



# WHO WILL BE LEFT TO DEFEND HUMAN RIGHTS?

PERSECUTION OF ONLINE  
EXPRESSION IN THE GULF  
AND NEIGHBOURING COUNTRIES



Berkeley  
Law

International  
Human Rights  
Law Clinic

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**NOVEMBER 2021**

## THE GULF CENTRE FOR HUMAN RIGHTS

The Gulf Centre for Human Rights (GCHR) is an independent, non-profit NGO that provides support and protection to human rights defenders (HRDs) in order to promote human rights, including but not limited to freedom of expression, association and peaceful assembly. GCHR is based in Lebanon and documents the environment for HRDs in the Gulf region and neighbouring countries, specifically Bahrain, Kuwait, Iran, Iraq, Jordan, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates and Yemen. GCHR was founded in 2011.

## INTERNATIONAL HUMAN RIGHTS LAW CLINIC

The International Human Rights Law Clinic (IHRLC) designs and implements innovative human rights projects to advance the struggle for justice on behalf of individuals and marginalized communities through advocacy, research, and policy development. The IHRLC employs an interdisciplinary model that leverages the intellectual capital of the university to provide innovative solutions to emerging human rights issues. The IHRLC develops collaborative partnerships with researchers, scholars, and human rights activists worldwide. Students are integral to all phases of the IHRLC's work and acquire unparalleled experience generating knowledge and employing strategies to address the most urgent human rights issues of our day.



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Gulf Centre for Human Rights

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### DEDICATION

To human rights defenders in the Gulf states and neighbouring countries who, in the face of enormous obstacles, continue to struggle for human rights, and for a more just and equitable world.

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### SUGGESTED CITATION FORMAT

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# JORDAN



# JORDAN SCORECARD

## Targeted Activism or Expression



Expression re Offline Protests



Criticism of Government\*



Expression re Minority/ Migrants' Rights



Journalists



Women's Rights and WHRDs

## Human Rights Violations



Arbitrary Detention



Incommunicado Detention



Enforced Disappearance



Torture



Fair Trial

## Problematic Legal Provisions and Institutions



Criminal Defamation



Cybercrime Law



Public Order



Specialised Law Enforcement Units

35

Number of incidents that fit the inclusion criteria of this study

\*Including criticism of foreign government

# INTRODUCTION

Between 01 May 2018 and 31 October 2020 there were 35 incidents in Jordan that fit this study's inclusion criteria.<sup>1</sup> Jordan is a constitutional monarchy with a parliamentary government.<sup>2</sup> The vast majority of reports were of Jordanian authorities targeting human rights defenders (HRDs), teachers and journalists.

The government generally punished HRDs for: online speech critical of the monarchy or of government policies; discussion of the impact of the COVID-19 pandemic on workers, including migrant workers; and, online advocacy related to offline protests. Jordanian authorities mostly targeted expression that appeared on Facebook, but also Twitter, online blogs, and other websites. Authorities used multiple laws to infringe on freedom of online expression, including: the Cybercrimes Law, the Penal Code, and the Prevention of Terrorism Act (Anti-Terrorism Law). Based on this research, there is credible evidence that the government has violated its obligation to respect online freedom of expression and additional associated rights of HRDs. These violations also constitute breaches of the duty of the State, pursuant to the United Nations (UN) Charter, "as the main duty-bearer" to ensure "defenders enjoy a safe and enabling environment" and that government institutions and processes "are aligned with their safety and the aim of their activities."<sup>3</sup>

Internet and social media use are significant in Jordan. As of January 2021, there were approximately 6.84 million internet users and 6.3 million active social media users, out of Jordan's total population of 10.20 million.<sup>4</sup> Facebook estimates that it has a domestic audience of 5.5 million people in Jordan, while Twitter estimates that its audience is 488.8 thousand.<sup>5</sup>

Jordan is a party to several international human rights treaties protecting the right to freedom of expression, including the International Covenant on Civil and Political Rights (ICCPR).<sup>6</sup> As a UN member State, Jordan is also bound by the UN Charter and has pledged to adhere to the principles reflected in the Universal Declaration of Human Rights (UDHR), including article 19, which enshrines the right to freedom of opinion and expression.<sup>7</sup>

# LEGAL ENVIRONMENT FOR ONLINE EXPRESSION IN JORDAN

The incidents reported between May 2018 and October 2020 demonstrate that the Jordanian authorities have used several laws to punish online human rights advocacy: the 2015 Cybercrime Law, which replaced the 2010 cybercrime law,<sup>8</sup> the 2006 Prevention of Terrorism Act as amended in 2014 (Anti-Terrorism Law),<sup>9</sup> and the 1960 Penal Code as amended in 2017.<sup>10</sup> There was also one reported case in which Jordanian authorities may have used the 1995 Telecommunications Law.<sup>11</sup> On top of this legal framework, Jordan has established specialised law enforcement units and courts that are used to target HRDs for their online expression. The enactment of the Cyber Security Law (Law No. 16 of 2019), which creates a National Cyber Security Council and a National Centre for Cyber Security, further signals Jordanian authorities' intention to control online expression.<sup>12</sup>

## 2015 Cybercrime Law

Several of the laws identified use overbroad and vague language to define prohibited conduct. Article 15 of the Cybercrime Law prohibits using the internet to commit “any crime punishable under any... legislation” or inciting someone else to do so, to be punished by the penalties stipulated in the relevant legislation.<sup>13</sup> This incitement provision in turn relies on vague and overbroad definitions of underlying crimes in the Cybercrime Law itself or in other statutes, some of which are described below, enabling Jordanian authorities to extend enforcement of such vague and overbroad provisions to the internet. Under article 19 of both the ICCPR and the UDHR, criminal laws that restrict freedom of expression must be sufficiently precise so as to enable individuals to determine how to comply with the law and to limit the discretion conferred on authorities enforcing it.<sup>14</sup> Vaguely and broadly worded provisions have been found by UN Special Procedures mandate holders

to violate this requirement, allowing authorities to use their excessive discretion to target protected speech and encouraging individuals to engage in self-censorship.<sup>15</sup> UN Special Rapporteurs have criticised as overly vague provisions that prohibit individuals from using the internet to “upset social order” or “harm the public interest,” or from publishing “articles or photos that could harm national security, public order, public health or public interest, incite violence, constitute sedition or have negative consequences for the financial climate of the country.”<sup>16</sup> In particular, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (SR on FOE) has expressed concern at vague formulations of provisions that prohibit incitement.<sup>17</sup>

The SR on FOE has criticised the Cybercrime Law for its criminalisation of defamation.<sup>18</sup> Article 11 of the Cybercrime Law states that anyone who “intentionally sends, resends, or publishes data or information through the computer network or the website” related to “defamation, slander or insulting of any person” will be punished by imprisonment of at least three months and a fine of JOD 300–5,000 (USD 423–7,050).<sup>19</sup> Additionally, the Cybercrime Law includes no protections for journalists or other media workers against penalties for defamation, which risks chilling journalistic investigation.<sup>20</sup> The UN Human Rights Committee and the SR on FOE have cautioned that laws on defamation should be crafted carefully so that they do not restrict freedom of expression, and have recommended the decriminalisation of defamation.<sup>21</sup> The UN Human Rights Committee has interpreted ICCPR article 19 to require that “the application of criminal law should only be countenanced in the most serious of cases, and imprisonment is never an appropriate penalty.”<sup>22</sup> Finally, it has stated that defamation laws should



include the defence of public interest in the subject matter of the criticism, the defence of truth, and, at least in the case of expression related to public figures, the defence of error.<sup>23</sup>

## 2006 Anti-Terrorism Law

The UN Human Rights Committee and the Committee against Torture have criticised the Anti-Terrorism Law, including the 2014 amendment,<sup>24</sup> for its overly broad and vague definition of terrorism which includes: “disturbing the public order,” “acts that sow discord,” “harming relations with a foreign state,” or using the internet or other media to create a website to facilitate a “terrorist act,” support an organisation or association that does so, or to support that organisation or association’s ideas.<sup>25</sup> Article 7 of the Anti-Terrorism law also criminalises “incitement to terrorism,” which in turn relies on a vague underlying definition of terrorism.<sup>26</sup> The Anti-Terrorism Law provides for a range of penalties, including temporary hard labour, life sentences with hard labour, and the death penalty in certain cases, including those resulting in death or destruction of a building.<sup>27</sup> Conduct that is prosecuted under this law is tried in the quasi-military State Security Court.<sup>28</sup>

