The Department of Media Studies Publication Series:
THREATS TO DIGITAL RIGHTS IN LEBANON

Edited by Rouba El Helou
THREATS TO DIGITAL RIGHTS IN LEBANON
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THREATS TO DIGITAL RIGHTS IN LEBANON:
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Rouba El Helou

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FOREWORD

The Media Studies Forum is an initiative launched by the Department of Media Studies at Notre Dame University-Louaize (NDU) to create a knowledge hub and to share ideas about how to best use and practice media. It falls under the department mission to present students with inspiring and progressive approaches in a fast changing media landscape.

In its third edition, the forum addressed the issue of Digital Rights in Lebanon. The aim was to draft a strategy for better internet access since there is no law in Lebanon which clearly protects individual internet access in its two main components, i.e. freedom of expression and the right to privacy.

To document the outcomes of these discussions, the department decided to launch its first academic publication - The “DMS publication” – the first issue being under the title “Threats to Digital Rights in Lebanon”.

The Department of Media Studies at NDU through this publication aims to contribute to the growth of knowledge by providing Lebanese researchers and scholars with academic references that deal with controversial issues, like the one at hand, on a local level.

Furthermore, this endeavor serves our efforts for advocacy and lobbying by giving the main organizations working on this issue in Lebanon the platform to present their own approaches pertaining to this topic.

The ultimate goal is to raise issues of privacy rights and freedom of expression as part of our mission to promote a culture of citizenship.

The “Threats to Digital Rights in Lebanon” publication can prove that academia is never distant from social problems but on the contrary it can serve them to boost political and social changes when needed.

Dr. Maria Bou Zeid
Chairperson, Department of Media Studies (NDU)
Zouk Mosbeh, March 29, 2017
Dear Reader,

The Friedrich Naumann Foundation for Freedom is the foundation for liberal politics in Germany. It aims to promote the goal of making the principle of freedom valid for the dignity of all people and in all areas of society, both in Germany and abroad. As such we are committed to our global mission to support liberal democracy, human and civic rights and most certainly the concept of “Freedom of Speech”.

As much as “Freedom of Speech” is valued, it is challenged by its boundaries. Even though many of us believe in exercising it in the widest possible way, we all know that it may be restricted by religious beliefs, historic circumstances, the venue in which it is exercised (e.g. online or offline) or who the target of certain statements is.

In Germany for example, the year 2016 proved to be a particularly decisive one on this subject: In a TV show, a moderator presented a poem in which various potentially offensive attributes and activities were attributed to Turkish President Recep Tayyip Erdoğan. Among these were clichés with racist remarks, personal denunciations and political criticism mingled with sexual references. This poem was, however, explicitly embedded in a satirical performance, which in Germany is fundamentally covered by the freedom of art and the press. However, and obviously, not everyone agreed with that. It just so happened that – even in the year 2016 – a paragraph from the German imperial legal period, dating back to 1871, had survived into the present day. This regulation put offenses against representatives of foreign states under special punishment – with imprisonment of up to three years. Therefore, on the basis of this legislation, the Turkish President filed a claim against the moderator because he felt insulted. The German federal government granted the necessary authorizations and the public prosecutor’s office investigated. The ensuing public debate sparked
much contention. It was, however, a healthy debate that ultimately led to the reassessment and redefinition of the limits of freedom. It also created new trust: The investigations against the moderator were suspended and the controversial paragraph on “majesty degradation” will be abolished on 1 January 2018. This controversial debate about the “Freedom of Speech” ultimately led to the revision of a regulation that is considered out-of-date. An open debate led to the reassessment of the fundamental principle of “Freedom of Expression”. Nevertheless – even in Germany – insulting a head of state continues to be a punishable offence, but no more or less than that of any other human being.

A debate on what is allowed “to be said” and what is not can therefore go in many different directions. But the basis of this debate should always be a law that is conceived in an inclusive and democratic way, reflecting the culture and specific circumstances of the respective society. According to The Universal Declaration of Human Rights, the universal right to freedom of opinion and expression is the right to “hold opinions without interference and to seek, receive and impart information and ideas through any media, regardless of frontiers”. Thus it should be valid everywhere.

As mentioned above, with our programs, the Friedrich Naumann Foundation for Freedom supports this endeavor through international cooperation. I therefore thank the Media Studies department of Notre Dame University (NDU) for taking the initiative at their Media Studies Forum 2016: “Threats to Digital Rights in Lebanon” to facilitate this debate. This modest publication, with contributions reflecting the debate during the event, which may now serve as a snapshot of a current discourse on the situation in Lebanon related to this topic. It will be a point of reference, to progress and develop from, and to speak freely about.

Dirk Kunze
Head of Office
FNF Lebanon and Syria
Beirut, March 23, 2017
INTRODUCTION

This project initiated a three year trajectory, culminating in the 2016 ‘MSF16’, documented in these proceedings. We can now look back, with some satisfaction, at a continuous process in which an up-and-coming generation of journalists, media experts, and civil society activists have been equipped with the skills and insights necessary to promote freedom of expression and rule of law.

Therefore, this publication combines the opinions and insights of scholars and activists bucking the trend towards less freedom and against open competition of ideas in Lebanon. The authors in this volume describe both what we have achieved and stand to lose and the various attempts to undermine rule of law, freedom of expression, and competition.

Nassim Abi Ghanem explored in his paper the use of human rights law in today’s complex technological landscape, while focusing on the digital rights and electoral campaigns in Lebanon. Habib Battah successfully documented digital campaigns, where activists were able to engage in a collective effort against the political elites to take over or ruin public spaces and historical archives in the capital of Lebanon, Beirut.

Rouba El Helou discussed the ongoing attack on freedom of expression while pointing to freedom of the press and the role of new communication technologies and the challenge they pose on freedom and ethics. Nadine Mounzer Karam tackled the issue of online hate speech and the dilemma between countering extremism and freedom of expression. Roula Mikhael debated the importance of implementing a legal framework for internet freedom in Lebanon and the necessity to provide citizens with fast internet at an affordable price. Least but not last, Farah Wahab discussed the Lebanese censorship authority practices, which are severely affecting freedom of expression and how online activist and bloggers are put under pressure by the authorities.

According to the British author George Muray in 1974, Lebanon “is unique among Arab states in two fundamental aspects: firstly
its religious plurality… and secondly its status as a parliamentary
democracy with universal suffrage and a presidential system…
Lebanon has throughout remained a citadel of free thought; and
free expression. The cohesiveness of its people and the strength of
national identity are of striking maturity, against all the odds in a land
of diverse allegiances.” This is how Lebanon looked in a westerner’s
eyes on the eve of the Civil War (1975-1990). However, in practice
the General Directorate of General Security exercises various forms
of control (prior and post censorship) on films, plays and publications
within the sphere of Lebanese sovereignty. Accordingly, the minister
of information has the power to ban foreign publications (i.e, books,
magazines, newspapers, CDs…) from entering Lebanon if these
publications are deemed to be damaging for public morals, to incite
sectarian conflict, jeopardize national security or upset national
sentiment.

Nevertheless, when it comes to the internet, outdated laws,
developed for the print and broadcast media, are being applied by
the state and religious authorities, thus reaching out to take control
of the ICT sector, especially online media! A report by Anna Lekas
Miller in 2016, published by Skeyes Center for Media and Cultural
Freedom, states that the absence of online laws is a serious
problem and that “online censorship is present and largely decided
because of civilian or institutional complaints about certain content;
a troubling standard for freedom of expression2.”

In this tradeoff between supposed security, on the one hand,
and liberty, rule of law, and free competition, on the other, we must
clearly choose the latter!

I proudly present to you this publication to argue with Benjamin
Franklin - **Those Who Sacrifice Liberty** for **Security** Deserve Neither!

Rouba El Helou

Beirut.

The legal framework in Lebanon is very loose when it comes to digital media. There is no legislation that specifically governs the internet. The impact of that is two-fold. On the one hand, it has had a positive effect on freedom of expression given that there is no structural censorship of the media, as compared to Egypt or Turkey (Miller, 2015). Consequently, this allows for more liberal expression online.

On the other hand, the absence of a particular law has also led – on the negative side - to an unorganized and random enforcing mechanism that has pushed journalists, media personnel and activists to be denied from their rights based on haphazard decision-making choices. Currently, online censorship exists and is decided upon based on civilian or institutional complaints about certain posts or particular tweets. This illustrates a troubling situation for online freedom of expression in Lebanon.

If one was to inquire into how much digital surveillance is currently present in Lebanon; the answer would be - we don’t exactly know. In this paper I will focus on the protection of personal data and the right to privacy. I will discuss briefly Resolution 68/167 that was adopted by the United Nations General Assembly, which affirmed that the rights held by people offline must also be protected online, and calls upon all states to respect and protect the right to privacy in digital communication.

I will come back to further discuss this resolution in this paper at a later stage.

In Lebanon, while there are laws designed to protect personal data, there is sufficient evidence to suggest that they are not being properly enforced. Currently, any data collected by the Ministry of Telecommunications, via either ALFA or MTC Touch, can be shared
with other government institutions without citizens’ consent (Meyer, 2014). The US and UK model on consent-purpose mandates that personal information can only be collected for a defined purpose after the person involved has given consent and it may not be used for any other purpose other than that previously identified and consented to. Any disclosure of this information to a third party would be a clear violation.

