

## Digital Rights in the Light of Emergency State

Since the declaration of the state of emergency at the beginning of March across the Palestinian territories, following the discovery of the first case of the Coronavirus in the city of Bethlehem, the concern has been and still exists on the extent of guaranteeing freedoms and digital rights. However, some countries tried to postpone declaring the state of emergency as much as possible so not to violate the rights and freedoms of people. The Palestinian President, Mahmoud Abbas, has issued a presidential decree in which he announced the state of emergency across the Palestinian territories for 30 days once the first seven cases of infected people were detected, on the pretext of protecting the lives of people and given the poor Palestinian health sector.

The state of emergency was extended for three consecutive times across the Palestinian territories. The last of which was on the 5<sup>th</sup> June for another 30 days, despite the comments of some legal experts on the non-legality of the decision claiming it breaches the Palestinian Basic Law. When the first state of emergency was announced, the Palestinian Authority emphasized its respect to public freedoms, especially the freedom of opinion and expression and that it will not allow using the state of emergency as an excuse to assault citizens' rights, on top the freedom of opinion and expression stressing the need for Palestinian journalists to avoid publishing false news or spread rumors<sup>1</sup>. In this context, the Independent Commission for Human Rights issued a statement confirming that "no restrictions shall be imposed on the basic rights and freedoms except to the extent necessary to meet the announced and declared goal as per the state of emergency declaration". It also demanded the Government "to announce, continuously, the measures taken in light of the state of emergency or any other measures that shall restrict the rights and freedoms"<sup>2</sup>.

Unlike the official statements, the emergency legislations came to restrict the freedom of expression and digital rights. Article (3), Paragraph (3) of Law No. (7) on the State of Emergency, issued on 25<sup>th</sup> March 2020 provides for "It is prohibited for anyone other than those legally authorized to issue any statements related to the state of emergency, or to spread news pertaining to the same, and that is not based on an official source, in any form, or through all social media, written, audio and video, and anyone who violates

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<sup>1</sup> The New Arab. *The Independent Commission for Human Rights: The measures taken to limit the spread of Corona Virus across Palestine takes freedoms into consideration*. Retrieved from: <https://cutt.ly/nucl0Be>

<sup>2</sup> The Independent Commission for Human Rights, *a press release on declaring the state of emergency*. Retrieved from: <https://cutt.ly/yuczsyI>

that shall be punished by imprisonment for a period not exceeding one year and a fine of no less than two thousand dinars and no more than five thousand dinars or its equivalent in the currency in circulation”<sup>3</sup>.

- **Freedom of Expression during the State of Emergency:**

The attacks against freedom of expression continued during the state of emergency. MADA has documented a total of 31 violations during March, half of which committed by Facebook Company while the Israeli occupation committed four violations, and different Palestinian authorities committed 11 violations, 9 in Gaza Strip and 2 in the West Bank (Full Report: [press here](#)). During April, MADA has documented a total of 8 violations against media freedoms, one Israeli violation and 7 Palestinian violations committed by different Palestinian authorities (Full Report: [press here](#)).

The Palestinian violations committed during April included two cases in Gaza Strip of preventing Palestine TV staff from conducting interviews with the public on Ramadan in light of Corona epidemic. The staff was taken to the General Investigations headquarters, detained and forced to sign a pledge not to work again without a prior authorization. As to the West Bank, five violations have taken place: detaining JANA Media Production Co. staff by some of the Preventive Security officers after searching their vehicle and seizing their filming equipment. Moreover, The Palestinian News Agency “WAFA” has issued a decision on referring both journalists Jafar Sadaqah and Rami Samarah to an investigation committee claiming “they have breached the state of emergency” without any clarification. It is believed that this is associated with their posts on the Facebook.

During May, “MADA” has documented a total of 73 attacks against media freedoms in the West Bank and Gaza Strip including the Occupied City of Jerusalem. Facebook Company has committed a total of 46 violations while the Israeli occupation committed 18. The violations committed by the Israeli occupation included closing Palestine TV Office in the Occupied City of Jerusalem, arresting and assaulting journalists and causing them injuries by live bullets. Different Palestinian authorities in the West Bank and Gaza Strip have committed 8 violations, the last of which was dismissing the journalist Iyad Hamad by the American Worldwide Agency “Associated Press” (Full Report: [press here](#)).