## 1995 Telecommunications Law

The Telecommunications Law includes provisions that are overly broad and vague in violation of ICCPR article 19. Article 75(a) of the law prohibits the use of telecommunications to spread messages “contrary to the public morals,” punishable by a fine of JOD 300–2,000 (USD 423–2,820) and/or by imprisonment of one month to one year.<sup>29</sup> That same provision also prohibits “forward[ing] false information with the intent to cause panic.”<sup>30</sup> International human rights experts, including the SR on FOE, have urged States to abolish general prohibitions on disseminating “false news” because of their vagueness.<sup>31</sup>

## 1960 Penal Code

The Penal Code also includes vague and overbroad restrictions on expression, which are inconsistent with article 19 of the ICCPR. The SR on FOE

has criticised article 118 of the Penal Code for its vagueness.<sup>32</sup> Article 118 punishes expression “not authorised by the government” that could subject Jordan to the “risk of hostile acts” or “disrupt [Jordan’s] relations with a foreign state” with a sentence of at least five years in prison.<sup>33</sup> The Penal Code contains other similarly vague provisions. Article 149 prohibits any act that “undermines the political regime...” or “incites against it,” with a punishment of “temporary labour.”<sup>34</sup> The SR on FOE has identified provisions that criminalise, for example, “instigating hatred and disrespect against the ruling regime,” as being impermissibly vague.<sup>35</sup> Additionally, article 132 of the Penal Code punishes anyone who “disseminates, outside the country, news which he/she knows is false or exaggerated, and which may impact the country’s prestige or financial position” with imprisonment of at least six months and a fine of up to JOD 50 (USD 70), and imprisonment of at least a year if the false or exaggerated news is directed at the King, Crown Prince, or a throne regent. International human rights experts, including the SR on FOE, have called for the abolition of such vague provisions on “false news.”<sup>36</sup>

The Penal Code also imposes criminal penalties, as opposed to civil penalties, for defamation, and prohibits speech critical of public officials contrary to international standards.<sup>37</sup> The SR on FOE has criticised articles 122 and 195 of the Penal Code.<sup>38</sup> Article 122 punishes with up to two years of imprisonment anyone who insults a foreign State or head of State.<sup>39</sup> And article 195 punishes with between one to three years of imprisonment anyone who insults or slanders the King or his family online, through text, video, picture, or in person.<sup>40</sup> In addition to those provisions, article 191 of the Penal Code punishes defamation against public officials or bodies with imprisonment from three months to two years.<sup>41</sup> Human rights bodies have emphasised the value of public debate concerning public institutions and public figures in particular, who should not be granted a higher level of protection against defamation.<sup>42</sup> The UN Human Rights Committee has expressed particular concern about “laws on such matters as, *lese majesty*, *desacato*, disrespect for authority, disrespect

for flags and symbols, defamation of the head of State and the protection of the honour of public officials” and laws prohibiting “criticism of institutions, such as the army or the administration.”<sup>43</sup> The UN Committee Against Torture and the Human Rights Committee have criticised Jordan’s use of the Penal Code and the Anti-Terrorism Law to prosecute and sanction journalists, including those who express critical views including “insults to the king.”<sup>44</sup>

## Institutions Involved

Jordan has built an institutional framework, including courts and law enforcement units, to police HRDs’ and journalists’ online speech in violation of international human rights standards. The UN Human Rights Committee has expressed concern that improper prosecutions under the overbroad Anti-Terrorism law were facilitated by “the even wider network of security measures,” including arrests and detentions by the police and the intelligence services.<sup>45</sup> Additionally, cases brought under the Anti-Terrorism Law are under the jurisdiction of the State Security Court, a quasi-military court.<sup>46</sup> The UN Human Rights Committee and the Committee Against Torture have repeatedly criticised the State Security Court for its wide jurisdiction, its lack of independence and impartiality, and its failure to protect the right to a fair trial.<sup>47</sup>

Jordan’s law enforcement units similarly operate in a manner that is inconsistent with international human rights standards, rendering HRDs and journalists subject to arbitrary detention, and at risk of further human rights violations without adequate procedural safeguards.<sup>48</sup> At least ten of the relevant incidents identified involved the Jordanian Cybercrimes Unit (CCU), located inside the Public Security Directorate (PSD).<sup>49</sup> The Committee Against Torture has criticised the PSD and its General Intelligence Division (GID) over reports of their use of torture and ill-treatment to extract coerced confessions.<sup>50</sup> It has also criticised the GID and PSD for failing to ensure that individuals detained have timely and confidential access to lawyers, timely access to doctors, and the ability to notify a person of their choice of their detention, as well as for failing to bring detained

individuals in front of a competent authority within twenty-four hours as required by Jordanian law.<sup>51</sup>

Jordan recently enacted Cyber Security Law (Law No. 16 of 2019) which creates a National Cyber Security Council (Council) and a National Centre for Cyber Security (Centre), signalling Jordanian authorities’ intention to further control online expression.<sup>52</sup> As of this writing, there are no reports that the Council or Centre have been created. The Centre would be under the direction of the Prime Minister’s office and have the power to create, execute, and enforce cybersecurity strategies, standards, and regulations.<sup>53</sup> The Council would serve to approve the Centre’s policies and would be made up of members from the PSD, the GID, the Armed Forces, and others.<sup>54</sup> The Centre and Council together would have the power to determine whether “a Cyber Security incident ... represents a threat to the security and integrity of the kingdom,”<sup>55</sup> an ambiguous provision that is incompatible with ICCPR article 19.<sup>56</sup> The Centre would have the power to act as “judicial police” and to enter, investigate, and seize items at “any place” where it is suspected that potential or actual threats or breaches of cybersecurity are taking place.<sup>57</sup> The Centre would also have unchecked power to “block, shut[] down, or suspend[]” the internet, telecommunication networks, and devices as well as the power to impose fines of up to USD 141,000.<sup>58</sup> If the Centre and Council are created, the concentration of broad policy-making, enforcement, and quasi-judicial powers within these two institutions will raise serious concerns regarding the right to freedom of expression online, the right to freedom of assembly, and the right to due process, all protected under international law, including by the ICCPR.<sup>59</sup>

# TRENDS EMERGING FROM INCIDENTS OF REPRESSION OF ONLINE EXPRESSION IN JORDAN

The documented incidents offer credible evidence that Jordan is violating its international obligation to create a safe environment for HRDs, including journalists, by targeting them for online criticism of the government and its foreign policies as well as for commentary on religion through enforcement of defamation and insult provisions as well as antiterrorism and telecommunications laws. In addition to those arrested and formally charged with a crime for their protected expression, many individuals reported being interrogated without being notified of the basis for their arrest and being called in for interrogation multiple times. Specialised units, such as the CCU or the State Security Court, reportedly handled several cases. Reports indicate that these arrests, detentions, and prosecutions have led to numerous other human rights violations including violations of the rights of the child, the right to a fair trial, the right to be free from arbitrary arrest and detention, and the right to be free from torture and other cruel, inhuman, and degrading treatment.