However, in Lebanon - regardless of how much we may believe that we are not governed by arbitrary regulations and that we are not operating in a “lawless space” - we are indeed governed by outdated laws, this including the Penal Code in particular. The Penal Code is a legal document that was adopted in 1940 (Al Masri and Najem, 2015: accessed in Miller 2016) to deal with online defamation and complaints and allows for legal cases against them. Consequently, as of the digital age, any post or comment can be deemed defamatory if it is “powerful enough” to “alert” the Internal Security Forces (ISF) of Lebanon. Furthermore, the ISF transfers the case to the Anti-Cybercrime and Intellectual Property Rights Bureau where the accused can be summoned to the Bureau for interrogation and can also be detained and tried in a criminal court. It is important to mention here that according to Lebanese law, should be dealt with in a civil court or the special court for the press.

With the rise of the Islamic State in Iraq and Syria (ISIS), the focus of the Lebanese authorities is on online recruitment platform. This surveillance has been unprecedented and ultimately has endangered freedom of expression and put potential terrorists under scrutiny (see SKeyes report on April 2016). The increase of surveillance policies on social media networks, under the pretext of countering terror and maintaining national security, has allowed access to private accounts which leads to major invasions of privacy. “Over the past three years, 13 anti-terrorism laws have been drafted in the Middle East and, due to the urgency of the situation, have often been rushed through the courts, behind closed doors, leaving no opportunity for civilian input” (Al-Masri, 2015 accessed in: Miller, 2015).

A prime example of the above mentioned can be witnessed in
Egypt. An anti-terrorism law was passed in July 2015 that sets a fine of $25,000 for journalists who are critical of government statements and publish “false” reports on militant activities (according to the government). The impact of this process does not end at the actual criminalization of freedom of speech, but it also has a pervasive impact on people, who out of fear begin practicing self-censorship in order to avoid prosecution.

But before proceeding to analyze the particularities of the Lebanese situation, and the election campaign of May 2016 in particular, I will highlight international norms on data sharing, which not only focus on what we may express and post, but also deal with which content we may scrutinize in a particular study or research endeavor. One fundamental purpose of all international human rights treaties is to articulate the obligations of governments with respect to each other and their respective citizens. Hence, an analysis of data sharing violations reaches beyond individual ethical responsibilities and includes an evaluation of government responsibilities (Harris and Wyndham, 2015). In broad terms, when the telecommunication companies in Lebanon associated with the government share such information, the government is breaching responsibilities towards its own people. A human rights based approach to the above should highlight the obligations that the government has to set legal structures in order to protect data privacy rights and hold those who violate them accountable. Yet, what if the government is violating this approach? Who holds it accountable?

Supported by advances in international legal codification, the process of holding all actors accountable have the indirect effect of enhancing access to information and promoting reparations for victims (Tsosie and McGregor, 2007).

In this section, I will focus on the role of social media and elections. Municipal elections were held in Lebanon in May 2016 and many electoral campaigns used social media in order to get their views to their target audiences. A rigorous study conducted by the SKeyes centre for Cultural and Media Freedom in 2016 (available on the website) highlights some very important points which I will review and then attempt to apply them in a global context.
The use of social media for networking has become very useful for civil society groups, citizen journalists and activist bloggers alike. They also were able to utilize these tools to improve democratic participation in the country, not least through the #YouStink campaign. Monitoring of legal cases against social media users in Lebanon, the Skeyes report on Digital Media and Election Campaigns, illustrated that “voicing critique and exposing wrongdoing or the abuse of power is routinely sanctioned with investigation and even prison sentences” (2016 p. 7).

Existing laws on defamation, libel and slander have been simply extended to social media without further consideration of their distinctive role within the political landscape in Lebanon. Politicians have used this power to silence many critics and send them to prison (Miller, 2016).

Furthermore, in Lebanon, not a single legal code has even remotely addressed the changing nature of journalism and public communication in the social media sphere. The Penal Code, which deals with defamation, libel and slander, has simply been extended to the sphere of social media without further consideration of the highly politicized media landscape in Lebanon (Frangieh, 2014). With respect to its impact on democracy, this approach can have the indirect effect of further increasing self-censorship, thus severely undermining democratic elections in the future.

The extension of existing media law to the online and social media sector has important technical implications. For example, the 24 hour electoral silence policy is difficult to implement in the digital age. Officially non-affiliated supports of a given candidate tend to continue posting on social media during the pre-election silence period without fear of being penalized.

Article 75 of the Lebanese Electoral law of 2008 states that the Supervisory Commission on Election Campaigns (SCEC) “shall immediately consider any complaint filed by a wronged list or candidate. Decisions as to filing such complaint in the competent Court of Publication shall be taken within twenty-four hours of
Based on this article, the current use of social media during elections could mean that, SCEC might receive huge amounts of complaints within 24 hour pre-election silence period. Dealing with all these complaints without a law specifically developed to deal with social media could make the implementation of article 75 impossible. According to article 76 such violations are left to the Court of Publication, which must respond within a maximum of 24 hours.

In following I will briefly touch upon the conclusions and recommendations on the electoral campaign data privacy and violations to laws, which to a great extent overlap with the report on Digital Rights, Online Media and Electoral Campaigns published by SKeyses (2016). The purpose of this section is to create a debate around the Right to be Forgotten”, which has been decreed in 2015 by the European court. To be noted, this discussion requires more comprehensive research. I attempt in this brief article to encourage further analysis from experts in this field and to provide food for thought for the students of media studies.

Information should be accessed by the public, particularly for public figures as a gesture for public good. Accountability should be made mainstream in Lebanon in order for the country develop into a democratic society. Therefore the list of recommendations is provided below.

**Recommendations:**

*Concerning the Supervisory commission on Electoral Campaign*

1) Limit the law on campaign silence online to parties and candidates only; this way the complaints can be narrowed and freedom of expression will be protected.

2) A complaint unit within SCEC for online and social media needs to be established.

---

3) Expenses for community managers and social media ads should be disclosed in the campaign expenditures\(^4\). In order to achieve this the SCEC needs to require parties and candidates for their data on payments during the electoral campaign period.

**Concerning the Lebanese Government**

1) Clearly define to the public the work and jurisdiction of the Anti-Cyber Crime and Intellectual Property Bureau at the Internal Security Forces (ISF).

2) Include journalists, netizens and bloggers in a new amended Press Law which secures freedom of expression.

3) Omit “libel, slander and defamation” from the Penal Code, making it a civil, rather than a criminal offense.

4) Update the Electoral Law and explicitly mention online media and social media regulations with guidelines that are practically applicable to online content in line with Article 19 of the Universal Declaration of Human Rights.

5) Separate the online offenses from jurisdiction of the Cyber Crime Bureau, in case of unlawful act, social media communication will be an inclusive in the general investigation rather than in absolute.

As mentioned previously, these recommendations are mostly applicable in Lebanon. In the paragraph below, I will explore the right to be forgotten which I will end my article with.

In 2012, the European Commission published a ‘Proposal for a Regulation on the Protection of Individuals with Regard to Processing of Personal Data on the Free Movement of Such Data’. This proposal mentioned for the first time the concept of the ‘Right to be Forgotten’, which gives the person the right to have his/her personal data deleted when these data are available publicly online (Pereira et al., 2014). Today, most of us have a social media account

\(^{4}\) N.B: the Lebanese law does not recognize the immense use of social media for electoral campaigns. This might not be relevant to the 2008 electoral campaign but should no longer be ignored these days.
whether it is on Facebook or twitter. These accounts could also be linked to other mobile applications if the user has a smart phone link. This is obviously noticed when we are asked to register into an application via Facebook for example. All of this can appear in any basic Google search, since the algorithm of the search engine allows it. This means that people can trace others via online search. So what will happen if a normal user would like to delete personal information or make it private? In this spectrum the right to delete information becomes the “Right to be Forgotten”. The Right to be Forgotten and the right to demand deletion of information reflect current trends, namely, that data protection and personal rights are increasingly being used as justification for online censorship” (Hulsen and Schult, 2012: in Pereira et al., 2014)

On the other hand Bright (2012), mentions in his interview with Thomas Boue, director of the Software Alliance the following

Commission’s proposal is erring ‘too far in the direction of imposing prescriptive mandates for how enterprises must collect, store, and manage information…. which would economically affect companies to a great extent.

The emergence of the “Right to be Forgotten” has postulated many contradicting issues. Primarily, that access to information gives us the right to access any information we thus desire. Additionally, the major confusion is brought in when the personal data needed actually is for security purposes, such as a terrorist attack. The European countries themselves, in the current situation marked by continuous threat of terrorism, have overlooked the right to be forgotten. On the other hand, protecting one’s data from being available to millions of people without previous consent infringes on many existential rights. Moreover, the right to be forgotten has been interpreted by individuals and governments alike differently across the globe. I remember, during the Media Studies Forum (MSF16) at Notre Dame University (NDU), a representative from the Telecommunications Ministry in Lebanon, responded to one of the panels, that the right to be forgotten can be exercised by public figures to delete the online posts if they (public figures) believe that they include defamation and slander. However, if online media
has portrayed the public figures as corrupt, this should never be forgotten.