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<sup>3</sup> Maqam. *Decree Law No.(7) Of 2020 on the State of Emergency*. Retrieved from: <https://maqam.najah.edu/legislation/338/>

The last violation of infringing the freedom of expression was arresting the journalist Sami Al-Saei by the Palestinian Security Officers in Tulkarem, on 9<sup>th</sup> June 2020. The following day of his arrest, he was brought before the Public Prosecution that extended his detention for 48 hours. On Thursday corresponding 11<sup>th</sup> June 2020, his detention was extended again for 15 days. It should be noted that the Public Prosecution has accused the journalist with more than one charge based on the Cybercrimes Law, mostly in connection with publishing news through the social media (For More Details: [press here](#)).

- **Violations against Digital Rights:**

Violations against digital rights, by the Israeli occupation and several Palestinian authorities, continued in Palestine during the emergency state period, especially those committed by Facebook Company, as it did not hesitate to impose control on the Palestinian content during that period. According to MADA's Report on March, Facebook Administration has carried out a broad campaign of preventing posting, and live broadcast during the late of March. This campaign has targeted pages of no less than 16 journalists in addition to dozens of Palestinian citizens in the West Bank and Gaza Strip, claiming "they violate the policies of Facebook". In most of the cases, the direct reason of closure was not clarified which made some believe that "it might be a technical failure". However, preventing the journalists from posting and live broadcasting continued. It should be noted that Facebook Company has committed more than half of the violations documented by MADA during March.

At the beginning of the Covid-19 spreading across the Palestinian territories, and being occupied of fighting its spread, the Palestinian Preventive Security has arrested the journalist Ayman Qawarek, from Aurta, Nablus, on 2<sup>nd</sup> March 2020, on the background of his posts on the social media, and according to the Cybercrimes Law. He was accused of "defamation and libel against public authorities" through his posts on the social media criticizing the Liaison Committee, normalizing the occupation, and Oslo Accords.

The Palestinian Center for Development & Media Freedoms "MADA" has defended the journalist Qawariq the moment he was arrested, through the Center's Lawyer, Firas Karajah (For more details: [press here](#)). In the most important and first decisions on the freedom of expression and digital rights, the judge of Nablus Court, northern West Bank, Mahmoud Al-Karam, decided on 12<sup>th</sup> March 2020 to release journalist Ayman Qawariq four days after his arrest without bail and without any conditions. The judge denied the request of the Palestinian Public Prosecution to extend his arrest for 15 days to

complete the investigation, on the understanding that what Qarwariq falls under the freedom of the press that must be protected.

During April, there were no violations committed by the social media companies. However, During May, “MADA” Center has documented a total of 43 violations committed by Facebook Company. That is 59% of the total violations. During this month, Facebook Company has carried out a broad campaign of closures targeting dozens of pages belonging to journalists and a number of media websites claiming “they violate the privacy standards of Facebook Company” according to messages that have been sent to a number of those affected by the campaign, no less than 34 journalists and media websites in Gaza Strip and 12 journalists and media websites in the West Bank. It should be noted that most of these journalists have not received any notifications on closing their pages and neither have they been informed of the specific reasons why their pages have been closed.

- **The End of Blocking 49 Websites during the State of Emergency:**

During the emergency state period, and specifically on April 17, the blocking term of 49 sites was supposed to end, based on the decision of Ramallah Magistrate Court, which issued a decision to block these sites for a period of 6 months, under the pretext that they have published pictures, articles and phrases “threatening the national security, and civil peace, disturbing public order and public morals, and stirring up Palestinian public opinion”. This blocking came in accordance with Article 39, Paragraph 2 of Decree Law No. 10 of 2018 on Cybercrime.

Ammar Jamous, a legal and human rights researcher at the Independent Commission for Human Rights, stressed that despite the end of the blocking term, telecommunications companies and Internet providers in the West Bank continue to block these sites, citing the decision issued by the Palestinian President, Mahmoud Abbas, after announcing the emergency state, to extend legal periods, in reference to Resolution No. 10 of 2020 on the suspension of the statute of limitations, legal time limits and deadlines during a state of emergency<sup>4</sup>. In this regard, Jamous confirmed that “the continued blocking of sites is considered a violation of the law, and a breach of the rights and freedoms, as what is related to legal periods during the emergency state period does not apply to the

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<sup>4</sup> Maqam. *Decision of Law No. (10) of 2020 regarding the suspension of the statute of limitations, statutory deadlines and deadlines during a state of emergency*. Retrieved from: <https://maqam.najah.edu/legislation/359/>

blocking legal period that has ended, because the expiry of the blocking decision is related to time limits and procedures and not to investigative procedures”.