## Violations of the Right to Freedom of Expression

### *Targeting HRDs including journalists using defamation, slander, and insult provisions*

During the reporting period, Jordanian authorities continued to target HRDs, including journalists, under defamation and slander provisions for their criticism of the monarch and government policies. On 13 October 2019 the Cybercrimes Unit detained Moayad Al-Majali, an independent researcher and employee in the Ministry of Justice.<sup>60</sup> The CCU reportedly confiscated his electronic devices, and the public prosecutor accused him of insulting the King, slandering the King, and “inciting strife.”<sup>61</sup> These accusations stemmed from an article published on

a local news website about his research into State property registered under the King’s name and Al-Majali’s Facebook post about an alleged misuse of State land.<sup>62</sup> In December 2020, he was sentenced to one year in prison for insulting the Queen, a violation of the Penal Code, but acquitted of insulting the King.<sup>63</sup>

As another example, on 2 September 2019, Jordanian authorities arrested Abed al Karem Al-Shraideh, President of the Organization for Human Rights and Anti-Torture.<sup>64</sup> His arrest was reportedly based on a July 2019 Facebook video in which he allegedly criticised the King for interfering in and undermining tribal affairs, and accused the government of corruption.<sup>65</sup> A tribesperson who was also criticised in the video notified the CCU, which in turn showed the video to the Amman Prosecutor General.<sup>66</sup> Al-Shraideh was charged under the Penal Code for insulting the King and under the Cybercrimes Law for online defamation.<sup>67</sup> He was ultimately forced to delete the Facebook video.<sup>68</sup>

The Jordanian government has also punished members of the Hiraq Bani Hasan for criticising the government online.<sup>69</sup> On 25 October 2019, Jordanian authorities arrested Hisham Al-Saraheen and interrogated him at the PSD. He was then detained and charged by the State security prosecutor for “undermining the political regime.”<sup>70</sup> The charges were based on an online video of Al-Saraheen chanting during a protest.<sup>71</sup> On 27 October, Jordanian authorities detained Abdullah Al-Khalayleh and charged him with criticising the King and Queen and “undermining the political regime” as a consequence of videos he posted on Facebook.<sup>72</sup> And on 15 November Jordanian authorities detained Abdulrahman Shdeifat who was active on social media.<sup>73</sup> He was taken to the PSD in Amman where

he was interrogated for hours about his political views and engagement in human rights activities.<sup>74</sup> He was then brought before the State security prosecutor who ordered him detained for “undermining the political regime,” “inciting civil strife,” and “insulting the King and Queen.”<sup>75</sup>

Jordanian authorities have also used defamation laws to target journalists who criticise the government. On 14 March 2020 Jordanian authorities arrested Hiba Abu Taha, a contributor to various news outlets such as *Jordan Today*, *Al-Jazeera*, *Daraj*, and *Al-Araby al-Jadeed*.<sup>76</sup> She was arrested for slander and defamation based on statements she made in an interview in 2012, available on YouTube, where she called for a change in government in Jordan.<sup>77</sup> However, Abu Taha believes that the arrest is actually in retaliation for an interview she conducted with Prime Minister Dr. Omar Al-Razzaz in July of 2019 in which she asked him about a corruption scandal.<sup>78</sup>

#### ***Punishing human rights advocacy and political discourse as terrorism and incitement***

Reported incidents provide credible evidence that the Jordanian Government has used its terrorism law and charges of incitement to stifle speech discussing government policies and human rights contrary to its international obligations.<sup>79</sup>

Since the COVID-19 pandemic, Jordanian authorities have targeted journalists who report on the situation of workers, including migrant workers, impacted by the government’s policies related to the pandemic. On 14 April 2020 Jordanian authorities arrested Salim Akash, a Bangladeshi journalist for *BanglaTV* and news website *Jago News*, for posting a video to Facebook criticising Jordan’s coronavirus lockdown measures for their impact on the livelihood of Bangladeshi migrant workers.<sup>80</sup> He was charged under Jordan’s Telecommunications and Anti-Terrorism laws.<sup>81</sup> The Ministry of Interior also reportedly issued a deportation order against him.<sup>82</sup> The use of deportation as a measure of retaliation for human rights-related expression and advocacy risks interfering with the rights to freedom of expression, association, and peaceful assembly.<sup>83</sup>

On 9 April, the Jordanian military arrested the owner and news director, respectively, of *Roya TV*, Fares Al-Sayegh and Mohammad Al-Khalidi, for a news report that was aired on *Roya News* and posted on social media accounts.<sup>84</sup> Although online information about their cases is limited, a Jordanian journalist stated that the report was about unemployment as a result of the pandemic.<sup>85</sup> Charges pressed against the two media workers were related to incitement under the Anti-Terrorism Law.<sup>86</sup>

Jordanian authorities have not only targeted individuals who are directly critical of State policies but also those who criticise State allies. On 26 August 2020, Jordanian authorities arrested and detained Emad Hajjaj, a cartoonist, for publishing a satirical cartoon about the Israeli-United Arab Emirates diplomatic agreement on his website and social media.<sup>87</sup> The cartoon depicted a dove with an Israeli flag spitting in the face of UAE Crown Prince Mohammed bin Zayed.<sup>88</sup> Hajjaj was charged with “disturbing [Jordan’s] relations with a foreign state,” under article 3(b) of the Anti-Terrorism Law.<sup>89</sup> That provision has been criticised by the Committee Against Torture as overly broad.<sup>90</sup> At least two other individuals were charged under the Anti-Terrorism Law with incitement and disturbing relations with a foreign State: Hasham Al-Saraheen and Abdulrahman Shdeifat whose cases are described in section III(A)(1).

#### ***Punishing religious expression***

Two of the cases examined involved the punishment of religious speech, or speech critical of religion, as blasphemy. This conduct is inconsistent with international protections on the right to freedom of expression, opinion, conscience, and religion, including articles 19 and 20 of the ICCPR.<sup>91</sup> On 19 December 2019, Jordanian juvenile police detained and interrogated seventeen-year-old Tujan Al-Bukhaiti, who is a Yemeni refugee, after the CCU sent them a report regarding her social media posts.<sup>92</sup> The juvenile police interrogated her without the presence of her parents or lawyers.<sup>93</sup> She was then tried by Jordanian authorities for “blasphemy” and “insulting religious feelings” in connection with a Facebook post

that included her father's writings, and in November 2020 she was acquitted of those charges.<sup>94</sup> Another unidentified individual was arrested by the CCU for publishing "offensive" posts about Islamic symbols and religion.<sup>95</sup>

### *Punishing expression related to protests*

Throughout 2019 and 2020, Jordan has cracked down on online expression related to offline protests against the government, violating the right to freedom of expression as well as the right to freedom of association and peaceful assembly enshrined in the UDHR and ICCPR.<sup>96</sup> The UN Human Rights Council has emphasised that States have the obligation to respect and protect the rights to freedom of assembly and association both offline and online.<sup>97</sup> The UN Human Rights Committee has underscored that the protection of activities associated with the right to peaceful assembly, including information dissemination, communication between participants, and broadcasting, is crucial to the exercise of that right.<sup>98</sup> The UN General Assembly has condemned the arrests of activists and those "covering demonstrations and protests."<sup>99</sup> Additionally, the Special Rapporteur on the rights to freedom of peaceful assembly and of association has criticised a law that "forbids providing 'assistance' to 'illegal' assemblies, including by 'means of communication'" as being overly broad, "potentially making it a crime to promote, discuss, seek or link to information regarding a protest event."<sup>100</sup>

On 13 March 2019, Jordanian authorities detained Ahmed Tabanja for broadcasting a Facebook live video of a protest organised by unemployed Jordanians, which took place in front of the royal court complex in Amman.<sup>101</sup> He was released after two days, but then arrested again on 27 March and charged with "insulting an official agency" for a series of Facebook posts.<sup>102</sup> He was held in detention until 21 May 2019.<sup>103</sup>

Similarly, on 25 October 2019 Jordanian police arrested activist Alaa Malkawi while he was on his way to a protest near the Prime Minister's office.<sup>104</sup> The CCU accused him of "insulting the king and taking part in an illegal gathering."<sup>105</sup> His lawyers

believe that his arrest was based on a video of him posted online in 2018, in which he is shown at a protest criticising the Jordanian government.<sup>106</sup>

In 2020, Jordanian authorities made a wave of arrests during a mass protest by the Teachers' Syndicate after the government rescinded its promise to raise teachers' salaries.<sup>107</sup> On 25 July 2020, police closed all branches of the Teachers' Syndicate and arrested all thirteen board members.<sup>108</sup> The Attorney General stated that one of the bases for the arrests was a video posted to social media by the Deputy Head of the Syndicate, Nasser Al-Nawasra.<sup>109</sup> Weeks earlier, General Intelligence Division (GID) officials threatened Al-Nawasra with detention if he did not stop his activism.<sup>110</sup> The board members' attorney stated that the basis of the arrests was "electronic crimes[.]"<sup>111</sup> The Attorney General imposed a gag order on any reporting of the case, including through social media.<sup>112</sup>

Authorities arrested dozens of others after 25 July.<sup>113</sup> One journalist was called into questioning after reporting on Al-Nawasra's case, violating the gag order.<sup>114</sup> Another man was ordered to report to the Public Security Directorate's (PSD) Criminal Investigation Division over his 29 July Facebook post supporting the teacher protests.<sup>115</sup> When he appeared the next day, authorities detained him for "inciting illegal gathering."<sup>116</sup> Officials held him for two nights, and then released him after his father signed a pledge stating that he would no longer support the teachers' syndicate or protests on social media under penalty of a fine.<sup>117</sup>

## **Additional Human Rights Violations**

In their efforts to silence human rights advocacy and political discourse, credible reports indicate Jordanian authorities have violated the rights of children, they have committed acts of arbitrary arrest and detention, incommunicado detention, and they have violated the right to be free from torture and other cruel, inhuman, and degrading treatment.