Pereira et al. (2014), considers four ethical dilemma’s related to journalists and researchers. First ethical dilemma; Do we stick to the old categorizations or do we create new ones?

Second dilemma: Individual memory and Collective memory. Collective memories are a result of individual memories bundled together in an event, such as Civil War. Remembering here becomes a necessity contrary to forgetting, which brings up the third dilemma: Forgetting and forgiving. This essentially allows the culprit to get any posting deleted and then he/she can deny it even if it truly caused harm or threatened the security. And fourth: some rights are more rightful than others.

In this article I have outlined the current outdated Lebanese laws vis-à-vis digital rights and provided a case particularly important nowadays with upcoming elections. The absence of digital media laws in electoral laws in specific and how this poses a problem not only for freedom of expression, but also threatens democracy as a whole. But mainly, this article has explained the ‘right for privacy’ and its importance. Yet, the proposed ‘right to be forgotten’ derives controversies that are important to look into in today’s digital age. To go back to our current situation in Lebanon, the irony of the societal debate is still far away from reaching the Right to be Forgotten with no elections insight. Would we be able as Lebanese citizens to fully claim our demand for the right to privacy and the right to be forgotten? Intellectually, the debate will continue, and more research, not only by media studies, but also with the assistance of political sciences and Law (Human rights) is certainly needed to develop policies and inform the public This is a desire which ought to be dealt with: how do we protect our privacy or disclose private information publicly without fearing any threat?
A Note from the Editor:

This presentation was given at the Media Studies Forum 2016 reflecting discourse on the topic of Threats to Digital Rights in Lebanon at the time. Habib Battah made the point in his presentation that the campaigns described below are now dependent for their success on the expanded role of digital and social media. They are threatened by the ongoing attempts of the government and power elite to limit freedom of expression online in Lebanon.
In the shadow of the so-called Arab spring, digitally-empowered activism has been steadily on the rise in Lebanon. Despite an archaic, sectarian and militia-based political system, a series of citizen-led collectives have emerged over recent years to tackle various forms of post-war state dysfunction, applying substantial pressure on local decision-makers. The impact of recent activist campaigns ranges from influencing parliamentary legislation related to media and environmental laws to halting major municipal and private real estate projects. Key to many of these actions has been the organizers’ use of connective action, technology-assisted repertoires of resistance and documentation, lobbying of politicians and relationships with the media.

The space for urban contestation in Beirut is configured to a large extent by a boom in real estate and construction in the post war years, which has seen the unregulated razing of historic neighborhoods and the privatization of seafront areas for private marinas. A list of 1,000 heritage buildings in the city has dwindled to less than 300 according estimates by urban planners.6

Yet this trend has been attenuated to some extent by organizations such as Save Beirut Heritage, which took off largely as a Facebook group that allowed citizens to post about demolitions happening across the city. The group has since evolved into an NGO, with a telephone hotline and links to the Ministry of Culture, where it says lobbying efforts have intervened in halting the demolition of some

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5 This paper contains excerpts from Battah’s upcoming research paper: Structures of Change in Post-war Lebanon: Amplified Activism, Digital Documentation and Post-Sectarian Narratives, to be published by the Reuters Institute for the Study of Journalism at Oxford University.

60 buildings. On an even larger scale however, have been efforts to contest and often halt private and public sector projects worth hundreds of millions of dollars. Among these are the cancellation of a $150 million luxury mall and tower, the halting of a $75 million municipal highway project and the dramatic contestation and subsequent legal challenge to a sprawling development on Beirut’s most valuable seafront property that could be worth hundreds of millions of dollars. Interestingly, many of these projects involve entrenched Lebanese political dynasties and their real estate empires that so successfully pushed through a series for projects in the 1990s and 2000s with little significant opposition.

The first of these major urban battles took place in early 2013 when the Landmark, one of the largest projects in downtown Beirut was scheduled to break ground. The project occupied one of the most coveted spots within the rebuilt Solidere district and comprised of

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8 A note from the editor: Solidere is a private Real Estate Holding Company (REHCO) known by its French acronym Société Libanaise de Développement et la Reconstruction de Beyrouth (The Lebanese Company for the Development and Reconstruction of Beirut). It was established on May 1994, as part of the late Prime Minister Rafik Hariri’s revitalization plan “Horizon 2000” to reconstruct and develop central parts of Beirut. One of the main strategic goals of the company was to recover the international and pan-Arab touristic glory Beirut enjoyed prior to the civil war. “Solidere has been the target of severe criticism from several civil society actors and analysts, including residents, politicians, urban planners, architects and archeologists. For more information please see: Vloeberghs, Ward (2015). Architecture, Power and Religion in Lebanon: Rafiq Hariri and the Politics of Sacred Space in Beirut. Brill Publishing, the Netherland; and see: Mango, Tamam (2004). Solidere: The Battle for Beirut’s Central District. Beirut Lebanon, Massachusetts Institute of Technology, Department of Urban Studies and Planning; also: Makdisi, Saree (1997). “Laying Claim to Beirut: Urban Narrative and Spatial Identity in the Age of Solidere” The University of Chicago Press; Critical Inquiry, Vol. 23, No. 3, Front Lines/Border Posts, pp. 705-660. Stable URL: http://www.jstor.org/stable/1344040 Accessed: on May 2017.
luxury shopping complex, hotel and residential tower to be built by celebrity French architect Jean Nouvel. This author played a role in this case after taking a few photos of the site through a gap in construction fence revealing what appeared to be ancient ruins, and then uploading these images onto a personal blog⁹. These photos were then seen by an activist from the preservation group The Association for the Protection of Lebanese Heritage (APLH), who commented that the site was one of the most important archeological digs in the city and believed to contain a Roman-era city gate and fourth century church. But these discoveries remained hidden from the public due to wood construction panels erected around the site. Upon the advice of APLH activists, this author took extensive photos of the site from a roof-top position that provided an aerial view of the ruins and produced a series of posts¹⁰ that were then shared on an open wall of the popular Save Beirut Heritage Facebook page. Soon the images had begun to get wide distribution, sparking shares and repost coverage from popular bloggers¹¹ as well as an article in the local paper The Daily Star, where an archeologist was quoted as saying the Culture Minister – who had already approved several controversial decisions that year – was adamant that the real estate project should go forward¹². Yet just two days after the aerial images

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were published, the minister made the surprise announcement that the Nouvel project would be halted\textsuperscript{13}. The relatively ad-hoc nature of the campaigns to defeat The Landmark project in downtown Beirut comes as a slight organizational contrast to the seemingly unprecedented campaign to resist a major highway project in early 2013. Here individual activists joined forces with established non-government organizations to create connective action that impacted both the mainstream media and political elites.

The effort began when the municipality of Beirut had begun preparing to revive a decades-old one kilometer highway connection project that would destroy a historic neighborhood and one of Beirut’s last remaining green spaces. Activists from Save Beirut Heritage kicked off the campaign by creating before and after visuals showing the destructive path of the road, and these went viral over social media and blogs, setting the stage for a public outcry. Soon prominent architects and engineers began weighing in on the plan both on social media and in op-ed pieces calling the $75 million plan wasteful, antiquated, ignoring urban planning norms and lacking in basic feasibility studies, potentially creating more traffic problems than it proposed to solve. A group of these young and mid-career professionals set up a petition to oppose the project, proposed alternatives, launched a website and developed a coalition of 20 registered environmental and youth associations\textsuperscript{14}. Newspaper and magazine articles poured in picking apart the project and questioning the lack of studies.

Fighting back, the mayor of Beirut, city council members and other officials denounced activists in the press, rejected their proposals,
and claimed there was no need for environmental or urban impact studies\(^\text{15}\). One government engineer went so far as to nonchalantly suggest “...we don’t build public consensus on projects. It’s never happened since I’ve been here since 1996\(^\text{16}\).” In order to counter criticism that the community had not been consulted, the municipality held a rare “town hall meeting.” However when pressed, city officials later admitted major activists organizations were not invited\(^\text{17}\).

By March 2014, the still-stalled project was over six months behind schedule and online protests soon coincided with off-line action as a couple of hundred young activists took to the streets, blocking a major road near the highway project, holding placards denouncing it. Although the number of demonstrators was not huge, the well co-ordinated media campaign drew journalists from every major television station\(^\text{18}\). Less than ten days later, the municipality announced it was undertaking a comprehensive environmental study, despite its previous rejections\(^\text{19}\). The mayor of Beirut, Bilal Hamed, went on the defensive, arranging a talk in front students at the American University of Beirut where he repeatedly dubbed his project as “green” and called the activists “long-haired romantics” and “liars” lacking basic qualifications to


\(^{16}\) Ibid


comment on the issues\textsuperscript{20}. Interestingly, the media was barred from participating in the discussions, adding more currency to the claim the municipality lacked transparency and didn’t even have a website to communicate with the public\textsuperscript{21}. As the environmental surveying dragged on into 2015, the mayor continued to blame the activists in public appearances, at one point accusing them of “not letting us serve the east Beirut community\textsuperscript{22}.” At the time of this writing in mid-2016, three years after announcing the project and dismissing the activists, the Boutros Highway plan\textsuperscript{23} remains dormant and some analysts have said the political will to push it through has been sapped.

