.01.2017)

<sup>148</sup> Ibid.

<sup>149</sup> Ali, D, and Da’anah, H, “Military, secret, and above the standards of justice: the trails of activists in front of state security”, 7iber.com Available at <http://www.7iber.com/2013/11/state-security-court-2/#.V-p0TGWtGT9> (20.01.2017)

<sup>150</sup> Hacking Team, Re: Jordan opportunity, WikiLeaks. Available at <https://wikileaks.org/hackingteam/emails/emailid/616353> (20.01.2017)

regarding their data. While efforts are being enacted to protect users through law, it is still the responsibility of software engineers to ensure that information systems are designed and coded with privacy.<sup>151</sup>

In the other parts of the world, the well-known smartphone producer, Apple Inc., has issued a statement insisting that it does not build backdoors to its products or services after the US government requested such an initiative.<sup>152</sup> From this context, one notices that the U.S. government continues to demand access to all communication systems and making them easy to wiretap by creating “backdoors” into any encryption system.

If the government has access to technology bypassing encryption (i.e. “backdoors”), it will create significant risks of abuse of government power; which would infringe on the right to privacy and freedom of expression. However, the government would invade the right to privacy as it is not absolute right and must be balanced with other rights under certain circumstances related to public interest and national security, as mobile phone data in commission of crime and terrorism has been successfully used to prosecute offenders.<sup>153</sup>

## **2.5 Summary**

Freedom of expression has a significant importance not only for journalists but also for individuals who rely on their information to make informed decisions about their lives, ensuring freedom of expression is essential for the creation of a healthy society and government.<sup>154</sup> In Jordan, there are two sides of the coin; on one side, one can notice the value of freedom of expression creating challenges for government organizations which need to find an appropriate balance for this right in bring its benefits to its citizens, while on the other side, one can notice the anticipated threats to freedom of expression where the government is concerned about maintaining its international relations and keeping internal stability.

In order for one to practice his/her right to freedom of expression, one must understand that the

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<sup>151</sup> Oliver, I., Holtmanns, S. Providing for Privacy in a Network Infrastructure Protecting Context. Security Research Group 2017, pp 79- 86.

<sup>152</sup> Whitney Lance, Apple We don't build back doors into our products, 2014. Available at <https://www.cnet.com/news/apple-we-dont-build-backdoors-into-our-products-or-services/> (20.01.2017)

<sup>153</sup> Watney, M. Law Enforcement Access to Password Protected and/or Encrypted Mobile Data. University of Johannesburg 2016, pp 399-405.

<sup>154</sup> Çamak, S. Limitation of Freedom of Expression in Accordance with European Court of Human Rights and The Constitutional Court. HeinOnline 2015, pp 1067-1089.

right to freedom of expression is connected with two other fundamental human rights; the right to access to information and the right to privacy. The right to access to information plays an important role in order to express thoughts and build arguments based on true information. Banning the policy of interfering with the flow of information can only negatively affect the professionalism of journalists, as well as the serious decisions one needs to make in order to conduct in his/her life.

Jordan has laws to guarantee the right to access to information, yet it still needs a lot of amendments to make accessing government's documents easier and reach the common levels of international standards on transparency.

While from the author's point of view, the right to privacy and its correlation with freedom of expression are considered to be important, as encrypted communications affect freedom of expression in two ways: 1) encryption allows people to speak freely; and 2) any attempt to restrict the distribution of encryption technology impacts the right of the software creators to express their point of view through code. Moreover, the use of encrypted communication in Jordan's public and private sectors has been prevalent for several years now and still Jordan has no formal policy regarding the matter, leaving Jordan more exposed to cyberattacks that weaken its cyber security.

The Constitution of Jordan guarantees the right to freedom of expression under Article 15 and it does not restrict the content or the method of expressing one's opinion. As a result, freedom of expression in both the real world and cyberspace can be protected under this provision. However, this guaranteed right is still vague when it comes to its enforcement or application in practice. Furthermore, Jordan has signed and ratified international treaties and agreements, obliging the country to fulfill its commitments as stated in several provisions and articles of those treaties. It was mentioned that state parties should adopt and undertake amendments to its current national law and legal framework, if needed, in order to comply with the internationally recognized human rights standards.

All International agreements and treaties give great leeway for individual states to define their own legal and social parameters for freedom of expression and its limits.<sup>155</sup> Yet one can notice

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<sup>155</sup> Bangstad, S. The weight of words: the freedom of expression debate in Norway. University of Oslo 2014, 55 (4), pp 8-28.

the government's practices and policies are showing poor human rights standards when compared to other signatories.

### **3. Legal Analysis of the Jordanian Cybercrime Law:**

#### **3.1 Cybercrime Status and Challenges in Criminal Justice System of Jordan**

We are reminded almost constantly that we live in the information age; we communicate through the Internet, we use mobile phones, we get instant news from around the world, and an entire segments of public life including culture, business, entertainment, and research, have been revolutionized by the new technologies.<sup>156</sup> However, the concept of cybercrime is not radically different from the concept of conventional crime.<sup>157</sup>

Cybercrime creates challenges for law enforcement that are already sufficiently severe to require the development of a new crime-fighting model; one that can address these new challenges.<sup>158</sup> At present, the most sophisticated cybercrimes are connected to online fraud, hacking attacks, attacks against ICT infrastructure, and Internet services.<sup>159</sup> The legal and technical challenges of cybercrimes are increasing over time, making it increasingly difficult for any one country to fight the fast-spreading cyber-attacks alone. Therefore, there is a need for international collaboration in order to develop the legal and technical mechanisms to combat these threats.<sup>160</sup>

In order for a country to meet these challenges, it is important to take into consideration the continuous development of technologies used by cybercriminals, and ensure that law enforcement agents develop the appropriate counter crime tools to address the technical challenges of new technologies when forming its national legislation.<sup>161</sup>

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<sup>156</sup> Cavelti, M. *Cyber-Security and Threat Politics: US Efforts to Secure the Information Age*. Rutledge Taylor and Francis Group 2008, pp 1-147.

<sup>157</sup> Kamini, D. *Cyber Crime in the Society: Problems and Preventions*. *Journal of Alternative Perspectives in the Social Sciences* 2011, 3 (1), pp 240-259.

<sup>158</sup> Brenner, S. *Toward a Criminal Law for Cyberspace: A New Model for Law Enforcement?* *Rutgers Computer and Technology Law Journal* 2004, 10 (1), pp 1-105.