### *Violation of the rights of the child*

Article 13 of the Convention on the Rights of the Child (CRC) protects children's right to freedom of expression.<sup>118</sup> Article 40(3) of the CRC establishes States' obligation to ensure "laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law..."<sup>119</sup> Specifically, the Committee on the Rights of the Child has stated that those under the age of eighteen should be subject to a child justice system<sup>120</sup> and should have access to legal assistance and parental support during questioning.<sup>121</sup> Yet Tujan Al-Bukhaiti, a seventeen-year-old Yemeni refugee (see section III(A)(3)), was detained and interrogated by Jordanian authorities without the presence of her parents and a lawyer.<sup>122</sup> She was tried as an adult for "blasphemy" and "insulting religious feelings" in connection with a Facebook post that included her father's writings.<sup>123</sup> This is inconsistent with both her right to freedom of expression and her right to be tried in a juvenile justice system.

### *Arbitrary arrest and detention*

Arbitrary deprivation of liberty is prohibited under article 9 of the ICCPR, customary international law, and as a *jus cogens* norm.<sup>124</sup> A deprivation is arbitrary when it is without a legal basis as well as when it results from the exercise of freedom of expression.<sup>125</sup> As the UN Working Group on Arbitrary Detention (WGAD) has reiterated, any measure depriving an individual of liberty must meet strict standards of lawfulness, necessity, and proportionality to avoid arbitrariness.<sup>126</sup> Deprivations may be arbitrary when they are based on discriminatory grounds against HRDs and activists, violating the rights to equality before the law and the right to equal protection under article 26 of the ICCPR.<sup>127</sup>

Reported incidents provide credible evidence that Jordan has arrested individuals without any legal basis, on the basis of vague laws, or on the basis of their protected expression, and their arrests are presumptively arbitrary under international law.<sup>128</sup> Jordanian authorities use their investigative powers to question, harass, and intimidate victims from further activism. While those arrested have a right

to promptly be informed of the charges against them and have the right to post bail, many are not afforded these rights as a form of intimidation.<sup>129</sup>

The detention of HRD Abdulrahman Shdeifat (see section III(A)(1)) illustrates this trend. In 2016, the GID called him in for questioning about social media posts.<sup>130</sup> He was kept in detention for two weeks without formal charges.<sup>131</sup> On 10 November 2019, Shdeifat was once again arrested, surrounded by seven masked men and taken after a job interview in Mafraq.<sup>132</sup> He was not presented with a warrant nor given the opportunity to speak with family or a lawyer, and he was interrogated for hours.<sup>133</sup> Nine days later, he was brought before the State Security Prosecutor who ordered him detained, but he was not promptly informed of the charges and was detained for a period of five months before having the option of release on bail.<sup>134</sup> Shdeifat's case is just one example where Jordanian authorities have reportedly arbitrarily arrested and detained activists for online expression.<sup>135</sup>

### *Incommunicado detention*

Incommunicado detention "places an individual outside the protection of the law,"<sup>136</sup> in violation of article 6 of the UDHR and article 16 of the ICCPR,<sup>137</sup> protecting the right to be recognised as a person before the law.<sup>138</sup> The Special Rapporteur on torture has observed that torture is "most frequently practiced during incommunicado detention,"<sup>139</sup> and it is outlawed by international law.<sup>140</sup> WGAD considers incommunicado detention a form of arbitrary detention.<sup>141</sup> The SR on torture has stated that "[i]n all circumstances, a relative of the detainee should be informed of the arrest and place of detention within 18 hours."<sup>142</sup> Jordanian authorities held Journalist Salim Akash for three days with no access to his attorney or ability to contact his family.<sup>143</sup>

### *Enforced disappearance*

Enforced disappearance is an international crime and is prohibited by customary law<sup>144</sup> as well as international treaties.<sup>145</sup> An enforced disappearance has three elements: (1) a deprivation of liberty; (2) by State officials or with their consent; followed

by (3) the refusal to acknowledge the deprivation of liberty, or to disclose information on the fate or location of the disappeared.<sup>146</sup> An individual may be held incommunicado but is not considered to be disappeared unless the State does not disclose any one of the following pieces of information: whether the person is detained, where the person is detained, and if the person is alive or dead. During the reporting period Jordan violated this prohibition. In one example, Jordanian authorities arrested Abdulrahman Shdeifat and held him in detention for five days before his location was publicised.<sup>147</sup> He was denied access to an attorney and his family during that time.<sup>148</sup> Special Procedures mandate holders described this as a “short-term enforced disappearance.”<sup>149</sup>

### *Due process violations*

Fundamental principles of fair trials are protected under international law at all times.<sup>150</sup> Individuals have universal rights to seek competent, independent, and impartial judicial review of the arbitrariness and lawfulness of deprivations of liberty and to obtain without delay adequate and appropriate remedies.<sup>151</sup> Those detained enjoy a number of procedural safeguards of their rights including the right to be informed of rights, the right to initiate court proceedings without delay, and the right to legal assistance of counsel of their choice from the moment of apprehension.<sup>152</sup>

Abdulrahman Shdeifat was tried without a lawyer, evidence, or witnesses; he was not allowed to make a personal defence; and the basis for his charges were not made clear to him.<sup>153</sup> Taha Daqamseh, an activist who was detained by Jordanian authorities and charged with insulting the King under the Cybercrimes Law, was also tried without a lawyer and sentenced in May 2019 to one year in prison.<sup>154</sup>

Several reported incidents included individuals whose cases were heard by or referred to the State Security Court, a quasi-military tribunal, where prosecutions are conducted by a military prosecutor.<sup>155</sup> The Human Rights Committee and Committee Against Torture have expressed concern about the State

Security Court, including the fact that civilians are tried in a military court that is not independent or impartial<sup>156</sup> and does not meet the ICCPR article 14 requirements of fair trial.<sup>157</sup>

### *Torture and cruel, unusual, and degrading treatment*

The prohibition against torture is absolute, non-derogable, and a *jus cogens* norm of international law.<sup>158</sup> Several individuals who were targeted for their online expression were reported to have been detained by the GID and the PSD’s Criminal Investigations Division.<sup>159</sup> Both of these departments have been reported to use torture and ill treatment to extract information or confessions during investigations for criminal proceedings.<sup>160</sup>

Abdulrahman Shdeifat was one identified victim of cruel, unusual, and degrading treatment.<sup>161</sup> After his imprisonment in November 2019, he went on a hunger strike for eleven days and was hospitalised four times during the strike, but Jordanian authorities did not notify his family.<sup>162</sup> He was not provided the salt and water he requested during his hunger strike,<sup>163</sup> which constitutes ill treatment under international law.<sup>164</sup>

# CONCLUSION AND RECOMMENDATIONS

During the reporting period, Jordan consistently used the Cybercrimes Law, Anti-Terrorism Law, and Penal Code to punish online speech that is protected under international law. Despite international criticism, Jordan continues to use overly broad and vague provisions within these laws to detain and arrest journalists and HRDs. These laws are also used to prohibit collective speech and expression through crackdowns on protest movements. These reports represent credible evidence that Jordan is in violation of its obligation to promote and protect human rights and to create a safe environment for HRDs, including journalists. Furthermore, there is credible evidence that HRDs face infringements on their rights including arbitrary arrest and detention, enforced disappearance, unfair trials, and torture and other cruel, inhuman, and degrading treatment. The enactment of Cyber Security Law as well as the possibility of a future Centre and Council is especially troubling for freedom of online expression in Jordan.