Although not always definitive, the power of contestation and delay has important implications on political capital and political will. Packages of projects that were once pushed through easily, such as much of the post-war reconstruction effort, now potentially face individual contestation. Interestingly, Beirut mayor Bilal Hamed is a member of former Prime Minister Hariri’s political party and was considered to be loyal to his agenda. Meanwhile the government engineer who noted that public consensus had not been a planning policy objective “since 1996” (the peak of the reconstruction effort) is part of the Council for Development and Reconstruction (CDR), the once-all powerful arm of the reconstruction process, headed by a Hariri associate.

\textsuperscript{20} AUB talk by Mayor Bilal Hamed, April 2nd 2014, quoted in the “Stop the Highway, Build the Fouad Boutros Park” blog post. URL: https://stopthehighway.wordpress.com/10/2014/ accessed on March 2017 ,9. In addition to the notes of the author, who also attended.


\textsuperscript{22} The mayor was speaking on April 2014 ,28 in a press conference announcing his achievements, viewed by some as part of his bid to run for a parliamentary seat. I interviewed two attendees who confirmed his remarks. These include the head of Green Line Lebanon Ali Darwiche and landscape architect, activist and AUB professor Nahida Khalil.

\textsuperscript{23} For more information please see: Stop the Highway, Build the Fouad Boutros Park. URL: https://stopthehighway.wordpress.com/the-coalition/about/, Accessed on May 2017 ,12.
The sweeping influence of the Hariri dynasty has not only been challenged in public sector projects but also in its private ventures. This materialized when some of Hariri’s children purchased one of the last public shores in Beirut with plans to build a multi-million dollar private project, erecting a 370 meter fence that blocked public access to the site known as Dalieh.

Located just meters from Beirut’s Pigeon Rocks, a landmark seen on countless postcards of Lebanon, Dalieh is the last rocky outcrop of the city and has been a public watering hole for generations of local families. But a group of legal and urban planning activists discovered that Hariri family members had purchased large amounts of property, which the public had assumed was restricted to public use. Unknown to most, this legal distinction had been overturned by senior Lebanese politicians in the twilight years of the civil war, allowing for private resort development. Activists discovered that this abrogating legislation had not been made public and thus could be challenged by other bodies of government. The activists launched a lawsuit on constitutional grounds. They also documented how the

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late Rafik Hariri supposedly used the legislation to conveniently increase the allowable levels of construction along the coastal area, driving up the value of his property even further. Finally, and despite denials in the press from Hariri associates, the activists revealed through investigative research that a major development project was indeed being planned on the site of Dalieh and that the architect was the renowned Dutch architect, Rem Koolhaas.

The activists, a collective of architects, lawyers, urban planners, artists, college students and professors, had organized under the banner of the Civil Coalition to Protect Dalieh. In addition to launching the lawsuit, which was announced at a press conference before a mainstream media audience, the group began compiling environmental, archeological and anthropological data to prove the importance of the site. They discovered Lebanese government documents and international surveys that listed Dalieh as a protected natural habitat, museum documents that indicated the site’s importance in the Bronze Age, as well as oral history collections and historical photographs recalling how the social heritage of Dalieh had been important for generations of Beirut residents. This material, along with an in-depth legal analysis of the series of laws that diminished Dalieh’s protective status, was eventually published as booklet, featuring maps and timelines, as well as a website.

A summary of the research presented by the Dalieh campaign

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31 For more information please check the The Civil Campaign to Preserve the Dalieh of Raouche (2013). URL: https://dalieh.org/, accessed on April 2017.
was also sent as an open letter\textsuperscript{32} to Koolhaas, who responded publicly in an appreciative tone, while claiming his patron, the Hariri-owned company, was aware of “its importance as a public space” and “it is our intention to actually enhance public accessibility of the site\textsuperscript{33}.”

Yet this reasoning came as a stark contrast to the tone of actions taken months earlier by the Hariri-owned investment company that purchased the land and promptly erected a fence to “protect the private property from squatters and encroachments” according to a spokesperson interviewed in the local press\textsuperscript{34}. When asked about public access, he added that the land was worth “hundreds of millions of dollars” and thus “it wouldn’t be cost effective to turn it into a park.” Yet the spokesperson, speaking in August 2014, also denied that there were any plans for a major project at Dalieh. Not only was this debunked by the activists who revealed the Koolhaas plans, but after Koolhaas’s response in December 2014, another company spokesperson offered a different narrative in an interview published a few weeks later in February. In response, the Hariri real estate firm representatives admitted that Koolhaas had been commissioned, adding that public access and green space would be a priority. The representative said the project would serve “everyone, for nature, for Beirut, for the public, for us\textsuperscript{35}.”

But the activists were not satisfied with the mere change in tone. After some of the area fishermen cut a hole in the fence, the

\textsuperscript{33} Ibid, see comments section for response from Koolhaas’s firm, OMA.
Dalieh campaign organized events to occupy the space including music performances, cultural festivals, tours and press conferences that drew coverage from mainstream television stations and newspapers. They also held a series of university lectures to speak about the site’s ecological and archeological importance as well as the manipulation of laws and the lawsuit they had launched.

At the same time, Dalieh campaign members were also engaged in intense lobbying with the minister of environment, culminating in a press conference where the ministry announced that a draft law had been submitted to label Dalieh as a protected natural site, banning major construction\(^{36}\). The announcement was seen as a major public opinion win for the campaign. The ministry had also agreed to sponsor a crowd-funded international design competition for public use of Dalieh, created by the campaigners. Their strong connections to the architectural community, drew the interest of prominent local and international architects who participated in the competition jury, with the winners announced from the ministry of environment. An exhibition of some 40 submitted projects travelled to culture centers around Beirut drawing large crowds\(^{37}\).

By enlisting the environment ministry as a sponsor of the competition, as well as lobbying the minister to produce draft legislation in its favor, the Dalieh campaign has been able to achieve tangible political gains and in some sense, harness the ministry’s political power. But the campaign’s production of discursive power may be equally significant. Through its series of events, lectures, press conferences, book publishing, online publishing, social media posting, photography, archiving and legal research, the campaign has produced a body of knowledge that has put Dalieh, an otherwise undeveloped plot of lucrative real estate capital, on the map of city and national heritage, environmental uniqueness, political and legal


discourse, as well as a key case study in the politics of real estate, development and elite power in Lebanon.

This type of discourse production was seen in the cases of the Roman ruins and the Boutros road. In many of these cases, activists’ literature and media output—composed of maps, visuals, historical and legal research—helped to define and frame a public debate around issues that had not been subject to significant mainstream media reporting. In fact, it was activist reporting that revealed and highlighted parliamentary legislation, constitutional rights, real estate ownership registers, historical data, dubious legislation, conflicts of interest and abuses of power.

It was the activist discourse on these issues that not only inspired blog posts, mainstream newspaper articles and television reports, but also informed the language and questions used in that reporting. In some cases, this meant focusing reporting on specific pieces of legislation or specific technical, legal or engineering problems related to the projects. In other cases, the activist act of merely naming an issue, project or law, carried a certain weight and accessibility for public dissemination. For example, in the Boutros Highway campaign, the activists had popularized the term much to the anger of the municipality which preferred the title “Boutros Road or Boulevard” – language that downplayed the size and destructive nature of a four lane road and its series of bridges and tunnels. In the case of Dalieh, activists often used the phrase “The Dalieh of Raouche” invoking the nearby famous pigeon rocks that are pictured on so many postcards of Beirut. By including Raouche in their campaign title, activists were able to capture public attention and underscore the project’s proximity to a major national landmark.

By organizing around issues such as public services, the right to digital expression, the politics of real estate and community spaces, activist collectives are engaging in political practices that are evolving outside of the traditional outlets of political negotiation, namely militia politics, beholden media outlets and sectarian parties. In short, individual activists and activist collectives are rising to
prominence through post-sectarian practices. Equipped with new tools, documentation technologies and repertoires of defiance and accountability, they are producing alternative publishing outlets that are shaping the political information cycle and the practice of politics itself.
FREE SPEECH, UNDER ATTACK!

Rouba El Helou

Reading early journalism histories, one is confronted by the narratives of the first publicists, people like us who struggled against censorship and promoted liberal thought by debating about different forms of government. An insightful example from the 17th Century is the work of the poet John Milton who wrote “Areopagitica” as a plea to defend freedom of speech against a pre-publication censorship order by the Presbyterians in the parliament in England, “…so Truth be in the field, we do injuriously by licencing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse, in a free and open encounter.”

At the time, because of the restraints on liberty, debate on the concept of freedom often centered around the abstract issue of free will, as opposed to the idea of determinism, as was to later to be ironically commented upon by Voltaire’s Pangloss. “Your excellency will be so good as to excuse me,” said Pangloss, “free will is consistent with absolute necessity; for it was necessary we should be free, for in that the will.”