<sup>159</sup> A report on *Understanding Cyber-crime: A Guide for Developing Countries*, ITU, available at <https://www.itu.int/ITU-D/cyb/cybersecurity/docs/itu-understanding-cybercrime-guide.pdf> (03.02.2017)

<sup>160</sup> KPMG International Cooperative, *Cyber Crime: A Growing Challenge to Governments*, available at <http://globalinitiative.net/documents/cyber-crime-a-growing-challenge-for-governments/> (03.02.2017)

<sup>161</sup> Burmester, M., Henry, P., Kermes, S. *Tracking cyber-stalker: A cryptographic approach*. Florida State University 2012, pp 1-12.

Cybercrime usually targets data and information in cyberspace and is usually committed anonymously, while conventional crimes usually target people or property in the real world (physical world) where there is always a physical scene for the committed crimes.<sup>162</sup>

In Jordan, the first law designed to investigate and prosecute cybercrimes and other computer-related crimes was the Electronic Transactions Act No. 85 of 2001. However, the major focus of this law was on electronic commercial transactions.<sup>163</sup> The main problem with the Jordanian legal framework is that the criminal law provisions dealing with cybercrime and cyber criminals are based on old ones designed for combating traditional crime. These old provisions were created before the emergence of the digital era.<sup>164</sup>

The Information Systems and Cybercrime Law is often drafted to fight technical crimes that usually deal with issues of e-commerce and intellectual property rights (e.g. hacking into databases, identity theft and copyrighted materials) which are new and have a larger impact on modern societies because of their occurrence and severity.<sup>165</sup> However, in Jordan, there is a little evidence that the government has used the law for its stated purpose because usually, law enforcement are targeting political dissenters and human rights defenders.

While the Information Systems and Cybercrime Law produces positive results, as the author legal analysis will explain later in this chapter (strength points of the cybercrime law), it also produces many of negative results, like detaining those who are critical of governmental practices. Previous studies of the behavior of law enforcement towards human rights advocates or political dissidents show a common pattern. It can be noticed that the authorities appeared to use a two-step process.<sup>166</sup>

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<sup>162</sup> Finklea, K.M. The Interplay of Borders, Turf, Cyber-space, and Jurisdiction: Issues Confronting U.S. Law Enforcement. Prepared for Members and Committees of Congress in U.S.A., Congressional Research Service.

<sup>163</sup> Electronic Transactions Law No. 85 of 2001, available at <http://www.wipo.int/wipolex/en/details.jsp?id=14964> (03.02.2017)

<sup>164</sup> Faqir, R.S.A, Protection of Accused Rights in Jordan and India: A Comparative Study (Ph.D. Thesis). Law Faculty, Delhi University, Indian.

<sup>165</sup> Arab, Y. Computer Crime & Internet: A Summary to the Concept, Scope, Characteristics, Forms and the Procedural Rules of the Prosecution and Evidence. A Working paper Submitted to the Conference of Arab Security, the Organization of the Arab Center for Studies and Criminal Research, Held in Abu Dhabi, February 10-12.

<sup>166</sup> Hassine. W, The Crime of Speech: How Arab Governments Use the Law to Silence Expression Online, Electronic Frontier Foundation Defending Your Rights In The Digital World, available at <https://www.eff.org/pages/crime-speech-how-arab-governments-use-law-silence-expression-online> (25.04.2017)

The first step to limiting a person's right to freedom of expression is for law enforcement to determine and classify one's online activities; for example, use of social media portals like Facebook to publish critical posts of the government, or publishing posts that could be considered journalism rather than speech. This initial of characterizing shall lead the officer to decide the type of law under which to detain the suspect. The second step, having classified the suspect's online activities, the law enforcement officer will typically choose one or two laws under which to make the arrest. In some cases, the judge may add subsequent charges during trial if it is found that the suspect's activities are considered to be "journalism", in which case the suspect is most likely to be tried under the country's publication code. If the activities are considered to be "speech", then one can be tried under other laws including the Information Systems and Cybercrime Law and Anti-Terrorism Law. Accordingly, the legislature must take into account that freedom of expression and communication are preconditions for democracy, and any limitation placed on these freedoms must therefore be essential, effective and proportionate to the pursued aim.<sup>167</sup>

The author's hypothesis in this chapter is that Jordanian government abuses its legal powers, especially those provided by the Information Systems and Cybercrimes Law which grants authorities the power to restrict online freedom of expression and publications, and arrest anyone claiming their human rights. These powers allow authorities to interfere with the right to freedom of expression granted to Jordanian people under the constitution, solely on the grounds of an alleged violation of law provisions which carry broad definitions that could include almost all online activities.

In this chapter, the author will explain the shortcomings of the Information Systems and Cybercrime law. In general, the author will focus on those provisions related to freedom of expression and online activities that prevent the Jordanian legal system from complying with international human rights standards.

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<sup>167</sup> Lucchi, N. Access to Network Services and Protection of Constitutional Rights: Recognizing The Essential Role of Internet Access for The Freedom of Expression. University of Ferrara 2011, 19 (1), pp 646- 675.

### **3.2 Legal Analysis of The Information Systems and Cybercrimes Law**

In 2010, the Jordanian government recognized the need to amend the law in order to meet the challenges of technological development so it decided to draft the Information Systems and Cybercrimes Law and further amend the existing Electronic Transactions Law.

The Information Systems and Cybercrimes Law is the first of its kind to address the area of cybercrimes specifically. However, it does not provide an adequate protection against such crimes due to several defects in its provisions. This was mainly a result of the hasty drafting of the bill and the inadequate parliamentary scrutiny given to it during its passage to becoming law. As a result, this has created problems by limiting people's online activities, especially journalists who practice their publishing rights online. The structure of the Information Systems and Cybercrimes Law is very simple. It consists of 18 Articles without chapters, and it incorporates two types of rules; both substantive and procedural ones. The law starts with preliminary definitions that describe cybercrimes under Articles 3 to 12 and then outlines the penalties in case of committing various violations. The law is applicable within the territory of Kingdom of Jordan, as well as, to cases where the crime is committed outside of Jordan.

In Jordan, the reality is that the traditional criminal laws cannot be deemed a solid base for the investigation and prosecuting of cybercrimes. All parties, including judges, prosecutors, lawyers and law enforcement officers, are caught in a dilemma because the legal provisions contained in the Punishment Code of 1960, and Criminal Procedural Code of 1961, are too vague for cybercrimes. Both laws have legal terms that are incompatible dealing with cybercrimes and therefore need to be revised.