Jamous called on the internet providers, specifically Paltel, to lift the block and commit to providing security services to its users in light of no official decision on extending the block. It is worth mentioning that MADA has published a statement in April calling the owners of websites which have been blocked to go to the service providers and demand lifting the block (to read the full statement: [press here](#)).

The decision of Ramallah Magistrate Court to block these websites had raised widespread reactions by the Palestinians on the social media and by the civil society organizations, journalists and activists, who demanded the cancellation of the decision issued based on the Cybercrime Law, which was passed in 2018, and caused major criticism at the time and demands by journalists and civil society organizations to amend the law. In this context, MADA, in cooperation with Watan TV at the time, and with the participation of many other civil society organizations, has held a press conference on the block decision (for more details: [press here](#)) demanding the cancellation of the decision and the adjustment of the Cybercrime Law.

- **The Need for The Right to Access Information Law:**

The first appearance of Corona virus in Wuhan, China in December 2019, and the beginning of its outbreak around the world was accompanied by a massive and rapid spread of rumors, false information and news about the virus. In the Palestinian case, the situation did not differ much, as the announcement of the first cases of the Virus in Bethlehem was accompanied by a rapid spread of rumors. Given the lack of official and specialized sources that provide the public with all information clearly and transparently, a state of confusion and disruption occurred as a result of the lack of information, so people resorted to searching for any kind of information on Facebook, where they found all the rumors which were increasingly being created and posted.

The Government tried to control the spread of rumors through the press statement of the Prime Minister’s Office, and by providing information through a morning and evening press briefing. Despite these positive steps, the urgent need for a law on the right to access information still exists, especially because there is still an absence of transparency and the absence of a clear governmental plan to deal with the pandemic and its various effects on various levels.

On the other hand, Similarly, The Palestinian Center for Development and Media Freedoms “MADA” launched a campaign to combat the spread of rumors and misinformation that circulated over social media platforms. The campaign entitled “The Rumors about Corona Are Not Freedom of Expression” was launched as soon as the affected cases appeared in Bethlehem and the rumors started to circulate around Facebook. Additionally, the campaign which targeted journalists, activists and the public included many videos and infographics about the importance of checking the accuracy of the information before posting or sharing, the tools to fact-check, tips for journalists who covers Covid-19 stories, and spreading awareness regarding cyberbullying. The campaign had many positive effects as it directed the both and journalists and the public to take their information from trusted sources (World Health Organization and Ministry of Health) and some local and international Facebook pages that reveals fake news (to read more information about the campaign: [press here](#)).

The Right to Access Information Law has not been passed yet, despite the huge efforts that “MADA” Center is doing in cooperation with the civil society organizations and the Anti-Corruption Commission, has made significant efforts towards passing such law. Additionally, “MADA” has played a major role in this regard through publishing a study, conducted a conference and many workshops in addition to writing a draft of the law in cooperation with Geneva Center. Also, “MADA” launched media campaigns to introduce the aspect of the law, its importance and demand passing it.

This is in addition to concluding many workshops targeting journalists, media students and personnel of ministries and departments of the PLO, not to mention bringing this topic up in meetings with the ministers and prime minister, including, Dr. Salam Fayyad, Dr. Rami Al-Hamdallah, and Dr. Mohammad Ishtayya, and many other ministers and officials in the Government.

The right to access information is a constitutional right guaranteed in Chapter Two of the Palestinian Basic Law. Furthermore, the Law on the Right to Access Information promotes principles of transparency and accountability, which establishes and strengthens mutual trust between citizens and country institutions.

In Palestine, there is still a state of blocking, preventing from publishing and the unavailability of the public records, despite the repeated promises of the Government to pass the law, it has not been issued or passed until this day. During the Government press briefing on Covid-19 updates, which took place on the World Press Day, the Government Spokesperson, Mr. Ibrahim Melhem, confirmed that the law on the right to access information is still under work and that the Government, from the moment of assuming its duties, started studying all of the related files. Mr. Melhem also indicated

during the brief that the press freedom is taken by boldly publishing not through the publications laws, with the importance of framing this freedom with laws, as he stated<sup>5</sup>.

MADA Center hereby re-emphasizes the importance of freedom of expression and digital rights even in light of the state of emergency. Thus, it demands again to amend the Cybercrime Law and pass the Right to Access Information Law.

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<sup>5</sup> Watan News Agency. *In response of Watan's question on the World Press Day .... Melhem: "The law on the right to access information is under work"*. Retrieved from: <https://www.wattan.net/ar/news/308211.html>