The work of Baruch Spinoza on liberty also remains relevant to this days because of its practical application. Spinoza considered freedom of expression a prerequisite for the stability, wellbeing and

38 Areopagitica is a speech by John Milton an English polemical writer of prose, a poet and a man of letters, for the Liberty of “Unlicenc’d Printing” delivered to the parliament of England in 1644, as a response to the licensing Order (issued on June 16th, 1643), which urged authors to submit their work to approve its content prior its publishing. Milton considered the order as an immoral attempt of the stare to control people’s mind.


maintenance of the state. In *Tractatus Theologico-Politicus* (TTP), published originally in 1670 he maintains “The purpose of the state is, in reality, freedom.” Accordingly, it is almost impossible to be free in our thoughts or actions if we are controlled by authorities, be they the state or any religious institution, which undermines this principle. The primary role of the state is not to serve itself or the powerful, but rather to promote the idea of democracy and to preserve *Libertas philosophandi* or the freedom of philosophizing. The latter should be granted to individuals without resorting to suppression, which is quite often deemed justified in order to protect public peace and piety.

We had to wait until the emergence of the first newspapers, after pre-publication censorship had been abandoned by the English in 1695, facilitated by rapid technological advancements in printing technology and paper production. The premise that the press should function as the Fourth Estate, where editors could criticize the government for their wrong doing, was now seen an essential part of any free society. Increasing literacy rates and comparably easy access to the printed word made the public aware of the vital role of the free press to promote liberty and the concept of a self-governing society.

Liberal democratic leaders gradually began to recognize the value of an informed citizenry. Thomas Jefferson, the third president of the United States and one of the founding fathers of its constitution, believed in a free press as a way to examine the work of the governing power to protect people’s liberty by famously saying: “Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate any moment to prefer the latter.” By that time the printed word assumed a great cultural and political significance which it had not had before. The need to be well informed regarding major

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issues related to overall policy, as well as the details of public administration in order to better choose their public servants, was growing. Accountability became the buzzword of the day. Freedom of the press played a valuable role in defending the citizen’s right to obtain information and to express one’s opinion freely. Without it, journalists would have never been able to share ideas openly nor request, for example, information from public officials.

Lebanon was not far behind developments in Europe. Known for its strong tradition of press freedom and a culture of media pluralism, Lebanon distinguished itself from other countries in the Middle East.

In 1858 the first Lebanese newspaper Hadikat Al-Akhbar {News Garden} was launched, published by Khalil Khoury. This was followed by the creation of many other dailies most of them calling for national unity against the Ottomans. At the beginning of the 20th century an Arab Nationalist Movement flourished in the Levant 42 which included a young vibrant society of promising activists. Among them was Abdul Ghani al-Uraisi who founded, with Fuad Hantas, Al Mufid. The latter was widely circulated and became an influential daily among readers at that time.

The Ottomans tried to place the blame for their lack of success in World War I on their independently minded citizenry. On 6 May 1916 Jamal Pasha (the Ottoman ruler of Greater Syria) issued a decree publicly hanging 16 intellectuals, thinkers and journalists in Beirut. Among them was the 25 –year-old journalist and Editor Abdul Ghani al-Uraisi. 43 The tendency of insecure and inept rulers to suppress criticism instead of promoting transparency and accountability, has a long tradition in the region.

As scholars, researchers, activists, and journalists in Lebanon today, we find ourselves adopting a similar denunciatory rhetoric as

42 Referring particularly to the modern states of Lebanon, Syria Jordan and Palestine.

Milton’s in the 17th century. This is our new *Areopagitica* targeting the political power elite, which has attempted on many occasions to limit freedom of speech if it contradicts with their desire to rule. Our struggle stands on the strong shoulders of the generations that went before us.

**Lebanon - A Human Rights Signatory Out of Practice**

Lebanon is a signatory to the Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly in December 1948, which protects freedom of expression under 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."  

The Lebanese constitution also guarantees the freedom of the press in Article 13 which states that “the freedom to express one’s opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association are guaranteed within the limits established by law.”

Highly segmented before the outbreak of hostilities, the Lebanese media scene became very chaotic during the civil war (1975-1990). Therefore, media regulation became a necessity. But law enforcement and the attempt to restore rule of law, during the period that followed the civil war, became “authoritarian and in its dealing with the news media, violating articles in the Lebanese constitution that protect freedom of speech and of the press.” Many scholars believe that state control over media and the power

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struggle among the political leaders to own media outlets in the 1990s lead to severe and permanent consequences, promoting attempts to control which we are ongoing and might be getting worse\textsuperscript{47}.

Despite its traditions of openness, tolerance, and freedom, the link between the power elite and the media has led to an undermining of freedom of expression and democratic scrutiny of the government by the governed in the run up to elections. Often hidden below the surface, the undermining of public debate and the weakening of a free arena for critical discourse is closely tied to the culture of impunity prevalent in Lebanese politics. The mainstream print, terrestrial and satellite media has largely covered up this process. It is in their business interest. Social media threatens to undermine this gentlemen’s agreement by giving the public access to unfiltered information from outside the system of power.

Referring back to Spinoza the threat to liberty and the right to think freely emanates in any society traditionally from the state and the powerful religious institutions. Today, an unregulated and non-competitive corporate sector has an equally detrimental effect on freedom. In following I will illustrate how civil society has – for the meantime – held the hand of the oppressive state at bay. The attempt by the Lebanese government to expand its control is just one manifestation of a larger process of repression within digital media in general and social media in particular.

In 2012 the minister of information, Walid Daouk proposed a draft to regulate online media and mainstream media alike\textsuperscript{48}. The drafted law made no distinction between what is posted on social media or a traditional news site\textsuperscript{49}. It culminated in the Lebanese Internet Regulation Act (LIRA), which was a proposal for an internet law

\textsuperscript{47} Ibid.


which stated that websites must be registered and approved by the ministry of information. The law didn’t take into consideration the nature of the internet and the respective networks, the regulating body which operates the networks nor the nature of the web. It showed how conceptually weak the policy makers of the country were and how many of them had little understanding of key concepts such as digital media literacy and internet governance. Accordingly, Lebanese cyber-activists considered the law an attack against free speech; they subsequently revolted against the law with a huge campaign with the hashtag #stopLIRA on twitter. The law was been stopped for the time being.

Within the context of the region, a recent report published in November 2016 by Freedom House showed that “Internet freedom has declined for the sixth consecutive year, with more governments than ever before targeting social media and communication apps as a means of halting the rapid dissemination of information, particularly during antigovernment protests.” The report also mentioned the cybercrime bureau activity regarding interrogating people based on what they are posting on their social media accounts. At the time of writing this article the parliamentary media and communication committee has gone on record declaring that a new media law initiative is in the process of being drafted. What remains unclear is whether this round of media regulation will become applicable law and how this initiative will impact online media. In following we will turn to the specificities on internet based media.


51 Ibid


The Internet and the Web

As opposed to the 19th century, advances in media culture and technology in the global north have had an almost immediate impact on the MENA region in general and Lebanon in particular. In 1989 Sir Tim Berners Lee, while working as a software engineer at CERN, wrote the first draft proposal for what we today call the World Wide Web. Ten years later, in 1999, Darcy DiNucci first coined the term “Web 2.0” in her article Fragmented Future. She claimed “The Web we know now, which loads into a browser window in essentially static screenfuls, is only an embryo of the Web to come. The first glimmerings of Web 2.0 are beginning to appear, and we are just starting to see how that embryo might develop... It is way too early to say how many fragments Web publishing will break into. The field will be evolving for years to come. As new devices appear, developers will cleave to existing standards when practical, and strike out on their own when it provides competitive advantages.”

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54 Tim Berners Lee is a British computer scientist who is credited with inventing the World Wide Web (WWW). Berners-Lee enabled a system to be able to view web pages (hypertext documents) through the internet. He also serves as a director of the World Wide Web Consortium (W3C) which overseas standards for the internet and World Wide Web. Berners-Lee has also been concerned about issues relating to freedom of information and censorship on the internet. Courtesy of Biography Online. Retrieved from: http://www.biographyonline.net/business/tim-berners-lee.html

55 Founded in 1952, the CERN “Conseil Européen pour la Recherche Nucléaire”, or “European Council for Nuclear Research laboratory” sits astride the Franco-Swiss border near Geneva, Switzerland. It was one of Europe’s first joint ventures and now has 21 the European Organization for Nuclear Research, physicists and engineers are probing the fundamental structure of the universe. The research concentrates on understanding the inside of the atom, and the study of the fundamental constituents of matter and the forces acting between them.

56 Darcy DiNucci is a consultant on electronic information design (Information Architecture). DiNucci introduced the term Web 2.0 in her article titled: “Fragmented Future” In 1999.

57 For more information about the article please see, pdf. URL: www.darcyd.com/fragmented_future.pdf
Later on, the concept of “Web 2.0” was launched in a conference brainstorming session between open source advocate Tim O’Reilly and MediaLive International. Following the dot.com collapse of the time, web pioneer Dale Dougherty and O’Reilly noted that far from having “crashed”, the web was more important than ever, with exciting new applications and sites popping up with surprising regularity. What’s more, the companies that had survived the collapse seemed to have some things in common. Could it be that the dot-com crisis marked some kind of turning point for the web, a proverbial call to action, asking if “Web 2.0” actually made sense? And so the Web 2.0 Conference was born. Since then online knowledge production, whether scientific, social, or cultural, has undergone major changes and altered the world we live in. Following the end of the Civil War in 1990, Lebanese civil society activists began tracking this process and integrating it into their pro-freedom, rule of law and social justice agendas. The same cannot be said of the Lebanese government.