Furthermore, the law created to deal with cybercrime (the Information Systems and Cybercrimes Law) suffers from legal and language defects, poor scoping of cyber activities, formulaic problems, and the absence of substantive and procedural rules. It too needs to be amended by parliament in order to achieve its strategic goals of security within a democratic model of governance. Jordanian citizens expect their constitutional right to freedom of expression without interference to be upheld with reasonable qualifications in the interests of national stability and security of the country.

People also expect their country to comply with international human rights standards with few limitations or qualifications. The current law is not suitable for law enforcement to investigate or prosecute cybercrimes related to publications or the exercising of the right to freedom of expression. Any future amendments to the current law dealing with cybercrime should comply with Jordan's human rights obligations and international standards of human rights. Citizens need to be able to practice their right to freedom of expression on the Internet without being condemned for violating a cybercrime or any other applicable law.

Table 1: Cyber-Related Crimes with Penalties and Punishment as provided by the Information Systems and Cybercrime Law of Jordan.<sup>168</sup>

No	Offence	Article	Fine JD	Imprisonment
1.	Unauthorized Access to Information System	3 (a)	100 to 200	7 days to 3 months
2.	Tampering Information Systems through Destroying, Deleting or Copying	3 (b)	200 to 1000	3 months to 1 year
3.	The Act of Impersonation	3 (b)	200 to 1000	3 months to 1 year
4.	Impeding the Information System by Jamming or Disruption	4.	200 to 1000	3 months to 1 year
5.	Interception of Information by Unauthorized Electronic Eavesdropping	5.	200 to 1000	1 month to 1 year
6.	Unlicensed Obtaining Credit Card and Banking Information	6 (a)	500 to 2000	3 months to 2 years
7.	Unlicensed Using of Credit Card and Banking Information	6 (b)	1000 to 5000	1 year at least
8.	Double punishment for crimes stipulated in Articles 3 to 6.	7.	2000 to 10,000	2 years at least
9.	Pornography and Sexual Exploitation of Children	8 (a)	300 to 5000	3 months at least
10.	Activities of Online Prostitution	8 (b)	1000 to 5000	2 years at least
11.	Using Information Systems for Seducing Psychopaths or Mental Handicaps for Online Prostitution or Pornography	8 (c)	5000 to 15,000	Temporary hard work imprisonment
12.	Promotion of Online Prostitution	9.	300 to 5000	Not less than 6 months
13.	Facilitation or Support of Terrorist Acts	10.	No Fine	Temporary hard work imprisonment
14.	Promotion of Terrorist Ideologies	10.	No Fine	Not less than 4 months
15.	Illegally Access to National Security, Safety and National Economy Information	11(a)	500 to 5000	Temporary hard work imprisonment
16.	Illegally Access to National Security, Safety and National Economy Information for the Purpose of Abolishing, Destroying, Alerting or Copying	11(b)	1000 to 5000	Temporary hard work imprisonment

<sup>168</sup> Jordan Information Systems and Cyber Crime Law, available at [https://www.unodc.org/res/cld/document/information-systems-crime-law\\_html/Jordan\\_Information\\_Systems\\_and\\_Cyber\\_Crime\\_Law.pdf](https://www.unodc.org/res/cld/document/information-systems-crime-law_html/Jordan_Information_Systems_and_Cyber_Crime_Law.pdf) (08.02.2017)

As seen from the table above, the features of the Information Systems and Cybercrime Law are revealed. It criminalizes cyber activities that were previously unknown under the legal system in Jordan. It also provides a definition of a cybercrime, protects data privacy, criminalizes new types of child pornography, cyber banking and financial fraud, cyber terrorism, and it grants law enforcement powers to search for and seize evidence of such crimes. However, the definition of cybercrime falls short under these law provisions when compared with the legislation of other countries.

One may wonder how the cybercrime law is connected to freedom of expression and how does the Jordanian government use it to limit that right? In order to answer this, the author will analyze the Articles of the law in general but focus on those areas related to rights.

Article 3 proclaims:

“A- Anyone who intentionally accesses a website or information system in any manner without authorization or in violation or excess of an authorization, shall be punished by imprisonment for a term not less than one week and not exceed three months, or by a fine of not less than (100) one hundred Dinars and not exceeding (200) two hundred Dinars, or both punishments.

B- Where the access stipulated in paragraph (a) of this Article is for the purpose of cancelling, deleting, adding, destroying, disclosing, extinguishing, blocking, altering, changing, transferring or copying data or information or stopping or disabling the operation of an information system, changing a website or cancelling, destroying or altering its content or assuming its identity or the identity of its owner, the perpetrator shall be punished by imprisonment for a term not less than three months and not exceeding one year or by a fine of not less than (200) two hundred Dinars and not exceeding(1000) one thousand Dinars, or both punishments.”<sup>169</sup>

The above-mentioned Article is considered important as in paragraph (A) it criminalizes all acts of unauthorized access or violation to a website or information system, and penalizes these actions with the imprisonment of up to 3 months. A convicted criminal could pay a fine of up

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<sup>169</sup> Article 3 of the Jordanian Information Systems and Cybercrimes Law, available at [https://www.unodc.org/res/cld/document/information-systems-crime-law\\_html/Jordan\\_Information\\_Systems\\_and\\_Cyber\\_Crime\\_Law.pdf](https://www.unodc.org/res/cld/document/information-systems-crime-law_html/Jordan_Information_Systems_and_Cyber_Crime_Law.pdf) (15.02.2017)

to 200 Jordanian Dinar (JD) instead, which seems petty in comparison to the alternative penalty and possibly the crime itself.

In paragraph (B), the legislator made the penalty much more severe than was stipulated in paragraph (A). The penalty of up to one year imprisonment or a fine of up to 1,000 JD is provided for anyone convicted of unauthorized access to a website or information system with the aim of “canceling, deleting, adding, destroying, disclosing, extinguishing, blocking, altering, changing, transferring or changing a website or cancelling, destroying or altering its content or assuming its identity or the identity of its owner”.

In both paragraphs of this Article, the definition of “entry without permission” is not clear. It appears as though the electronic crime scene is to be treated like a traditional one.

However, it can be seen that the Jordanian legal framework does protect the right to privacy with regards to violations that are committed in cyberspace. This is because the right to privacy is chiefly protected by the Constitution which in accordance with 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”. Moreover, Article 29 of the Telecommunication Law, requires Internet Service Providers to provide the needed facilities to implement judicial and administrative requests related to the monitoring of communications as a mandatory licensing requirement.

