



Share-Net
Jordan

The Knowledge Platform on
Sexual and Reproductive Health
and Reproductive Rights



Legal Analysis of the Cybercrime Law of 2023 and the Penal Code of 1960 and its Amendments Regarding Information on Sexual and Reproductive Health and Rights

(Summary and Recommendation's)



2024



Share-Net
Jordan
The Knowledge Platform on
Sexual and Reproductive Health
and Reproductive Rights



**Legal Analysis of the Cybercrime Law of 2023
and the Penal Code of 1960 and its Amendments**

(Summary and Recommendation's)

2024



Share-Net Jordan is one of Share-Net International's country hubs, which focus on producing knowledge in the field of Sexual and Reproductive Health and Rights (SRHR). This international network includes non-governmental organizations, researchers, policymakers, implementers, activists, students, media, and SRHR-related corporations. Bearing in mind that reproductive health and sexual and reproductive rights are essential elements of everyone's right to the highest attainable standard of physical and mental health. However, many hindrances can prevent individuals from fully enjoying these rights. These obstacles appear to be somewhat complex and deeply entrenched, most important of which relate to social, economic and legal conditions and factors. These factors have a significant impact on the policy approach to reproductive health and sexual and reproductive rights issues.

This report seeks to elucidate the legal and legislative frameworks relevant to the activities of Share-Net Jordan, making the applicable laws clearer to facilitate their work in reproductive health and sexual and reproductive rights. Additionally, it contributes to the provision of legal awareness with a view to contributing to the legal protection of individuals and institutions from falling into the Legal Prosecution Accountability and helping Share-net Jordan managers and

technical teams avoid potential legal issues that could arise from their activities. Furthermore, this report could be advantageous for healthcare providers in the field by helping them recognize the potential challenges they may encounter while delivering sexual and reproductive health services. Furthermore, it presents valuable information about the legal safeguards available to them in their professional practice.

The primary objective of this analysis report is to thoroughly clarify, explain, and analyse the articles of the Jordanian Cybercrime Law, and the Penal code and its amendments relevant to Share-Net Jordan's activities in reproductive health and sexual and reproductive rights. This involves a comprehensive and in-depth examination of these laws and other relative legislations, and their legal implications for Share-Net Jordan's activities. In this consultation report, the legal approach used was descriptive and analytical, based on the principle of "solving legal issues." This method involves gathering legal information pertinent to each topic, including the constitution, relevant laws and regulations and judicial jurisprudence, the collected legal information's are then accurately and objectively analysed, identifying issues related to Share-Net Jordan's activities, determining potential and necessary legal solutions, and selecting the most appropriate solution for each topic using clear

and concise legal language. The methodology included: conducting a desk review, analysis and revision of the cybercrime law, the penal code and its amendments, and other relevant legislations and regulations, instructions, reviewing previous judicial rulings related to reproductive health and sexual and reproductive rights, and conducting a legal analysis of Share-Net Jordan's activities, in addition to conducting key informant interviews with those responsible for Share-Net Jordan, and consultative meetings with the technical committee formed by the Higher Population Council for this purpose and facilitating a general discussion on legal consultation and analysis. The legal analysis of the cybercrime and penalties laws, along with their amendments, concentrated on the key topics and issues related to the components of reproductive and sexual health and rights, as outlined in the National Strategy for Reproductive Health 2020-2030, which adopts a life cycle approach. The topics and their brief analysis as follow:

- **Inclusion of sexual education in children's educational curricula, the appropriate age and the extent of the comprehensiveness of topics that can be integrated into education services** is one of those topics that currently being addressed in Jordan and the region to increase awareness of children and adolescents of their reproductive and sexual health. The legal

analysis made it evident that the inclusion of sexual education or comprehensive sexuality education is encouraged. Never less is legislatively framed within religious and social values. The intellectual foundations must align with the constitutional principle recognizing Islam as the state religion and the legal principle that views Islam as an integrated value system promoting good values and principles. Islam is also seen as an intellectual and behavioral system that respects human dignity, elevates the status of reason, and encourages knowledge, work, and creativity. It is important to note that this applies to all age groups specified in the educational stages outlined in the Education Law, and the Jordanian legislator regarding the issue of awareness-raising did not restrict the concerned parties to conduct awareness-raising through a specific means.