Cybersecurity

The cybersecurity lexicon, or glossary of common terminology, of the National Initiative for Cybersecurity Careers and Studies (NICCS), defines ‘cybersecurity’ as follows; “The activity or process, ability or capability, or state whereby information and communications systems and the information contained therein are protected from and/or defended against damage, unauthorized use or modification, or exploitation.” Furthermore, the extended definition defines it as the "strategy, policy, and standards regarding the security of and operations in cyberspace, and encompass[ing] the full range of threat reduction... law enforcement, diplomacy, military, and intelligence missions as they relate to the security and stability of


the global information and communications infrastructure."

In the late 1980’s, the first computer worm was released and ever since the discussions around cybersecurity, internet freedom and internet governance are ongoing. The threats of computer viruses, identity theft, hacker attacks, cybercrime and many other perceived or real threats and dangers have led to numerous acts and bills on the topic. This can be seen as a threat to the internet in that, in many cases, it tends to impede online freedoms and undermines respect for human rights in general.

It is worth mentioning here that respect for existing media laws and internet norms is not necessarily an expression of support of media freedoms. In many cases network hackers have proven to be the true pioneers in promoting advances within the internet community of users. The term “Hacker Ethics” is based on a concept which includes the moral values, the principles and the philosophy of the hacker community. These principles originated at the Massachusetts Institute of Technology (MIT), in the 1950-60s. The term “Hacker Ethics” is accredited to Steven Levy, who is a writer and specialized journalist in reporting on technology, the internet, the web, cybersecurity, privacy and encryption. Levy defined the term “Hacker Ethics” in his book titled Hackers: Heroes of the Computer Revolution, published in 1984; he also considered freedom to access information to be the backbone of these ethics.

Many argue today that on the global scale, human rights issues (whether in real life or online) are more newsworthy than in the past. This means there are more institutions to monitor violations, that many governments and constitutions include human rights in their policies and that social media “watchdogs” are allowed to spread, write on and publish about human rights abuses. The concept ‘cyber

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60 Ibid
61 The Internet Worm, Nov. 1988, or the Morris Worm is considered to be the first computer worm on the internet. It was created as a study to measure the internet by a graduate student from Massachusetts Institute of Technology-MIT. The case is particularly important to media and as the first law breaking conviction in the US under the Computer Fraud and Abuse Act in 1986.
human rights’ is not new and is based on discourse that has existed for a long time, even before the Universal Declaration of Human Rights\textsuperscript{62} However, if one were to ask normal citizens about human rights, how they are implemented and their significance for the internet would those questioned have any idea about their online rights? Even less developed is discourse on the tradeoff between online rights and cybersecurity? How does this play out in a society like Lebanon in which a culture of impunity is the norm and respect for the interests and values of the power elites takes precedence over those of the general population?

**Cybersecurity, Human Rights and Internet Freedom**

In Lebanon there is no law which specifically restricts the internet access individuals, but the government is able to monitor online platforms of private persons or groups. This has been exercised via the Lebanese Cybercrime and Intellectual Property Rights Bureau (under the authority of the Internal Security Forces ISF). The Bureau was established by a service memorandum in 2006 then followed by a decree (nb 17/2008), which was adopted by the Cabinet of Ministers. The bureau officials have the power to call in any person for investigation to their offices (citizens or groups) because of a post published in a blog, or any other form of social media, such as Facebook, Twitter, and the like\textsuperscript{63}...

Many documented cases have illustrated how private users, reporters\textsuperscript{64}, activists and bloggers were contacted because of

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their online activity\textsuperscript{65}. Some argue that limits on the free flow of information and excessive media surveillance are clear indications of a lack of democracy. Proponents of the cybersecurity agenda claim that these controls are necessary to protect the state. The heavy hand of cyber protection has been challenged internationally. Scholars and researchers at home and abroad have determined that “internet censorship” in Lebanon, which can be defined as the suppression, limiting, or deletion of objectionable or many other kind of speech on the internet, is generally on the rise\textsuperscript{66}.

The government’s road map regarding privacy and data protection remains unclear. The Social Media Exchange organization (SMEX) released a report in 2016 in which it maps current mass digital surveillance in Lebanon. The report warns against a data privacy threat in particular via “Biometric passports, IDs and car registration\textsuperscript{67}.” Many local initiatives have highlighted the issue and promoted awareness on the topic of excessive government overreach. Among Lebanese netizens awareness of the threats to freedom of expression emanating from the state, powerful religious institutions and the corporate sector is now well developed. Civil society activists are willing to help revise our policies, improve media literacy, develop public knowledge, and formulate a holistic critical approach toward communication.

Does this critical mindset, however apply to those with whom we, as civil society, disagree diametrically? To return to Voltaire’s sharp criticism of the discourse on free will of his day, are we willing

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to extend the freedoms to which we aspire to friend and foe alike? In reference to Voltaire, Evelyn Hall⁶⁸ wrote, “I disapprove of what you say, but I will defend to the death your right to say it⁶⁹.” Meaning freedom of thought should also be guaranteed for those we hate. If Lebanese civil society wishes to stand on the strong shoulders of the generations of advocates of freedom, justice, and rule of law that went before us, we need to internalize the lessons offered by John Milton, Baruch Spinoza, Thomas Jefferson and all those Lebanese who paid the ultimate for their quest for liberty.

Freedom is not an individualistic enterprise where ‘My freedom ends where your freedom begins.’ According to the Boff: “Therefore, the correct phrase would be: ‘my freedom only starts when your freedom also starts’. This is the lasting legacy of Paulo Freire: we will never be free alone; we only will be free together. My freedom grows to the degree that your freedom also grows, and together we create a society of free and liberated citizens⁷⁰.

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⁶⁸ The English writer Evelyn Beatrice Hall (1956 -1868) was known under her penname.

⁶⁹ S. G. Tallentyre (1906). The Friend’s of Voltaire. London. Smith Elder & CO Waterloo Place. p 199

THE DILEMMA BETWEEN COUNTERING-EXTREMISM AND PROTECTING THE FREEDOM OF EXPRESSION ONLINE

Nadine Mounzer Karam

The Internet has become a necessary communication tool. Emerging statistics and studies are finding that the Internet has become a basic need and is considered as a vital part of life for most human beings just like food and water.

It has indeed become an “empowering tool for individuals and an increasingly indispensable part of citizen’s lives” as mentioned by Argomaniz (2015).

The main and essential features of the Internet remain its ability to share information, knowledge and to allow long distance communication and connections between various individuals, groups and businesses worldwide, enabling the development and growth of the overall economy and new emerging businesses.

However, and despite the many positive effects of the Internet on our world, this tool is considered to be a double edged sword, entailing a number of negative and harmful effects. Being a tool available to everyone, it can be used to spread positivity and growth or negativity and hate. The non-regulatory nature of the Internet has made it an open platform for anonymous individuals, groups and terrorists to spread their hate messages and widen the use of violence and hostility without the need to be limited by any control or regulations (Awan, 2016).

The Use of the Internet for Terrorism Purposes

In fact, quoting former US cyber security czar, Richard Clarke: “Terrorists use the Internet just like everybody else”, Argomaniz (2015). He considers that “thanks to its strength as a communicative tool, the Internet is particularly valuable for militant groups, which can exploit it in a variety of ways including the planning of operations, establishing communications, circulation of propaganda, training and recruiting new members, and raising funds”.

Nowadays, we are witnessing the rise of various groups and individuals looking to exploit and radicalize vulnerable people in their global and destructive plans through social media communication and online propaganda and training. Moreover, the Internet has become one of the easiest and most accessible tools used by terrorists worldwide using new technologies and channels allowing them to operate without any control or restrictions.

As a result, many recent attacks in various cities around the world have been proven to be planned and organized online through social media channels and emails.

**The Freedom of Expression Challenge**

This being said, the media industry remains one of the sectors most influenced by the Internet. The rise of media impact thanks to the Internet has also played a role in the rise of violence and online invitations and facilitations of terrorism. According to Habets (2015), “the expansion of the use of the Internet has changed the media environment, [...] and the challenge is how to explore cooperation between media and governments in a way that ensures that counter-terrorism efforts do not erode freedom of the press.”

How can we limit the use of the Internet by terrorists and control their spread of hate and discrimination while making sure to preserve the fundamental right of freedom of expression? This indeed has become the new challenge facing democracies around the world, and especially those who are directly victimized by the rise of online terrorism.

Many conferences and workshops were organized to answer this question and governments tried to come up with strategies and initiatives, implementing some of the proposed solutions.

Since social media channels have been criticized for their lack of policies in this area, they have taken matters of hate speech and extremism more seriously. They have, each in their own way, chosen to fight hate speech and harmful language, by introducing special rules and procedure. One of the main strategies applied by governments and commissions was to create a partnership with
social media platforms pushing them to tackle these issues head-on and to deal with webpages and individuals promoting such languages.