There are, however, no comprehensive data protection law in Jordan. There are only a number of provisions scattered across different statutes that afford some minimal protection for personal data and confidentiality of private communications. The latter right is shown to be often affected in the Internet by acceptance of foreign data protection regulation which offering a low level of protection.<sup>170</sup>

Article 4 of the Information Systems and Cybercrime Law states:

“Anyone who installs, publishes or uses intentionally a program through an information network or information system, with the purpose of canceling, deleting, adding,

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<sup>170</sup> Fanchiotti, V., Pierini, J. Impact of Cyberspace on Human Rights and Democracy. Nato CCD COE Publications 2012, pp 1-11.

destroying, disclosing, extinguishing, blocking, altering, changing, transferring, copying, capturing, or enabling others to view data or information, or obstructing, interfering, hindering, stopping the operation of an information system or preventing access to it, or altering a website or canceling it, destroying it, or altering its content or operating it, assuming its identity or the identity of the owner without authorization or in violation or excess of the authorization shall be punished by imprisonment for a term not less than three months and not exceeding one year or by a fine of not less than (200) two hundred Dinars and not exceeding (1000) one thousand Dinars, or both punishments.”<sup>171</sup>

The Article prevents the intentional actions of installment, publication or usage of any sort of programs through information systems related to data or information, or actions of interfering, hindering, stopping the operation of an information system or prevent access to it, as it can be noticed from the law, such violations are criminalized with permissive punishment.

Article 5 states:

“Anyone who intentionally captures, interferes or intercepts what is transmitted through an information network or any information system shall be punished by imprisonment for a term not less than one month and not exceed one year or by a fine of not less than (200) two hundred Dinars and not exceeding (1000) one thousand Dinars, or both punishments.”<sup>172</sup>

The Article deals with acts of capturing, intercepting or eavesdropping on exchanging information through information network, especially data/information related to banking, commercial and financial transactions, and cyber-espionage. However, the law does not penalize such crimes with the severity of punishments under Article 4.

Article 6 proclaims:

“A- Anyone who intentionally and without authorization obtains through an information network or any information system data or information relating to credit

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<sup>171</sup> Article 4 of the Jordanian Information Systems and Cybercrimes Law.

<sup>172</sup> Article 5 of the Jordanian Information Systems and Cybercrimes Law.

cards or data or information that is used in execution of electronic financial or banking transactions shall be punished by imprisonment for a term not less than three months and not exceeding two years or by a fine of not less than (500) five hundred Dinars and not exceeding (2000) two thousand Dinars, or both punishments.

B- Anyone who intentionally uses through an information network or any information system data or banking transactions to obtain to oneself or others the data, information, assets or services of others shall be punished by imprisonment for a term not less than one year or by a fine of not less than (1000) one thousand Dinars and not exceed (5000) five thousand Dinars, or both punishments.<sup>173</sup>

This Article provides protection of personal data of people (although restricted to financial data such as credit cards and not personal data in its widest sense). Does this mean that other personal data is not protected over the cyberspace? The law specifically refers to the actions of unauthorized obtaining or using of data or information that is used in the execution of electronic financial or banking transactions. In contrast, data protection in the United Kingdom is supported by two principal pieces of legislation; the Data Protection Act 1998 and the Freedom of Information Act 2000. Both are overseen by the Information Commissioner's Office (ICO). Any company holding personal information, of say customers, is required to register to hold and process such information. They have a duty under the Data Protection Act to protect the personal information of individuals they process. Furthermore, the Data Protection Act 1998 grants an individual the right to request the information the corporate entity holds on them for a nominal fee. The Freedom of Information Act 2000 provides access to information held by public authorities. Under this Act, public authorities are obliged to publish certain information about their activities. It also provides members of the public with a right to request information from public authorities.

Article 7 proclaims:

“The punishment shall be doubled for the crimes stipulated in Articles (3) to (6) of this Law in respect of whoever perpetrates any of those crimes during the performance of employment or work or by exploiting either one of them.”<sup>174</sup>

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<sup>173</sup> Article 6 of the Jordanian Information Systems and Cybercrimes Law.

<sup>174</sup> Article 7 of the Jordanian Information Systems and Cybercrime Law.

It can be noticed that this Article has a sentencing issue, while in such situation rationally it would be treated as an aggravating factor for the judge to consider when sentencing.

Article 8 proclaims:

“A- Anyone who intentionally transmits or publishes through an information system or any information network anything heard [audio], read or graphic containing pornographic materials involving or relating to sexual exploitation of those who have not attained eighteen years of age shall be punished by imprisonment for a term not less than three months or by a fine of not less than (300) three hundred Dinars and not exceeding (5000) five thousand Dinars.

B- Anyone who intentionally uses an information system or any information network to prepare, store, process, display, print, publish or promote pornographic activities or work for the purpose of influencing those who have not attained eighteen years of age or those who are psychologically or mentally disabled, or direct or incite such persons to commit a crime, shall be punished by imprisonment for a term not less than two years or by a fine of not less than (1000) one thousand Dinars and not exceeding (5000) five thousand Dinars.

C - Anyone who intentionally uses an information system or any information network for the purpose of exploiting those who have not attained eighteen years of age or those who are psychologically or mentally disabled for prostitution or pornographic activities, shall be punished by temporary penal servitude and a by a fine of not less than (5000) five thousand Dinars and not exceeding (15000) fifteen thousand Dinars.”<sup>175</sup>

It can be noticed that cyber-pornography is penalized under Article 8 of the law, which provides protection to the individual, especially for those under the age of 18 years because the legislation considers them to be children and more vulnerable the crime of pornography. Under paragraph (A) of the same Article, it mentions the means by which child pornography shall be committed, “like information systems” and “information network”, which can be used for

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<sup>175</sup> Article 8 of the Jordanian Information Systems and Cybercrime Law.

exchanging and publishing pornographic materials. It also can be noticed that the legislator made the punishment more severe in paragraph (B) if the crime is committed against a child who suffers from psychologically or mentally disabled. Moreover, paragraph (C) provides punishments for perpetrators who commit the crime of exposing children with disabilities to prostitution or pornography. Such intentional actions are considered illegal and punishable.

Article 9 proclaims:

“Anyone who intentionally uses an information system or any information network to promote prostitution shall be punished by imprisonment for a term not less than six months and by a fine not less than (300) three hundred Dinars and not exceeding (5000) five thousand Dinars.”<sup>176</sup>

It can be noticed from the text that the law prevents intentional acts of using information systems to create, send, receive, process, store or manage data or information for the purpose of promoting prostitution. Such actions are penalized under the law.

Article 10 states:

“Anyone who uses information system or the information network to set up a website to facilitate terrorist activities or to support a group, organization or association which conduct terrorist activities, promotes following its ideologies or finances it shall be punished by temporary penal servitude.”<sup>177</sup>

One can notice that the article provides protection to the individual and the state from acts of terrorism facilitated by cyberspace. These include promoting terrorist ideology or using Internet networks to contact known terrorist groups. However, this Article should be amended to criminalize incitement to acts of terrorism rather than the promotion of terrorism, thereby bringing it in line with the requirements of international law.