To address these concerns, we offer the following general recommendations and country-specific recommendations.

## General Recommendations

### *To Governments of Gulf States and Neighbouring Countries:*

- ◊ Eliminate laws and articles in national legal frameworks that criminalise online freedom of expression protected under international human rights law, specifically:
  - All laws including anti-cybercrime, anti-terrorism, communications, media, penal, and technology laws that restrict online or offline expression through provisions to protect public order, national security, or the national economy; insults laws; and laws that criminalise fake news, that do not conform to international human rights standards and satisfy the principles of legality, legitimacy, necessity and proportionality;
  - Decriminalise the offense of defamation;
  - Revise anti-cybercrime laws to include affirmative protection for the legitimate online expression of HRDs, including journalists.
- ◊ Cease using deportation and travel bans as tools for targeting HRDs for their online human rights advocacy, and refrain from infringing on their right to freedom of movement.
- ◊ Reform legal institutions, including the criminal legal system, to promote the independence and autonomy necessary for:
  - Investigating human rights violations committed against HRDs by law enforcement, such as engaging in unlawful surveillance of HRDs, enforced disappearances, holding HRDs in unlawful detention, incommunicado, and subjecting them to ill-treatment and torture;
  - Ensuring that HRDs', citizens', and residents' right to freedom of movement is not violated;
  - Ensuring the judiciary upholds international standards guaranteeing the right to fair trial.

### *To the UN Human Rights Council:*

- ◊ Instruct the UN Office of the High Commissioner for Human Rights to undertake a study of the transnational cooperation among governments to affect the apprehension and rendering of foreign HRDs to their countries of origin for prosecution of online expression that is protected under international law.
- ◊ Instruct the UN Office of the High Commissioner for Human Rights to undertake a study to identify and track developments in the surveillance regimes in each State in the region. The governments in question should cooperate in this study. The



study should identify third party actors including business enterprises and other States that contribute to advancing the surveillance infrastructure in each State concerned. State and non-State actors complicit in illegal surveillance of HRDs by governments should be held accountable.

***To All States:***

- Implement an immediate moratorium on the use, acquisition, sale and transfer of surveillance technology. This moratorium should extend until adequate global controls and safeguards against abuse are in place.

## **Country Recommendations**

In addition to the above recommendations, States should revise their domestic laws and institutions to ensure compliance with international human rights standards regarding online freedom of expression as indicated below.

**We call on the government of Jordan to create a safe and enabling environment for HRDs including by taking the following steps:**

- Eliminate laws and articles in Jordan's legal frameworks that criminalise online freedom of expression protected under international human rights law, or that are inconsistent with the right to due process and a fair trial, including:
  - 2015 Cybercrime Law, articles 11 and 15;
  - 2006 Anti-Terrorism Law, articles 2, 3, 7, 8;
  - 1995 Telecommunications law, article 75(a);
  - 1960 Penal Code, article 118, 122, 132, 149, 191, 195;
  - 2019 Cyber Security Law.

## NOTES

- 1 Researchers identified reported incidents of violations of online freedom of expression by conducting searches for cases involving Jordan between May 2018 and October 2020, from the following international media outlets and human rights organizations that document human rights violations: Amnesty International, Al Jazeera, ARTICLE 19, British Broadcasting Corporation, Committee to Protect Journalists, Front Line Defenders, Gulf Centre for Human Rights, and Human Rights Watch. Researchers also searched for communications from special procedures mandate holders regarding incidents alleging violations of freedom of expression in Jordan in the UN database of communications. Researchers also searched for articles published by *Jordan News Agency*, *Petra* (Jordan), *Jordan Times*, *Albawaba.com*, and *The Star* (Amman, Jordan), using the terms: arrest, freedom of expression, post, video, human rights defender, Facebook, Twitter, and social media during the relevant period. After finding cases using the international sources, researchers conducted additional searches using the Google search engine of the victim's name (with various English spellings) to find additional case information. See methodology section for more information.
- 2 Verity Elizabeth Irvine, Ian J. Bickerton & Kamel S. Abu Jaber, *Jordan: Government and Society*, BRITANNICA. This characterization of the political system of the country is offered for descriptive purposes; a normative evaluation of the political system as such is beyond the scope of this chapter.
- 3 Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, ¶ 77, U.N. Doc. A/HRC/31/55 (Feb. 1, 2016); Civil Society Space, Human Rights Council Res. 27/31, U.N. Doc. A/HRC/RES/27/31, ¶ 3 (Oct. 3, 2014); Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, G.A. Res. 53/144, U.N. Doc. A/RES/53/144 (Mar. 8, 1999).
- 4 Simon Kemp, *Digital 2021: Jordan*, DATAREPORTAL (11 Feb. 2021).
- 5 *Id.*
- 6 International Covenant on Civil and Political Rights, *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]. Jordan acceded to CAT in 1991, CEDAW in 1992, CERD in 1974, and CRC in 1991. *UN Treaty Body Database: Ratification Status for Jordan*, OHCHR.ORG.; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *opened for signature* Dec. 10, 1984, 1465 U.N.T.S. 85 [hereinafter CAT]; Convention on the Elimination of All Forms of Discrimination against Women, *opened for signature* Dec. 18, 1979, 1249 U.N.T.S. 13; International Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Mar. 7, 1966, 660 U.N.T.S. 195; the Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC]. Jordan is a party to the Arab Charter on Human Rights. League of Arab States, Arab Charter on Human Rights, May 22, 2004, reprinted in 12 Int'l Hum. Rts. Rep. 893 (2005) (entered into force Mar. 15, 2008); *League of Arab States: Key Legal Texts*, INT'L CTR. FOR NOT-FOR-PROFIT L. (Sept. 25, 2021).
- 7 World Conference on Human Rights, *Vienna Declaration and Programme of Action*, pmbl. at 20-21, §§ I(1), I(3), I(8), U.N. Doc. A/CONF.157/24 (Part 1) (Oct. 13, 1993); Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at art. 19 (Dec. 10, 1948) [hereinafter UDHR].
- 8 Cybercrime Law of 2015 [hereinafter Cybercrime Law] (Jordan) (unofficial English translation on file with author).
- 9 Anti-Terrorism Law No. 55 of 2006, amended in 2014 [hereinafter Anti-Terrorism Law] (Jordan) (Arabic version and unofficial English translations of the relevant provisions from the Anti-Terrorism Law are on file with author).
- 10 Penal Code of 1960, amended in 2017 [hereinafter Penal Code] (Jordan) (unofficial English translation from 2011; several provisions of the Penal Code have been amended since 2011, and relevant amended provisions are on file with author).
- 11 Telecommunications Law No. 13 of 1995, amended 2011, art. 75(a) [hereinafter Telecommunications Law] (Jordan) (unofficial English translation).
- 12 Cyber Security Law No. 16 of 2019, art. 3 [hereinafter Cyber Security Law] (Jordan) (unofficial English translation on file with author).