**Partnering with Social Media Platforms**

The European Union (EU) in particular has been keen on discussing these matters, trying to implement policies protecting against cyber-attacks. Nevertheless, no clear actions have been taken against cyber terrorism or the illegal use of the internet by terrorist groups. Several government agency and group efforts are needed to implement serious legal measures amidst the powerful rise of terrorist groups online. According to Argomaniz (2015) in his article on European Union responses to terrorist use of the Internet, the EU remains “far from solidified and remains in a process of flux, trying to keep pace with a fast-moving picture and attempting to grapple with some tough questions.”

On the other hand, the European Commission is proposing to cooperate with various social media channels and industry leaders on the matter. In an article, published in the Reuters agency titled Facebook signs European Union pledge to suppress loosely defined ‘hate speech’ and promote ‘counter narratives’, Deacon and Kassam (2016) reported that “the European Commission has announced a partnership with Facebook, Twitter, YouTube and Microsoft in order to crack down on what it classes as ‘illegal hate speech’ while ‘criminaliz[ing]’ perpetrators and ‘promoting independent counter-narratives’ that the European Union favors.”

**Obstacles to Removing Violent Content on Social Media**

The aim of these new regulations is to limit the use of hate language and to allow a responsible level of free online language. As a result, many strategic problems were created by this strategy and they are as follows:

**The problem of the large uncontrollable content on Social Media**

Some channels have opted for some sort of liability and control over content being published while others are still refusing to hold any responsibility for content published on their outlets.
Moreover, the matter is even more complicated with global and popular social media channels such as Facebook and Twitter which gather a huge amount of data daily and rely solely on their users to report abusive content. Once reported, the content is reviewed and actions are taken to restrict, block or to remove it.

This being said, social media platforms are trying to create new ways of countering hate speech linked to acts of violence. However, can social media platforms only rely on their users’ reports? Is removing hate speech an effective way of countering violent content? Aren’t these measures a violation of freedom of expression in itself? The main obstacle remains the large, constantly changing and intensively shared content on social media platforms.

**Absence of Clear Concepts and Definitions**

Another problem facing the international community is the absence of clear concepts and definitions of expressions such as “hate speech”, “violent extremism” and “terrorism”. It has become clear that when addressing these topics, many fail to recognize the differences between them and the actions that should be applied facing each one of these offenses.

In their report on Countering Online Hate Speech, Gagliardone, Gal, Alves & Martinez (2015) state that many are now considering the use of the internet for terrorism and radicalization purposes as a crime penalized by law in addition to the use of “hate speech” which “in this context is any form of language used to depict someone in a negative fashion in regards to their race, ethnicity, gender, religion, sexual orientation or physical and mental disability with promotes hate and incites violence”.

However, even when hate speech is defined, it is still not clear what content will fall under this definition. There are no detailed criteria or lists of words or expressions that are clearly related to what is called “hate speech” and therefore banned.

This matter was also discussed at the 2015 Bucharest Workshop organized by the Organization for Security and Co-operation in Europe (OSCE, 2015) noting it as a major challenge for the UN Rapporteur on the Promotion and Protection of Human Rights and
Fundamental Freedoms Countering Terrorism, who warned against criminalizing extreme views because as mentioned by some of the members present: “A number of States are criminalizing views that are considered ‘extremist’, ‘radicalized’ and so on, without including the qualifying element of incitement to violence or hatred” (Council of the European Union, 2015).

**The Issue of Protecting the Freedom of Expression**

As envisaged by Article 19 of the Universal Declaration of Human Rights, “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.”

The UN Human Rights Council has affirmed, in its Resolution 20/8 adopted on 05/07/2012, that the same rights people have offline must also be protected online, in particular the freedom of expression (United Nations Human Rights Council, 2012).

In this regard, the violation of freedom of expression remains the main concern when it comes to content-based bans of hate speech through removing it on different social media platforms. Taking down such content is controversial, particularly when the public criteria upon which the decision was taken is not clear. This being said, it is left to the subjectivity of some people to decide whether to consider content as hate speech or not, and act accordingly.
INTERNET FREEDOM REPORT IN LEBANON

Roula Mikhael

Internet and information communication technology have enabled an enhanced environment of freedom of expression and circulation of information, as enacted in the Universal Human Rights Declaration. The internet has become one of the key tools by which people exercise their right in freedom of expression in this modern information age. This characteristic of the internet complicates internet governance and regulation. Internet should not be governed only by governments who can commit acts such as monitoring, filtering, blocking-and abusing online activists. This might impede the free flow of information and breach privacy and freedom of expression. The challenge is to uphold key principles of internet governance that strengthen the open and free character of the internet and secure the rule of law online and to ensure the balance between freedom, openness and accountability.

Accordingly, states have the duty to enact adequate policies and procedures to guarantee the free flow of information on the internet by enhancing freedom of expression online and abolishing unnecessary and disproportional restrictions on this freedom, such as preventing anonymity or imposing procedures under the pretext of protecting national security and countering terrorism.

This is not the situation in Lebanon. While in principal governments, civil society, the private sector and academia should all jointly be engaging in multi-stakeholder dialogue on internet governance, the Lebanese state has insisted on dealing with the internet as merely a telecommunication service and not as a right of citizens related to freedom of expression. Threats to digital rights are numerous, the absence of a unified vision, coordinating the work of different government actors on how to run the internet sector, and the lack of transparent policies has been applied by the political differences between the operators and management of the internet sector, thus further hindering its development.
Despite the launching of development plans - which ultimately to on the attributes of mere propaganda –the situation remains unresolved. The 2020 Plan, that was released by the telecommunication minister Boutros Harb, did not include tangible milestones to reach the desired goal of having a reliable, open and free internet within the declared timeline until the end of 2020. of the above assessment is based on the experts who were interviewed by Maharat for the production of its report “Internet Freedom in Lebanon” in 2015. Thus, successive authorities have failed, not only in providing the citizens of Lebanon with quality access to internet with affordable costs and fast internet speed, but also to deal with the issue of freedom of expression. The past years have shown an increase in the oppression of online activists. The protection of Lebanese citizens’ privacy was not a priority of the legislative process, and the ministry of telecommunication did not engage the main stakeholders in a dialogue process on internet governance.

**Freedom of Expression Online**

Lebanon is no longer considered as a suitable environment for internet freedom in terms of restraints on content, as is reflected in the demands of activists, journalists, and bloggers during recent demonstrations in front of the Cybercrime Bureau, where they had been forced in the past to sign vows of silence as a condition to being release from detention. This contradicts the principle of freedom of expression and free circulation of information via the internet. There is no current law that protects activists and freedom of expression online. Unlike the journalists, who are members of the editors’ syndicate and thus protected from cautionary arrest as per the publication law, online freedom is not protected. Because of the absence of laws protecting online expression and the lack of awareness at the level of the prosecutors, who do not differentiate between freedom of expression online and crimes committed via the internet, the Cybercrime Bureau has been increasingly infringing on freedom of expression. The bureau’s status is contested and some claim it is actually unlawful because it was merely established by a circular issued by the general directorate of the internal security forces in 2006. To be legal the law regulating internal security
forces number 17/91 stipulates that establishing units assigned to the internal security forces should be established by a decree based on the suggestion of the interior minister. Thus the legal procedures were clearly not followed. This bureau is breaching the constitutionally guaranteed right to freedom of expression through its policies of ongoing rigorous investigation of political activists and journalists, the long hours outspoken critics of government spend in detention and the vows of silence required for release.

Moreover, the attempts of the national council for audiovisual media to extend its powers over electronic websites and the attempts of bringing restrictive internet laws are also significant. The political authorities are constantly requesting to regulate the electronic media, describing the situation as being chaotic and lacking restrictions. Furthermore, serious concerns have been raised after the head of the national council for audiovisual media warned that the electronic websites do not apply for registration at the council or the ministry of information, and considered their proposed registration as a step towards licensing in the future. At the time, the then serving Minister of Information, Ramzi Jreij, supported the free establishment of electronic news website 71.

In order to ensure freedom of expression online, it is therefore important to promote the legal framework that guarantees the freedom of online activists. The draft law proposal introduced by Maharat Foundation, a Lebanese non-governmental organization concerned with media related cases and freedom of expression, is a step in this direction. The draft was introduced into parliament in collaboration by MP Ghassan Mukhaiber as early as 2010. The proposal includes the prevention of detention of political activists and private citizens who expresses their opinion on the internet, in addition to the free establishment of news websites without any kind of licenses.

Online Privacy

Maharat reported in 2015 that the internet user rate in Lebanon was 86%, according to the ministry of telecommunication. Digital privacy is not yet a priority in the legislative process where the laws do not tackle the issue of protecting individual rights to privacy. On the contrary, since 2012, the Lebanese government has been violating the individual privacy rights by providing telecommunications data to the various security departments. The council of ministers has been renewing the authorization to share data of all citizens within the government\textsuperscript{72} despite the many legal complaints lodged against it\textsuperscript{73}.

In addition, a catch-all policy forces internet providers and internet cafes to keep all data related to their internet services. The protection of data is weak, as can be seen in the practice of internet service providers using security software that is not licensed and can be easily hacked. There is no law that specifies how to deal with data.