Article 11 states:

“A- Anyone who intentionally and without authorization or in violation or excess of an authorization accesses a website or information system in any manner with the purpose

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<sup>176</sup> Article 9 of the Jordanian Information Systems and Cybercrimes Law.

<sup>177</sup> Article 10 of the Jordanian Information Systems and Cybercrimes Law.

of viewing data or information that is not available to public and which touches national security, foreign relations of the Kingdom, general security or national economy, shall be punished by imprisonment for a term not less than four months and by a fine not less than (500) five hundred Dinars and not exceed (5000) five thousand Dinar.

B- Where the access stipulated in paragraph (a) of this Article with the intention of deleting data or information, extinguishing, destroying, altering, changing, transferring or copying data or information, the perpetrator shall be punished by temporary penal servitude and a fine of not less than (1000) one thousand Dinars and not exceed (5000) five thousand Dinars.”<sup>178</sup>

It can be noticed that from paragraph (A) of this Article that one may be penalized for accessing a website or information system without an authorization or a license (although within the context of the Article, it does not specify where such license or authorization for an access can be obtained, or what such a licensing process would entail), with the aim of viewing non-public data that affects national security and/or political stability within the Kingdom. This Article should be repealed and replaced by an offence of illegal access to a computer that would include an element of dishonesty of intent to obtain data, the violations of security measures and a public interest defense consistent with the Cybercrime Convention.

Paragraph (B) stipulates punishment for a perpetrator who intentionally accesses a website or information system without an authorization with the aim of deleting, transferring, altering, or copying data or information.

Both paragraphs do not define the meaning “general safety” or “national security”, which leaves the open the possibility of arrest for a range of trivial matters, especially if a claim can be combined with the Jordanian Anti-Terrorism Law of 2006<sup>179</sup> where it widely defines the terms. The varied, and at times somewhat vague expression of the concept “national security” in certain statutes points to the necessity of a more precise articulation of the nature of the interest that are worth protecting through the use power of the law.<sup>180</sup> For example, when Mr. Tariq Abu Al-Ragheb was accused of “threatening Jordan’s relations with regional countries”

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<sup>178</sup> Article 11 of the Jordanian Information Systems and Cybercrimes Law.

<sup>179</sup> The Jordanian Anti-Terrorism Law no. 55 of Year 2006, available at <http://www.med-media.eu/wp-content/uploads/2015/08/Anti-Terrorism-Law.pdf> (16.02.2017)

<sup>180</sup> Atkey, G. Reconciling Freedom of Expression and National Security. *University of Toronto Law Journal* 1991, pp 38- 59.

after posting his critical opinions of other Arab countries to his Facebook “wall”. He was arrested under provisions of both laws, the cybercrime law and the anti-terrorism law, because of how law enforcement interpreted them.<sup>181</sup>

One can conclude from this Article that freedom of information is limited by the ban on posting information that is not available to the public which may or may not concern Jordan’s national security, foreign relations, public order or the economy. It is not clear what sort of documents or information that might touch the public order and stability in the country and as a result, this Article is liable to restrict the activities of investigative journalists and encourage self-censorship.

Article 12 proclaims:

“A- Subject to the terms and provisions stipulated in legislations in force and the personal rights of the defendant, it is permissible for the officers of the judicial police, after obtaining permission from the competent public prosecutor or the competent court, to enter into any location which evidence indicates that it has been used to commit any of the crimes stipulated in this Law and it is permissible for the judicial police to inspect equipment, tools, programs, systems and any means which evidence indicates that such has been used to commit any of the said crimes. In all cases, the officer who conducts the inspection shall prepare a report and submit it to the competent public prosecutor.

B- Subject to paragraph (a) above of this Article and the rights of others acting in good faith, with the exception of licensees pursuant to the Telecommunications Law who did not participate in any crime stipulated in this Law, it is permissible for the officers of the judicial police to seize equipment, tools, programs, systems and any means used to commit any of the crimes stipulated herein or included in this Law, and any money generated from it and hold the information and data relating to the committal of any crime stipulated herein or included in this Law.

C- It is permissible for the competent court to confiscate equipment, tools, programs, and means or stop or hinder the operation of an information system or website that is

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<sup>181</sup> CPJ Committee to Protect Journalists, In Jordan, TV anchor charged under cybercrimes law for Facebook post, available at <https://cpj.org/2015/11/in-jordan-tv-anchor-charged-under-cybercrimes-law-.php> (16.02.2017)

used to commit any of the crimes stipulated herein or included in this Law and any means and any money generated from such crimes and order that the violation is removed at the expense of the perpetrator of the crime.”<sup>182</sup>

Contained within paragraphs (A) and (B) of this Article contains a controversial issue among legal jurists in Jordan. Many of them consider these provisions to be against the Constitution because it violates the right to sanctity life that is guaranteed within the meaning of Article 10 and 18 of the Constitution.<sup>183</sup> This Article gives a public prosecutor, who is responsible for cybercrime investigation, the power to enter a suspect’s house with the aim to search and seizure evidence during the investigation procedure; except in the case of “a flagrant”<sup>184</sup> where police forces or judicial police shall initiate the entry of the private house for searching and investigation.<sup>185</sup>

Also in 2010, after the ruling by the Jordanian Court of Cassation, which classified websites as publications and thus subjecting them to penalties under Press and Publication Law, journalists may be sued for anything deemed offensive or imply criticism of the government, its policies, national unity, or the economy of the country.<sup>186</sup>

In paragraph (C), it is possible for the judicial police to retain the right to control or restrict access to the information systems, as well as, the devices and data used to commit the crime after being granted permission by a court.

Article 13 states:

“Anyone who intentionally participates in, interferes or incites the committal of any of the crimes stipulated in this law shall be punished in the same manner specified for its perpetrators.”<sup>187</sup>

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<sup>182</sup> Article 12 of the Jordanian Information Systems and Cybercrimes Law.

<sup>183</sup> The Constitution of The Hashemite Kingdom of Jordan.

<sup>184</sup> Article 28 of the Jordanian Criminal Procedural Code No (9) 1961, defines what consider as flagrant.

<sup>185</sup> El-Hiti, B.M, *Flagrant Crime & Its Effect on expanding the Power of Judicial Police: A Comparative study between the Jordanian and Iraqi Laws* (Master Dissertation). Middle East University, Amman – Jordan, 2011.