- 13 Cybercrime Law, *supra* note 8, at art. 15.
- 14 Hum. Rts. Comm., *General Comment No. 34: Article 19: Freedoms of Opinion and Expression*, ¶ 25, U.N. Doc. CCPR/C/GC/34 (Sept. 12, 2011) [hereinafter *HRC General Comment No. 34*]; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 7, U.N. Doc. A/HRC/32/38 (May 11, 2016) [hereinafter *SRFOE Report of May 2016*]; Working Grp. on Arbitrary Det., *Opinion No. 71/2019 Concerning Issa al-Nukhefi, Abdulaziz Youssef Mohamed al-Shubaili and Issa Hamid al-Hamid (Saudi Arabia)*, ¶ 73, U.N. Doc. A/HRC/WGAD/2019/71 (Feb. 14, 2020) (“vaguely and broadly worded provisions ... which cannot qualify as *lex certa*, violate the due process of law undergirded by the principle of legality in article 11 (2) of the Universal Declaration of Human Rights.”); UDHR, *supra* note 7, at arts. 11, 19; ICCPR, *supra* note 6, at art. 19.
- 15 *SRFOE Report of May 2016*, *supra* note 14, ¶ 39; Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Frank La Rue, ¶ 34, U.N. Doc. A/HRC/17/27 (May 16, 2011) [hereinafter *SRFOE Report of May 2011*].
- 16 *SRFOE Report of May 2016*, *supra* note 14, ¶ 39; Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Situation of Human Rights Defenders*, ¶ 24, U.N. Doc. A/67/292 (Aug. 10, 2012) (“Provisions that criminalize the publication of articles or photos that could harm national security, public order, public health or public interest, incite violence, constitute sedition or have negative consequences for the financial climate of the country are overly broad and restrictive.”).
- 17 Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 29, U.N. Doc. A/66/290 (Aug. 10, 2011) [hereinafter *SRFOE Report of Aug. 2011*] (stating that “vague formulations that prohibit incitement” that do not “meet the criterion of legal clarity” include: “‘inciting to violation,’ ‘instigating hatred and disrespect against the ruling regime,’ ‘inciting subversion of state power’ and ‘offences that damage public tranquility’”).
- 18 David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Communication to Jordan*, at 3, Ref. No. OLJOR 3/2018 (Dec. 7, 2018) [hereinafter *Dec. 2018 Communication to Jordan*].
- 19 Cybercrime Law, *supra* note 8, at art. 11; *Dec. 2018 Communication to Jordan*, *supra* note 18, at 3.
- 20 Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Frank La Rue, ¶ 86, U.N. Doc. A/HRC/20/17 (June 4, 2012) [hereinafter *SRFOE Report of June 2012*].
- 21 *HRC General Comment No. 34*, *supra* note 14, ¶ 47. See also *SRFOE Report of May 2011*, *supra* note 15, ¶ 36 (“[D]efamation should be decriminalized . . .”).
- 22 *HRC General Comment No. 34*, *supra* note 14, ¶ 47.
- 23 *Id.* See also *SRFOE Report of June 2012*, *supra* note 20, ¶¶ 83-88.
- 24 Hum. Rts. Comm., *Concluding Observations on the Fifth Periodic Report of Jordan*, ¶¶ 12–13, U.N. Doc. CCPR/C/JOR/CO/5 (Dec. 4, 2017) [hereinafter *Hum. Rts. Comm. Concluding Observations of Dec. 2017*]; Hum. Rts. Council, *Compilation on Jordan: Report of the Office of the United Nations High Commissioner for Human Rights*, ¶ 14, U.N. Doc. A/HRC/WG.6/31/JOR/2 (Aug. 24, 2018) [hereinafter *Aug. 2018 Compilation on Jordan*]; Comm. against Torture, *Concluding Observations on the Third Periodic Report of Jordan*, ¶ 29, U.N. Doc. CAT/C/JOR/CO/3 (Jan. 29, 2016) [hereinafter *Comm. against Torture Concluding Observations of Jan. 2016*].
- 25 Anti-Terrorism Law, *supra* note 9, at arts. 2, 3(b), 3(e).
- 26 *Id.* at art. 7 § F.
- 27 *Id.* at art. 7.
- 28 *Id.* at art. 8.
- 29 Telecommunications Law, *supra* note 11, at art. 75(a).
- 30 *Id.*
- 31 U.N. Special Rapporteur on Freedom of Op. & Expression et al., *Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda*, ¶ 2(a) (Mar. 3, 2017) [hereinafter *Joint Declaration on Freedom of Expression and “Fake News”, Disinformation, and Propaganda*].

- 32 Dec. 2018 Communication to Jordan, *supra* note 18, at 3.
- 33 Penal Code, *supra* note 10, at art. 118; *Freedom on the Net 2020: Jordan*, FREEDOM HOUSE.
- 34 Penal Code, *supra* note 10, at art. 149(1). Article 20(2) of the Penal Code states that the minimum term of “temporary labor” is three years, and the maximum is twenty years. *Id.* at art. 20(2).
- 35 SRFOE Report of Aug. 2011, *supra* note 17, ¶ 29.
- 36 *Joint Declaration on Freedom of Expression and “Fake News,” Disinformation, and Propaganda*, *supra* note 31, ¶ 2(a) (“General prohibitions on the dissemination of information based on vague and ambiguous ideas, including “false news” or “non-objective information,” are incompatible with international standards for restrictions on freedom of expression, as set out in paragraph 1(a), and should be abolished.”).
- 37 HRC General Comment No. 34, *supra* note 14, ¶ 38; SRFOE Report of June 2012, *supra* note 20, ¶ 88; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 33, U.N. Doc. A/71/373 (Sept. 6, 2016) [hereinafter *SRFOE Report of Sept. 2016*]; Leigh Toomey (Vice Chair of the Working Grp. on Arbitrary Det.) et al., Communication to Jordan, at 4, Ref. No. AL JOR 1/2019 (Oct. 15, 2019) [hereinafter Oct. 2019 Communication to Jordan] (stating in the case of Abed al Kareem Al-Shraideh that the application of criminal law should only be for the most serious of cases of defamation and that imprisonment is never appropriate in these circumstances).
- 38 Dec. 2018 Communication to Jordan, *supra* note 18, at 3.
- 39 Penal Code, *supra* note 10, at art. 122.
- 40 *Id.* at art. 195(1).
- 41 *Id.* at art. 191.
- 42 HRC General Comment No. 34, *supra* note 14, ¶ 38; SRFOE Report of June 2012, *supra* note 20, ¶ 88; SRFOE Report of Sept. 2016, *supra* note 37, ¶ 33; Oct. 2019 Communication to Jordan, *supra* note 37, at 4 (stating in the case of Abed al Kareem Al-Shraideh that the application of criminal law should only be for the most serious of cases of defamation and that imprisonment is never appropriate in these circumstances).
- 43 HRC General Comment No. 34, *supra* note 14, ¶ 38.
- 44 Hum. Rts. Comm. Concluding Observations of Dec. 2017, *supra* note 24, ¶ 26; *Comm. against Torture Concluding Observations of Jan. 2016*, *supra* note 24, ¶ 29.
- 45 Aug. 2018 Compilation on Jordan, *supra* note 24, ¶ 14.
- 46 Hum. Rts. Comm. Concluding Observations of Dec. 2017, *supra* note 24, ¶ 26; *Jordan: Crackdown on Political Activists*, HUM. RTS. WATCH (June 4, 2019).
- 47 Hum. Rts. Comm. Concluding Observations of Dec. 2017, *supra* note 24, ¶ 26; *Comm. against Torture Concluding Observations of Jan. 2016*, *supra* note 24, ¶¶ 29, 35, 37.
- 48 *Comm. against Torture Concluding Observations of Jan. 2016*, *supra* note 24, ¶ 29.
- 49 Despite the use of these institutions to punish protected expression, the UN Office of Drugs and Crime has supported the CCU’s awareness campaigns about cybercrime and has conducted anti-terror trainings with Jordanian law enforcement. See *Jordan: Releasing a Video on Cyber-Security Awareness Raising*, U.N. OFF. ON DRUGS & CRIME; *Supporting Jordan’s Efforts in Countering the Use of the Internet for Terrorist Purposes*, U.N. OFF. ON DRUGS & CRIME.
- 50 *Comm. against Torture Concluding Observations of Jan. 2016*, *supra* note 24, ¶ 23.
- 51 *Id.* ¶¶ 17, 23; Rules of Penal Trials Code No. 9 of 1961 (Criminal Procedures Code), amended 2001, art. 100(b) (Jordan) (unofficial English translation).
- 52 Cyber Security Law, *supra* note 12, at art. 3.
- 53 *Id.* at arts. 5-6.
- 54 *Id.* at art. 3.
- 55 *Id.*
- 56 See SRFOE Report of May 2016, *supra* note 14, ¶ 7 (describing the requirement of precision under international human rights standards).
- 57 Cyber Security Law, *supra* note 12, at art. 13.
- 58 *Id.* at 16.
- 59 Hum. Rts. Council, *Joint Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on the Proper Management of Assemblies*, ¶ 75, U.N. Doc. A/HRC/31/66 (Feb. 4, 2016) (“Restrictions to online access or expression must be necessary and proportionate and applied by a body independent of any political, commercial or other unwarranted influences, and there

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should be adequate safeguards against abuse . . . . The practice of blocking communications – impeding the organization or publicising of an assembly online – rarely satisfies these requirements . . . .”).