There is no current law specifically dealing with the protection and treatment of data and no unified and clear vision related to this issue. Thus individuals cannot be sure that their right to privacy is protected because of the absence of laws enforcing online privacy. The Lebanese constitution does not tackle personal data privacy directly, but stipulates that individual freedom is protected by law, stressing the privacy and inviolability of the home. Other provisions ensuring privacy are found in the publication law where it is forbidden to publish court proceedings related to parental relations and its effects on children. However, there is an existing draft law on “Electronic Transactions and Personal Data Protection” that was submitted to the parliament in 2004. Since then, many parliamentary committees have discussed the draft and it was transferred to the


General Assembly in August 2011 only to be withdrawn later for further comments from the government. The government presented a new draft law transferred to the parliament by decree number 9341 and it is still being discussed by one of the committees to date. The part related to data protection in this draft introduces provisions related to the extent of the law’s application, the nature of data, how it should be treated and corrected and introduces penal provisions ensuring the protection of data. The draft law includes general principles and guarantees the protection of personal data related to genetic, health, sexual and related information. It allows plaintiff to file a case whenever privacy is breached and defines the responsibilities of the internet service providers (ISPs). Since this draft has not been adopted yet, the current situation allows many breaches to online privacy to take place.

On another level, a circulation draft numbered 4/2 was issued by the ministry of telecommunication in 19 December, 2015 according to a request from the cassation court prosecutor, stipulating that all providers (ISPs) working on Lebanese territory have the obligation to keep the internet data passing through their servers for at least one year. Data retention was as well requested from the internet cafes without any transparency concerning the reason behind the request or the way the data will be treated. It is important to note that there are no clear norms on how ISPs deal with data and how they protect it, especially that most of them use cracked firewall software’s and rely on unregulated internet. Moreover, the Telecommunication Regulatory Authority, that was initially responsible for ensuring that ISPs are providing good internet quality including the treatment and protection of data, has been suspended by a decision of the administrative court74.

Recommendations

It is necessary to develop a more open vision for the circulation of information in the digital knowledge society, including the right to privacy online, according to principles that secure the pioneering role of Lebanon in protecting freedoms and this should also guarantee the non-adoption of restrictive laws that limit freedom and privacy of internet.

This would put Lebanon on the right track to protect and promote digital rights and develop this vital sector.

The vision developed by Maharat aims at managing the digital information sector, engaging all stakeholders and ministries in the process. The ministry of finance, ministry of administrative reform, ministry of education, ministry of economy, as well as civil society, academics, and the private sector should collaborate in order to increase the investments, enlarge the network and promote embedding new tools. This participatory approach, that includes all stakeholders from civil society, academics, the private and public sectors, thus ensures multistakeholderism in internet governance.
Due to a lack of regulation and accountability practices, censorship of internet activities is on the rise in Lebanon. Online activists, bloggers, and regular internet users are being subject to growing pressure by Lebanon’s censorship authorities; this is severely affecting freedom of expression in Lebanon.

Lebanon has been dealing with censorship of the arts and media for decades. Movies, books, music, theatre, and media sources have been experiencing prior- and post-censorship at the hands of the Lebanese authorities because of political or sexual content. Much of this censorship is executed by the General Security, the Ministries of Information and Interior, and Religious Authorities.

What about internet? Is the cyberspace censored? How can we place the issue of internet censorship in the broader national context?

In fact, Lebanon’s internet was still considered free and uncensored for a long time. Here, Lebanese citizens found a platform not controlled by authorities, where they could freely express themselves, mobilize each other, and conduct campaigns to promote government accountability.

But unfortunately, today the internet is a new target for censors, who are increasingly abusing their power and exerting control over Lebanon’s internet users. Freedom of expression cases related...
to the internet are being referred by general prosecutors to police bureaus (such as the Cybercrime and Intellectual Property Rights Bureau - hereafter referred to as the Cybercrimes Bureau) for investigation. They in turn are summoning regular internet users, bloggers and online journalist for questioning, sometimes using methods that do not respect basic human rights\footnote{Since 2010, more than 28 cases of summoning related to Internet censorship have been accounted for, where people were summoned by the Cybercrimes bureau for practicing their right to freedom of expression. The reason behind censorship is often absurd and does not justify bringing someone in for questioning for an accusation as benign as a page share on Facebook, like it was the case for Karim Hawa, who was questioned by the Cyber Crime Bureau in 2013. Summoned cases are usually denied of the right to know why they are being summoned for investigation; barred from the presence of a lawyer during the preliminary investigation with them; pressured into signing a document in which they commit to never again speak about a certain topic or person, as a condition for their release; For more about the summoned cases, please check the online report “Freedom of Expression Online”-/ Museum of censorship. URL: www.marchlebanon.com/}. Individuals in Lebanon do not enjoy fair representation, proper investigation, or due process before the law. Because they don’t have the right to have a lawyer present at their hearing, they are being robbed of their right to be fairly questioned. By often not being told the reason why they are summoned and by being forced to sign non-legally-binding agreements, the investigating organisms are unfairly misleading the very individuals they are supposed to protect. These are serious violations of democratic principles and basic human rights.

It also clearly violates the Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which state that laws that restrict an individual’s right to freedom of expression or information must be “unambiguous, narrowly and precisely drawn.”

Lebanon’s Cybercrime Bureau was established in 2006 to deal with all developments in the field of telecommunications and the internet. It manages cybercrime, such as child pornography, electronic banking theft and credit card fraud. In addition, it deals with sexual harassment and blackmail over the internet, as well
as monitoring terrorist organizations, such as the so called Islamic State, which are trying to recruit soldiers over the internet.

The establishment of such bureau is of course necessary to combat real online crimes (such as cyber-fraud, cyber terrorism, cyber-theft, child pornography etc.), but instead of focusing on these serious crimes, this institution is increasingly dealing with cases of freedom of expression; The issue here is that Lebanon’s public prosecution has become accustomed to referring any and all internet-related cases to such bureaus, including minor cases of slander, defamation or libel. This means that bloggers, activists, and regular social media users are put in the same category as credit card fraudsters and those conducting terrorism-related activities online.

It is important to note that article 385 of the Lebanese Penal Code has defined slander as “ascribing to a person, even in doubt, something offensive to his honor or dignity.”.

Accordingly, slander means ascribing a defined act that would undermine the dignity, moral reputation and honor of others. Moreover, Article 385 has defined libel as follows: “any word, disrespect or insult and any expression or drawing indicating an offense shall be considered libel in the event it does not involve the ascription of a certain act”. Based on the above, libel means the assault on the dignity, fame or respect of others, without the presence of a defined act.

That said, slander and libel crimes are being committed online (according to the Lebanese Courts).

In this case, they shall be considered as IT crimes which can be investigated by the Cybercrime and Intellectual Property Rights Bureau. Today, Internet is one of the means of publication through which slander and libel crimes can be committed. This means that anyone can be held accountable for each and every word published and written on social media or on the internet in general, should said word constitute slander or libel according to Lebanese law.

It all starts when the public prosecutor decides to refer these
netizens\(^{77}\) to any “bureau” or “government office” or “investigating unit”, be it the Cybercrime Bureau or any other unit dealing with judicial complaints filed by a harmed plaintiff. The complaint should contain the minimum of seriousness and fit the criteria of slander or libel as described above.

We should note that the public prosecutor does not take any action unless a complaint is filed directly by the aggrieved party. The only exception are cases where the crime is committed against the president of the state, in which case public interest litigation is introduced without a complaint by the aggrieved person.

When the case is referred to the Cybercrimes Bureau, an investigation is settled with the defendant. After this phase, the case file is referred to the Public Prosecution to take a decision on whether to follow-up on the case or reject it.

Nevertheless, it is important to point out here, that those accused are commonly subject to “unfair” investigative procedures. This unfairness is caused by a flagrant lack of clarity in censorship procedures and practices due to the lack of regulations and laws with respect to the internet. Whereas freedom of expression is explicitly guaranteed in the Lebanese constitution in articles 8\(^{78}\) and 13\(^{79}\), online freedom of expression is nowhere to be mentioned. To counter the unlawful and unfair practices of internet censorship in Lebanon, new legislation must be implemented. Finally, regulations related to libel and slander must be removed from the penal code and should not be dealt with by the penal laws. Acts related to expression should not be considered crimes, and those who carry

\(^{77}\) According to the Urban Dictionary a netizen is an active participant in the online community of the Internet.

\(^{78}\) Article 8, “Individual liberty is guaranteed and protected by law. No one may be arrested, imprisoned, or kept in custody except according to the provisions of the law. No offense may be established or penalty imposed except by law”.

\(^{79}\) Article 13, “The freedom to express one’s opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association shall be guaranteed within the limits established by law”.
them out should not be considered criminals. On the contrary, if the “limits” of the freedom of expression are unjustifiably crossed, these cases should be considered a civil offense and be investigated in a civil court.
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This publication combines the opinions and insights of scholars and activists bucking the trend towards less freedom and against open competition of ideas in Lebanon. The authors in this volume describe both what we have achieved and stand to lose and the various attempts to undermine rule of law, freedom of expression, and competition.