<sup>186</sup> Stamboliyska, R., *Jordan Starts Blocking “Unlicensed Websites”*, *Jadaliyya*, available at <http://voxpath.jadaliyya.com/pages/index/12069/jordan-starts-blocking-unlicensed-websites> (17.02.2017)

<sup>187</sup> Article 13 of the Jordanian Information Systems and Cybercrimes Law.

It can be noticed that anyone who intentionally helps, interferes or incites in committing the list of crimes mentioned in this law will be dealt with as joint perpetrators and will be penalized for his/her actions as stated in the law.

Article 14 proclaims:

“Anyone who commits a crime that is punishable pursuant to another applicable legislation by using the information network or any information system or participating in, interfering with inciting its committal shall be punished in the same manner stipulated in that legislation.”<sup>188</sup>

One can notice that this Article penalizes anyone who commits a crime within the meaning of another applicable legislation over the Internet. The above-mentioned Article has caused several problems in Jordan regarding the right to freedom of expression.

The Jordanian Constitution respects and guarantees the right to freedom of expression within the meaning of Article 15(a). With widespread digitalization, the Article was subjected to new amendments to extend this right to better reflect the new patterns of life these technologies have changed. The amendments added two new paragraphs to the Article to extend the right to freedom of expression of people and the press relating to the Internet and social media networks. In addition, they provided support for the freedom of scientific research and artistic creativity which represent the core principles of the right to freedom of expression. It is not a coincidence that the amendments did not change paragraph (A) of the Article where it states, “The State shall guarantee freedom of opinion”<sup>189</sup>. This was interpreted as the State’s continuing commitment to guaranteeing this right to its people and to extending this right to the new technology media.

If one looks at the current Jordanian government’s practices, one sees that the power of the law has been abused several times in many forms. The Government used Article 14 of the Information Systems and Cybercrimes Law to restrict, fine and imprison people solely for practicing their right to freedom of expression in cyberspace.

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<sup>188</sup> Article 14 of the Jordanian Information Systems and Cybercrimes Law.

<sup>189</sup> Article 15 (a) of the Constitution of Jordan.

The government accused many people for their online activities on the grounds that they had violated provisions of another applicable law, like for example the Anti-Terrorism Law of Jordan.<sup>190</sup> Articles 2 and 3 of the Anti-Terrorism Law include wide definitions that shall condemn online activities as terrorist acts. These provisions of the law threaten any future online activities of the people whether they are journalists or not.

The author sees that the Constitution of Jordan should be the first and final shelter that guarantees, respects and protects the people's right to freedom of expression. Therefore the State should fulfill its commitment to the Constitutional bail of this right. Here is one example where the government appears to have abused the power of the law within the meaning of the pre-mentioned Article. Many newspapers covered His Majesty the King of Jordan Abdullah II and his wife Queen Rania solidarity walk with world leaders in Paris following the terrorist attack at Charlie Hebdo in support of freedom of expression. But back in Jordan, a citizen activist Bassem al-Rawabdeh was arrested under Anti-Terrorism Law, because of his criticism of the Royal couple's participation in the march.<sup>191</sup> Having written on Facebook "The march...is a clear war against Islam", Rawabdeh was tried and sentenced to 5 months in jail for insulting the monarch. Other journalists in a similar position as Rawabdeh are also being prosecuted under the same law, and at least a dozen have been summoned for a trial at the State Security Court.<sup>192</sup>

Joe Stork, Human Rights Watch's deputy director for the Middle East and North Africa, said: "Jordan's concerns over its security situation shouldn't translate into branding journalists and writers as security threats merely for doing their jobs or expressing themselves peacefully".<sup>193</sup> While Sarah Leah Whitson, Human Rights Watch's of the Middle East director said, "Jordan should revise its terrorism law and penal code to remove vague language used to limit peaceful speech".<sup>194</sup>

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<sup>190</sup> The Anti-Terrorism Law of Jordan, 2014.

<sup>191</sup> Al Jazeera, Jordan's 'anti-terror' law cracks down on journalists. Available at <http://www.aljazeera.com/news/2015/07/jordan-anti-terror-law-cracks-journalists-150728131346535.html> (01.12.2016)

<sup>192</sup> 7iber, Anti-Terrorism Law: Between the prosecution of terrorist ideology and opinion exhibitions (Pictorial information), 2015. Available at <http://7iber.com/2015/07/charges-under-anti-terrorism-law-jordan/> (01.12.2016)

<sup>193</sup> Al Jazeera, Jordan's 'anti-terror' law cracks down on journalists. Available at <http://www.aljazeera.com/news/2015/07/jordan-anti-terror-law-cracks-journalists-150728131346535.html> (01.12.2016)

<sup>194</sup> CHRONICLE of the Middle East & North Africa, The Blurred State of Human rights in Jordan, 2016. Available at <https://chronicle.fanack.com/jordan/human-rights/human-rights-in-jordan/> (01.12.2016)

Moreover, and in any event, Article 14 fails to provide for a public interest defense. It, therefore, imposes undue restrictions on the right to freedom of expression as well as, the freedom of the press to report and investigate on public matters. The provisions are clearly in breach of international standards on freedom of expression.

Article 15 states:

“The punishment stipulated in this law shall be doubled in the event that any of the stipulated crimes are repeated.”<sup>195</sup>

From this context, one can notice that the punishment of a repeated crime shall be doubled, which reflects a different perspective the justice system in Jordan has of the right to a fair trial. One should not be accused again and again of the same offence and this is referred to as “protection against double jeopardy”.<sup>196</sup> There is no doubt that the Jordanian legislator has considered history records of previous convictions to be an aggravating factor in the punishment sentencing.<sup>197</sup>

It can also be noticed that regardless of the seriousness of the crime, the presence of previous conviction is most likely the most important factor here to determining the eventual sentence.<sup>198</sup>

The question should be asked: “Why should previous convictions raise the sentence and by how much?” From moral basis, the legislator should not be allowed to abuse the power of prosecution and use it against those with history of repeated offenses. Courts usually give reasons for increasing sentences, and these reasons should not provide principles that could be employed by other courts during sentencing. In *R v Zonele*, the standard judgment was:<sup>199</sup>

“Generally speaking, previous convictions aggravate an offence because they tend to show that the accused has not been deterred by his previous punishment, from committing the crime under consideration in a given case.”

So according to this, the repeat offender should not be punished more severely, when in fact, the appropriate approach is that the offender should be punished for the crime committed and

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<sup>195</sup> Article 15 of the Jordanian Information Systems and Cybercrimes Law.