- **Another issue related to childhood care is promoting milk substitutes for infants in any publication on service provision sites and on social media platforms.**In the instructions for implementing the system controlling the marketing of breast-milk substitutes, the Jordanian legislator emphasized that it is prohibited to do any of the following actions: Marketing any of the following breast milk substitutes for use up to the age of one year for the child: Infant milk formula, Infant foods,

follow-up milk for infants, special formula for infant feeding, complementary foods for infants, any other product approved by the Minister based on the request of the Technical Committee, giving samples of breast milk substitutes (until the first year of the child's life), there are signs related to breast milk substitutes up to the first year of the child's life in any place, marketing any breast milk substitutes through seminars, scientific workshops, conferences, and the like, which are funded by companies that produce artificial milk, or their agents or distributors. Anyone who violates the provisions of this system shall be punished with the penalties stipulated in the Public Health Law. Article (66) of the Public Health Law stipulates that "taking into account any more severe penalty stipulated in any other legislation, anyone who violates any of the following shall be punished by imprisonment from two months to one year or by a fine of not less than five hundred dinars and not more than one thousand dinars, or by both of these penalties." Moreover, circulation of infant formula, special formula, and complementary foods for them unless they are duly approved by the Food and Drug Administration. Any quantities imported or produced locally or cleared from customs centers will be confiscated before they are approved by the specialized committee.

● **Promoting the child's right to freedom of thought, conscience, religion, sexual health,**

adoption, and alternative care for a child deprived (permanently or temporarily) of his family environment, and others where it appears that in 1991, Jordan ratified the International Convention on the Rights of the Child, but it expressed its reservations on several articles in the convention, especially Article (14) related to the right to freedom of thought, conscience, and religion, as well as Articles (20) and (21) related to the system of adoption and alternative care for deprived children. Permanently or temporarily from his family environment. Jordan justified its reservations about these articles because they conflict with the tolerant teachings of Islamic law. However, at the same time, we note that the Jordanian legislator has worked to preserve the basic rights of the child within the society in which he lives, and in this context, many articles have been enacted to ensure that the child lives a decent life in his society.

● **Child marriage and forced marriage:**

The Jordanian legislator decided that the age of majority is the age considered for concluding a marriage contract. However, as an exception to that, it made those who have not reached the age of adulthood able to conclude a marriage contract. The Jordanian legislator stipulated in Article No. (10) of the Personal Status Law that "A - In order to be eligible for marriage, the suitor and the fiancée must be of sound mind and

each of them must have reached eighteen solar years of age. B - Despite what is stated in Paragraph (A) of this article, the judge may, with the approval of the Chief Justice and after verifying the availability of consent and choice, give permission in certain cases. Especially for the marriage of a person who has reached sixteen solar years of age in accordance with instructions issued for this purpose if there is a necessity in his marriage required by the interest...". As for forced marriage, it is not permitted by Jordanian law. This is evident from what is stated in Article (6) of the Personal Status Law, which states: "Marriage is concluded with an offer from one of the suitors or his representative and an acceptance from the other or his representative in the contract council." In addition, the Jordanian legislator has criminalized in the Penalties code anyone who conducted marriage ceremonies or was a party to conducting those ceremonies in a manner inconsistent with the provisions of the Personal Status Law or any other applicable legislation. The same applies to the Cybercrimes Law. We find that Article (26) of the Cybercrimes Law criminalizes anyone who commits any crime that is not stipulated in the Cybercrimes Law and is punishable under any legislation by using the information network, information technology, information system, website, subscription, or Whoever intervenes or incites to commit it shall be punished by the penalty stipulated in that legis-

lation.

● **Another childhood issue is the informed consent procedure for minors especially when undergoing operations.** Minor is legally defined as a child who has not yet reached adulthood, according to the Jordanian Penalties Code (Article 62\2\c): "The law permits: surgical operations and medical treatments that adhere to professional standards, provided they are performed with the consent of the patient, one of the patient's parents, or the patient's legal representative, or in cases of necessity." This provision allows a child's parents to give informed consent for surgical operations and medical treatments, ensuring the child's best interests, right to necessary medical care, and right to life. In addition, Article (2) of the Medical Constitution, Doctor's Duties, and Professional Ethics stipulates that: "Every medical procedure must be aimed at the patient's absolute interest, must have a necessity that justifies it, and be carried out with his consent or with the consent of his guardian, if he is a minor or unconscious. As Article (18) stipulates." However: "If a doctor is called upon in an emergency to provide assistance to an incapacitated patient or who has lost his ability to act and he is unable to obtain legal approval in a timely manner and confirm this at the time, he must carry out the necessary treatment without regard to any other consideration."