- 60 *Jordan: New Arrests of Activists*, HUM. RTS. WATCH (Nov. 28, 2019); *Jordan: Access to Information Is a Fundamental Right, Calling for Immediate Release of Moayad Al-Majali*, SKYLINE INT’L FOR HUM. RTS. (Oct. 16, 2019).
- 61 *Jordan: New Arrests of Activists*, *supra* note 60; *Jordan: Access to Information Is a Fundamental Right, Calling for Immediate Release of Moayad Al-Majali*, *supra* note 60.
- 62 *Jordan: New Arrests of Activists*, *supra* note 60.
- 63 *Jordanian Accounts on Twitter Reported that a Jordanian Court Had Issued a General Prison Sentence for “Moayad Al-Majali” on Charges of Insulting Queen Rania*, WATAN NEWSPAPER (Dec. 6, 2020).
- 64 Oct. 2019 Communication to Jordan, *supra* note 37, at 1.
- 65 *Id.*; *Jordan: New Arrests of Activists*, *supra* note 60.
- 66 Oct. 2019 Communication to Jordan, *supra* note 37, at 1.
- 67 *Id.* at 1.
- 68 *Id.* at 2.
- 69 The Bani Hasan are a large tribe in Jordan and the hirak is a coalition organising for political reforms. *Jordan: New Arrests of Activists*, *supra* note 60.
- 70 *Id.*
- 71 *Id.*
- 72 *Id.*
- 73 Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders) et al., Communication to Jordan, at 2, Ref. No. AL JOR 1/2020 (Mar. 31, 2020) [hereinafter Mar. 2020 Communication to Jordan].
- 74 *Id.*
- 75 *Id.*
- 76 *Jordanian Journalist Hiba Abu Taha Charged with Slander over 2012 Interview*, COMM. TO PROTECT JOURNALISTS (Mar. 19, 2020).
- 77 *Id.*
- 78 *Id.*
- 79 Freedom of Opinion and Expression, Human Rights Council Res. 12/16, U.N. Doc. A/HRC/RES/12/16, ¶¶ 5(o), 5(p)(i) (Oct. 12, 2009) (stating that, under ICCPR article 19, governments must not impose restrictions on discussion of government policies, political debate, human rights, and other topics).
- 80 *Jordan: Authorities Should Release Bengali Journalist Arbitrarily Detained*, SKYLINE INT’L FOR HUM. RTS. (May 13, 2020); *Bangladeshi Journalist Held in Jordan Without Lawyer Since April*, COMM. TO PROTECT JOURNALISTS (June 1, 2020).
- 81 *Bangladeshi Journalist Held in Jordan Without Lawyer Since April*, *supra* note 80.
- 82 *Id.*
- 83 Hum. Rts. Comm., *General Comment No. 15: The Position of Aliens Under the Covenant (Twenty-Seventh Session, 1986)*, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 141-42, ¶¶ 7, 10, U.N. Doc. HRI/GEN.A/Rev.7 (May 12, 2004) (noting that non-citizens have “the right to hold opinions and to express them,” and that ICCPR article 13 is meant “to prevent arbitrary expulsions”); Clément Nyaletsossi Voulé (Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association), *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, ¶ 42, U.N. Doc. A/74/349 (Sept. 11, 2019) (“stress[ing] that there is no basis in international law for completely divesting non-citizens of their assembly rights”).
- 84 Heba Abou Taha, *Jordan: Settling Scores with Critics Within “Coronavirus” Outbreak*, DARAJ (May 25, 2020); *The Arrest of the General Manager of Roya TV and Its News Director*, ROYA NEWS (Apr. 13, 2020); Ali Younes, *Jordan Military Arrests TV Executives for Airing Virus Complaints*, AL JAZEERA (Apr. 10, 2020); *Jordan: Free Speech Threats Under Covid-19 Response*, HUM. RTS. WATCH.
- 85 Abou Taha, *supra* note 84.
- 86 *Id.* In another case, Rafat Alkhateeb, a cartoonist, was forced to remove a cartoon he had posted to his Facebook page due to government threats of arrest under the Cybercrimes Law. The cartoon depicted Prime Minister Omar Razzaz kneeling on the neck of the poor, likening him to Derek Chauvin, the US police officer who kneeled on the neck of George Floyd. The cartoon was in response to the COVID-19 laws which limited the employment opportunities of blue-collar workers. See Riham Darwish, *Is Jordan Using Its COVID-19 Defense Laws to Silence Critics?*, AL BAWABA (June 4, 2020).

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- 87 *Jordan Release Prominent Cartoonist*, HUM. RTS. WATCH (Aug. 28, 2020).
- 88 *Id.* The cartoon was in response to news that Israel had urged the United States to refuse war planes sales to the UAE even though the UAE and Israel struck a deal to normalise diplomatic relations.
- 89 *Id.*; Anti-Terrorism Law, *supra* note 9, at art. 3(b).
- 90 *Comm. against Torture Concluding Observations of Jan. 2016*, *supra* note 24, ¶ 29.
- 91 *HRC General Comment No. 34*, *supra* note 14, ¶ 48 (“Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant”); Ahmed Shaheed (Special Rapporteur on Freedom of Religion or Belief), *Report of the Special Rapporteur on Freedom of Religion or Belief*, ¶¶ 21, 23, U.N. Doc. A/HRC/40/58 (Mar. 5, 2019) (“These initiatives underscore the growing consensus in the international human rights community that anti-blasphemy laws run counter to the promotion of human rights for all persons.”); ICCPR, *supra* note 6, at arts. 19-20.
- 92 AMNESTY INT’L, URGENT ACTION: MINOR ON TRIAL OVER SOCIAL MEDIA POSTS (Feb. 12, 2020); *Outrage over Jordan Trial for Yemeni Teenager’s ‘Blasphemous’ Facebook Posts*, NEW ARAB (Jan. 23, 2020).
- 93 AMNESTY INT’L, *supra* note 92; *Outrage over Jordan Trial for Yemeni Teenager’s ‘Blasphemous’ Facebook Posts*, *supra* note 92.
- 94 AMNESTY INT’L, *supra* note 92; *Outrage over Jordan Trial for Yemeni Teenager’s ‘Blasphemous’ Facebook Posts*, *supra* note 92; *Jordan: Further Information: Yemeni Teenager “Not Guilty” over Speech Charges: Tujan Al-Bukhaiti*, AMNESTY INT’L (Nov. 25, 2020).
- 95 *Man Arrested for Publishing Posts Offensive to Religious Beliefs*, JORDAN NEWS AGENCY (Oct. 27, 2020).
- 96 Those rights are protected under article 20 of the UDHR, *supra* note 7, and articles 21 and 22 of the ICCPR, *supra* note 6.
- 97 Promotion, Protection, and Enjoyment of Human Rights on the Internet, Human Rights Council Res. 38/7, U.N. Doc. A/HRC/RES/38/7, ¶ 1 (July 17, 2018).
- 98 Hum. Rts. Comm., *General Comment No. 37 (2020) on the Right of Peaceful Assembly (Article 21)*, ¶ 33, U.N. Doc. CCPR/C/GC/37 (Sept. 17, 2020).
- 99 Promotion and Protection of Human Rights and Fundamental Freedoms, Including the Rights to Peaceful Assembly and Freedom of Association, G.A. Res. 73/173, U.N. Doc. A/RES/73/173, ¶19 (Jan. 8, 2019).
- 100 Clément Nyaletsossi Voulé (Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association), *Rights to Freedom of Peaceful Assembly and of Association: Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association*, ¶ 37, U.N. Doc. A/HRC/41/41 (May 17, 2019).
- 101 *Jordan: Crackdown on Political Activists*, *supra* note 46.
- 102 *Id.*
- 103 *Id.*
- 104 *Jordan: New Arrests of Activists*, *supra* note 60.
- 105 *Id.*
- 106 *Id.*
- 107 *Jordan: Teachers’ Syndicate Closed; Leaders Arrested*, HUM. RTS. WATCH (July 30, 2020).
- 108 *Id.*; *Amman Prosecutor Orders 2-Year Closure of Teachers Association*, JORDAN NEWS AGENCY (July 25, 2020).
- 109 *Jordan: Teachers’ Syndicate Closed; Leaders Arrested*, *supra* note 107; *Amman Prosecutor Orders 2-Year Closure of Teachers Association*, *supra* note 108.
- 110 *Jordan: Teachers’ Syndicate Closed; Leaders Arrested*, *supra* note 107.
- 111 *Id.*
- 112 *Id.*
- 113 *Id.*
- 114 *Jordan: Escalating Repression of Journalists*, HUM. RTS. WATCH (Aug. 18, 2020).
- 115 *Jordan: Arrests, Forced Dispersal at Teacher Protests*, HUM. RTS. WATCH (Aug. 27, 2020).
- 116 *Id.*
- 117 *Id.*
- 118 CRC, *supra* note 6, at art. 13; Comm. on the Rights of the Child, *General Comment No. 25 (2021) on Children’s Rights in Relation to the Digital Environment*, ¶ 60, U.N. Doc. CRC/C/GC/25 (Mar. 2, 2021) (“Children should not be prosecuted for expressing their opinions [digitally]...”).