<sup>196</sup> theSundaily, Protection against repeated trials, available at <http://www.thesundaily.my/node/172042> (20.02.2017)

<sup>197</sup> This statement is almost trite – cf *S v Hokape* 1961 3 SA 13 (N) 16; *S v Coetzer* 1970 2 SA 228 (N) (where a previous conviction was thought to present an “overwhelming difficulty” to the appeal against a sentence).

<sup>198</sup> *S v Joaza* 2006 2 SACR 296 (T) 297g; Terblanche Guide to Sentencing 81.

<sup>199</sup> *Rv Zonele* 1959 3 SA 319 (A) 330D.

that the sentence for that crime should be proportionate to it, even if the punishment will be somehow higher as a result of the previous conviction.<sup>200</sup>

Article 16 proclaims:

“It is permissible to bring a public or private right proceeding against the defendant before the Jordanian judiciary if any of the crimes stipulated in this Law were committed by using information systems within the Kingdom or has caused damage to any of its interests or any of its residents or the consequences of such crime were realized in it, whether partially or fully or if it was committed by any of its residents.”

One can notice that this Article allows the Jordanian state to bring an action against someone that has contravened one of the earlier Articles of the legislation. On first reading, one can understand that it gives person outside of the Kingdom the right to bring an action against someone inside the Kingdom that has contravened one of the earlier Articles and by doing so has caused them damage. However, considering it further, it seems to me that the wording is intended to allow the State to bring an action. It is right that the State would bring such action for example in the United Kingdom (UK); criminal offences there are in the name of the Crown and are brought by the Crown Prosecution Service.

According to the statistics made by the Criminal Investigation Department in the Jordanian Public Security, the number of cybercrimes dealt with in 2015 reached 1633 (an average of 136 cases per month); most of which were committed through social media.<sup>201</sup> The number of cybercrimes committed in 2014 was 1531, an increase in the number of committed crimes in the previous year (2013) when the investigation department dealt with 1320 cybercrime cases. It can be noticed that even after the implementation of the Information Systems and Cybercrimes Law of 2010 in Jordan, the number of cybercrimes did not decrease. Instead, it kept on increasing, proving two facts: first, its defective provisions and unjustified penalties do not prevent criminals from committing such kind of crimes; and second, that innocent people, who are using the Internet including social media as place where they can practice their

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<sup>200</sup> Cf S v Baartman 1997 1 SACR 304 (E) 305d-f (where the court stated that a petty crime remains so regardless how often it is repeated; while it may be justifiable to impose escalating sentences on offenders who keep offending, this can be done only up to a certain point).

<sup>201</sup> Almbaideen, I, 182 cybercrime monthly in Jordan, Alghad news website, available at <http://www.alghad.com/articles/895481-182-شهر-يا-الالكترونية-جريمة-182> (07.02.2017)

right to freedom of expression, are being wrongly accused of violating the cybercrime or anti-terrorism laws.

### **3.3 Points of strength and weakness of the Cybercrimes law**

Despite the criticisms of Jordanian law, it is the first law of its kind to deal with cybercrimes and information system activities. It sets out the minimum legal framework for cybercrimes.

There are many **positive aspects** of the act that can be summarized as the following:

1. Parties from public and private organizations, judicial and private individuals are now able to practice all types of electronic transactions under the protection provided by the law.
2. The law provisions defines various cybercrimes as they differ from the traditional crimes definitions specified by the Punishment Code 1960.
3. The law combats international crimes committed in cyberspace or information networks, such as the promotion of prostitution or the unauthorized intrusion into banking systems.
4. Online activities of prostitution, pornography, sexual exploitation of children, and promote of terrorist ideologists have been recognized as cybercrimes and were given sanctions under the law.
5. The law addresses the vital issues relating to the illegal access to national security, safety and national economic information with the aim of altering, destroying, copying or abolishing data. The law focuses on financial information and security, such as the unlicensed use of credit card and banking information.
6. The law provides the protection for commercial transactions and the stability of financial transactions that use electronic information systems.

Although the law has many positive aspects, it takes a negative stand towards many cyber issues. It can be noticed that it has inaccurate solutions for many practical issues and does not

cover many cybercrimes that are internationally recognized. The **weakness points** within the law can be summarized as following:

1. The law does not cover many aspects of cybercrimes that are internationally recognized, leaving the door open for criminals to commit these crimes; for example, cyber stalking and online harassment, infringement of intellectual property rights, copyrights and trade marks or patenting of electronic information.
2. The law is limited in its scope; there are no provisions for criminalizing and punishing acts related to computer-related fraud, forgery and identity theft crimes.
3. The law does not initiate a proper legal mechanism to combat possible criminal activities that can be carried out in the cyberspace, and leaving Jordan exposed to any further cyber threats and attacks that may take place against important Jordanian websites in both public and private sector.
4. The law in its current form has weakened the reputation of Jordan as an open society and free democracy, especially as the law contains a number of poorly drafted Articles that are vague and hinder the individuals' right to freedom of expression over the Internet. It restricts free journalism by imposing indirectly censorship on journalists, and it invades people's privacy rights on the grounds of an investigation into cybercrime suspects within the meaning of Article 12.
5. The current law provisions are broadly defined which causes problems in their interpretation and application; for example, the case in Articles 3 and 4.
6. Article 11 of the law is criticized because it restricts the right to freedom of expression of journalism, and penalizes anyone who may know any information that is not publicly available that may affect the national security or foreign affairs of the country. Human Rights Watch has criticized the law because of it restricts the right to public freedoms and freedom of expression. They claim these are inequitable and against the international conventions that Jordan has signed and ratified to guarantee the right to freedom of expression; for example, the International Covenant on Civil and Political Rights.<sup>202</sup>
7. The law provides the minimum limit of protection against crimes over the Internet and it includes the non-criminalization of every activity related to freedom of expression or personal freedoms unless those activities are criminalized under provisions of another legislations that are in force; as in Article 14 of the law.

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<sup>202</sup> Human Rights Watch, Jordan Events of 2015, available at <https://www.hrw.org/world-report/2016/country-chapters/jordan> (21.02.2017)

8. The law does not address the role of Internet Service Providers (ISPs), which is a crucial matter in combating cybercrimes. Article 81 of the Jordanian Punishment Code, 1960, penalizes ISPs when intentionally committed, aided and abetted in the commission of a cybercrime. It can be noticed that ISPs cooperation with cybercrime investigations is essential for a better tackling of cyberattacks. In an efficient cybercrime investigation, there should be a strong cooperation between law enforcement and ISPs, even though one can notice their different roles. The role of law enforcement should be to uphold the law, while the role of ISPs is to provide users with the ability to communicate with each other. In order for this to happen, the law should deliver a clear vision of the responsibilities, authorities, and limitations. Unfortunately, within the provisions of the Jordanian law that should regulate cyber activities, it can be noticed that the legislator did not cover the essential cooperation of ISPs and the law.

### **3.4 Summary**

The Information Systems and Cybercrime law of Jordan brings up both substantive and procedural provisions that are new for this criminal law environment. The old designed Criminal Law, Penal Code 1960, and Criminal Procedural Code of 1979 are not directly relevant to cybercrimes, despite the fact that all offenses provided in the traditional criminal laws can be committed in the cyberspace. As the abovementioned discussion states, the present study tries to investigate the way the Jordanian Information Systems and Cybercrimes Law deals with new types of cybercrimes where it has been clear to researchers that the aims of the current law have not been realized until now.

The numbers of cybercrimes committed in Jordan since the application of the law has not decreased however, which indicates that there defective provisions in the law that have not help prevent cybercrime. Instead, it has been used to silence people's online activates and restrict their human rights of access to information and to freedom of expression. Therefore, there is a real need for new parliamentary amendments to this law. Articles of the law should be reviewed and brought in line with the equivalent provisions in the Budapest Convention on Cybercrime.

The current provisions are too broadly defined causing problems in their application and interpretation. Any references to "websites" or "information" should be dropped from the Act

and instead, references should only be made to “computer systems” or “computer networks” and “data” where appropriate. These problems have affected the reputation of Jordan as being an open society with a modern outlook towards freedom of expression and freedom of the press. Citizens’ and journalists’ right to freely expression of their opinions are now restricted by the law.

## **4. Conclusion and Recommendation:**

### **Conclusion:**

The thesis clearly states that the usage of the Internet has existed for a long time and it is still evolving as each and every part of life is changing on daily basis. Moreover, the Internet has accomplished a great revolution with respect to the sharing of data and overcoming all geographical, political and physical impediments. Individuals from all parts of the world are ready to get to different places on the planet without departing their physical place; all they need is a PC and an Internet connection.

The Internet was attained in many developed nations like Jordan in early 1990s. Within a few years, Jordan registered its own top-level domain on the Internet. Jordan soon became the principal nation in the Middle East to build up a cutting-edge telecom law and an autonomous media Transmission Regulatory Entity (TRC) that is engaged in directing and monitoring the stream of data and technology development. By the end of the year 2015, Jordan had increased its Internet users to 5.7 million, and this growth became the fundamental motivation behind the Jordanian legislative framework's requirement for a new law. This law was needed to regulate technology and individuals' online activities so as to secure their social civil rights over the Internet.

In 2000, Jordan began to embrace the use of ICT measures through several initiatives such as E-Government, E-Health, E-Commerce, Mobile Banking and so on. The Internet did not only embrace the electronic methods, it additionally made the daily news in Jordan available to individual citizens with an assortment of online channels and is considered superior to the local media. Many individuals now receive their information online because the Internet is easily accessible in various parts of Jordan. However, the government of Jordan has blocked almost 300 online news channels on the sole ground of the Information Systems and Cybercrime Law of 2010. This brought consternation to human rights and media associations, who denounced the law as a stage to suppress critics of the local government.

Despite this, the Jordanian legal structure ensures that the privileges to the right of freedom of expression and flexibility of expression matters within its national laws and international. Hence, Jordan has positive obligations to satisfy its commitments towards human rights and make the correct alterations to its current legal system, keeping in mind the end goal of conforming to global measures of human rights.

The legal arrangement of Jordan is expected to adapt to technology improvements to secure its territory and people (which include Internet users within its domain “.JO”) from digital assaults, cybercrimes and digital related crimes threat. In this matter, Jordan began its first draft of the Information Systems and Cybercrimes Law in 2010. The law is the first of its kind within the Jordanian legal system, and as a result, does not give the fully satisfactory security one would expect. There are many imperfections within its provisions that need to be corrected. The law comprises of 18 chapters that are poorly drafted where individuals can be wrongly fined, detained and limited for rehearsing their social equality over the Internet simply because of the vague wording and broad interpretation of its terms. The administration of Jordan has abused the power of the law and denounced many individuals for their online exercises either on the sole ground of the cybercrimes law or for the affirmed infringement of other pertinent law arrangements, in particularly the Anti-Terrorism Law.

Finally, the legislature of Jordan has a noteworthy aversion to individuals’ feedback that inevitably will be distributed on the Internet through practicing their right to freedom of expression. Hence, the government of Jordan abuses the power of the law to confine this right because it claims it may prompt the sharing people’s thoughts, uncover private and sensitive data that the public should not be aware of, destroy the fine political ties that Jordan has with other countries, or the political stability of the nation.

### **Recommendation:**

The Constitution of Jordan should be reviewed and brought in line with international standards on freedom of expression. Jordan is in urgent need to revise the present law that manages online activities. Additionally, raising the awareness of Jordan’s people to their rights and commitments towards the state and know how to prevent cybercrimes from occurring later on, would help the country’s development.

Moreover, cyber specialty and legal framework capacities are delicate in Jordan, so it is prescribed to investigate different countries enactments and encounters of managing cybercrimes, and also to discover what sort of methods and investigation formula they are utilizing to examine and prosecute cybercrimes.

Additionally, the law does not cover every possible conceivable cybercrime; for example, PC imitation, cyber fraud, and crimes of embodying cyber hacking and virus attack. Therefore, it is suggested that the future amendments on the Information Systems and Cybercrimes Law ought to incorporate some conceivable cybercrimes, like in EU member states and the United States of America have done, especially those violations that have conventional form. Otherwise, alteration would be needed under the Punishment Code of Jordan.

Moreover, Jordan needs to have a clear-cut perception about the experiences of other countries and the developments of cyber technology in order to revise the provisions of the current law and the Jordanian criminal procedures Code. The provisions need to cover the latest procedures and techniques for investigating and prosecuting cybercrimes.

The Anti-Terrorism Law should be narrower in scope, stating what is considered to be terrorism and strictly defining what constitutes the promotion of terrorist thoughts and narratives on the Internet. National security offences should be narrowly defined in line with international standards on freedom of expression, including the Johannesburg Principles on National Security, Freedom of Expression and Access to Information. Surveillance power should be clearly laid down by law, as it should comply with international standards on the right to privacy. The Jordanian legal framework should consider adopting a strong and comprehensive Act protecting personal data, as so far there is no separate law that protects it. Internet Service Providers should be granted immunity from being liable for third-party content by law, as is the practice in European Union countries.

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