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- 119 CRC, *supra* note 6, at art. 40(3).
- 120 Comm. on the Rights of the Child, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System*, ¶ 29, U.N. Doc. CRC/C/GC/24 (Sept. 18, 2019).
- 121 *Id.* ¶ 60.
- 122 AMNESTY INT'L, *supra* note 92; *Outrage over Jordan Trial for Yemeni Teenager's 'Blasphemous' Facebook Posts*, *supra* note 92.
- 123 AMNESTY INT'L, *supra* note 92; *Outrage over Jordan Trial for Yemeni Teenager's 'Blasphemous' Facebook Posts*, *supra* note 92.
- 124 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention: United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court*, ¶ 11, U.N. Doc. A/HRC/30/37 (July 6, 2015) [hereinafter *WGAD Report of July 2015*]; Hum. Rts. Comm., *General Comment No. 35: Article 9 (Liberty and Security of Person)*, ¶¶ 17, 22-23, 53, U.N. Doc. CCPR/C/GC/35 (Dec. 16, 2014) [hereinafter *HRC General Comment No. 35*].
- 125 *WGAD Report of July 2015*, *supra* note 124, ¶ 10; UDHR, *supra* note 7, at art. 19; ICCPR, *supra* note 6, at art. 19.
- 126 *WGAD Report of July 2015*, *supra* note 124, ¶ 11.
- 127 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶ 46, U.N. Doc. A/HRC/36/37 (July 19, 2017); UDHR, *supra* note 7, at art. 7; ICCPR, *supra* note 6, at art. 26.
- 128 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶¶ 38, 63, U.N. Doc. A/HRC/22/44 (Dec. 24, 2012) (stating that detentions authorised by law may be arbitrary if the legislation is arbitrary); *HRC General Comment No. 35*, *supra* note 124, ¶ 5 (calling police custody an arbitrary deprivation of liberty).
- 129 Mar. 2020 Communication to Jordan, *supra* note 73, at 2.
- 130 *Id.*
- 131 *Id.*
- 132 *Id.*
- 133 *Id.*
- 134 *Id.*
- 135 See, e.g., *Jordan: Access to Information Is a Fundamental Right, Calling for Immediate Release of Moayad Al-Majali*, *supra* note 60 (discussed in greater detail in section III(a)(i) above).
- 136 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶ 60, U.N. Doc. A/HRC/39/45 (July 2, 2018) [hereinafter *WGAD Report of July 2018*].
- 137 UDHR, *supra* note 7, at art. 6; ICCPR, *supra* note 6, at art. 6.
- 138 UDHR, *supra* note 7, at art. 6; ICCPR, *supra* note 6, at art. 16. Additionally, incommunicado detention violates the right to be brought promptly before a judge protected by ICCPR article 9(3) and the right to challenge the lawfulness of detention protected by ICCPR article 9(4). ICCPR, *supra* note 6, at arts. 9(3)-9(4).
- 139 Theo van Boven (Special Rapporteur on Torture), *Report of the Special Rapporteur on the Question of Torture Submitted in Accordance with Commission Resolution 2002/38*, ¶ 26(g), U.N. Doc. E/CN.4/2003/68 (Dec. 17, 2002) [hereinafter *SRT Report of Dec. 2002*].
- 140 Manfred Nowak (Special Rapporteur on Torture), *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum—Study on the Phenomena of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in the World, Including an Assessment of Conditions of Detention*, ¶ 156, U.N. Doc. A/HRD/13/39/Add.5 (Feb. 5, 2010) (international law and standards prohibit “all secret and incommunicado detention”); see *Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, G.A. Res. 72/163, U.N. Doc. A/RES/72/163, ¶ 16 (Dec. 19, 2017).
- 141 *WGAD Report of July 2018*, *supra* note 136, ¶ 60.
- 142 *SRT Report of Dec. 2002*, *supra* note 139, ¶ 26(g).
- 143 *Bangladeshi Journalist Detained in Jordan*, JAGONEWS24.COM (Apr. 16, 2020); *Bangladeshi Journalist Held in Jordan Without Lawyer Since April*, *supra* note 80; *Jordan: Authorities Should Release Bengali Journalist Arbitrarily Detained*, *supra* note 80.
- 144 1 JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK, INT'L COMM. OF THE RED CROSS, CUSTOMARY INTERNATIONAL HUMANITARIAN LAW Rule 98 (2005) (enforced disappearance).

- 145 International Convention for the Protection of All Persons from Enforced Disappearance, *opened for signature* Dec. 20, 2006, 2716 U.N.T.S. 3.
- 146 Article 2 of the Convention on Enforced Disappearances defines an enforced disappearance as the “arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” *Id.*
- 147 Mar. 2020 Communication to Jordan, *supra* note 73, at 2.
- 148 *Id.*
- 149 *Id.*
- 150 Hum. Rts. Comm., *General Comment No. 32: Article 14: Right to Equality Before Courts and Tribunals and to Fair Trial*, ¶ 6, U.N. Doc. CCPR/C/GC/32 (Aug. 23, 2007) [hereinafter *HRC General Comment No. 32*].
- 151 WGAD *Report of July 2015*, *supra* note 124, annex, princ. 1; *HRC General Comment No. 32*, *supra* note 150, ¶¶ 15, 19, 31-34, 38; ICCPR, *supra* note 6, at art. 14.
- 152 WGAD *Report of July 2015*, *supra* note 124, annex, princs. 7-9; *HRC General Comment No. 32*, *supra* note 150, ¶ 10.
- 153 Mar. 2020 Communication to Jordan, *supra* note 73, at 1.
- 154 *Jordan: Crackdown on Political Activists*, *supra* note 46; *Jordan: Blocking Is the Solution*, ARABIC NETWORK FOR HUM. RTS. INFO. (Apr. 22, 2020).
- 155 *Jordan: Publisher, Journalist Charged in State Security Court*, HUM. RTS. WATCH (Apr. 25, 2012).
- 156 *Comm. against Torture Concluding Observations of Jan. 2016*, *supra* note 24, ¶ 37.
- 157 *Hum. Rts. Comm. Concluding Observations of Dec. 2017*, *supra* note 24, ¶ 26.
- 158 Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, 2012 I.C.J., ¶ 99 (July 20); CAT, *supra* note 6, at art. 2; Dire Tladi (Special Rapporteur), *Fourth Report on Peremptory Norms of General International Law (Jus Cogens) by Dire Tladi, Special Rapporteur*, ¶ 69, U.N. Doc. A/CN.4/727 (Jan. 31, 2019).
- 159 Manfred Nowak (Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum—Mission to Jordan*, U.N. Doc. A/HRC/4/33/Add.3 (Jan. 5, 2007).
- 160 *Comm. against Torture Concluding Observations of Jan. 2016*, *supra* note 24, ¶ 23.
- 161 Mar. 2020 Communication to Jordan, *supra* note 73, at 1.
- 162 *Id.*
- 163 *Id.*
- 164 *Id.*



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