● **Premarital medical examination and virginity testing:** Article (4\ة) of the health Law stipulates: “The Ministry of Health, in coordination with the relevant authorities, works to achieve the following: Conducting the necessary medical examination for those wishing to get married. The provisions and conditions related to this examination shall be determined in accordance with the system issued in accordance with the provisions of this law. It is not permissible to Conduct a marriage contract before conducting this examination. Therefore, the law emphasized the necessity of carrying out the pre-marital medical examination by both parties to the marriage contract as a condition for its legal completion, which were regulated by the system Premarital medical examination and premarital medical examination instructions.

Regarding virginity testing there is no legal text in Jordanian legislation requiring this type of examination to be carried out, but the Jordanian Penalties code stipulates that the penalty for crimes of rape and indecent assault be increased if the victim of the assault was infected with a sexual disease or if the victim was a virgin and her virginity was lost.

● **Promotion of abortion services:** Jordanian Fatwa Council on induced abortion, stated that if it is proven that the pregnancy affects and threatens the mother’s life, then it is permissible to

abort the fetus even if the fetus in its mother’s uterus reaches four months or more.

As for the occurrence of deformities in the fetus, if the fetus does not complete four months in his mother’s uterus, and it has been proven that his deformities would make his life unstable, it is permissible to abort him with the consent of the spouse. However, if he reaches or exceeds four months, it is not permissible to abort him, no matter how great the deformities are. The Jordanian Penalties code stipulates the subject of abortion and considers it a punishable crime whether the abortion occurs by the pregnant woman herself or someone else performs it. In the other side, The Jordanian Penalties code stipulates the subject of abortion and considers it a punishable crime whether the abortion occurs by the pregnant woman herself or someone else performs it. The law does not address the distinction as to whether there are punishable abortion cases and other cases that are considered an exception and are not punishable. Thus, the Abortion by law is generally a crime and is punishable (this is contrary to the opinion of the Jordanian General Fatwa Department, which made abortion permissible ^١in specific cases, such as if continuing the pregnancy would affect the mother’s life, as we mentioned), but abortion may acquire legal status if the abortion is for two reasons: the first is that there is a danger to the mother’s life, and the

second is that there is a danger to the life of the fetus, and this must be supported by documented medical reports. The text of Article (321) of the Penalties code states the following: “Every woman who has an abortion using the methods she used or who consents to having someone else use these methods for her shall be punished by imprisonment from six months to three years.” It’s also worth mentioning that there is an aggravating reason for the penalty for abortion up to one third which is derived from the text of Article (325) that if the perpetrator of the abortion crime is a doctor, surgeon, pharmacist, or midwife, the specified penalty shall be increased by an amount of one third.

● **Promoting maternity and family planning services for unmarried women and adolescents:** The Jordanian legislative system does not recognize any relationship between a man and a woman, outside the family institution (marriage), the same applies between either of them or a partner of the same sex. However, we find that the legislation that stipulates the provision of reproductive and sexual health services does not differentiate between married and unmarried men or women. In this regard, it must be noted that the Jordanian National Plan for Sexual and Reproductive Health 2020-2030 and the strategic communication plan in the field of family planning 2019-2023, with regard to family

planning, directed towards the category of married women of reproductive age and the category of married men with the aim of organizing childbirth in their current families and the category of suitors and young people. Of both sexes at the higher school and university levels, with the aim of adopting the concept of future planning for their future families, including reproductive planning (family planning). However, the law doesn’t restrict providing services to married couple only.

● **Promoting performing caesarean sections without a medical reason and based on the mother’s desire, and choosing the gender of the service provider:** Article (62\c) of the Penalties code specified the actions permitted by law, including surgical operations and medical treatments that apply to the principles of technicality, provided that they are performed with the consent of the patient or the consent of one of his parents or legal representatives, or in cases of necessity. This is consistent with what was approved by Article (8/K) of the Medical and Health Liability Law, which stipulates that the service provider is prohibited from performing unnecessary medical procedures or surgical operations for the service recipient without his informed consent. Article (5) of the same law stipulates that the service provider must perform his procedures in accordance with what is required by the ethics of the profession, its accu-

racy and honesty, and in accordance with recognized scientific principles, in a way that achieves the necessary care for the patient and not exploits his need for the purpose of achieving an unlawful benefit for himself or others, without discrimination between Patients and compliance with applicable legislation. As for the gender of the service providers, we refer here to several legal texts related to this principle, including what is stated in Article (8/M) of the Medical Liability Law that: "The service provider is prohibited from clinically examining a service recipient of a different gender than the service provider without the presence of a party." Third, except in emergency cases. What the Juvenile Law stipulates in Article (24\G\4) is that if it is decided to impose a judicial supervision order on a female, the probation supervisor must be a female, and also what Article (10\A) of the Correction and Rehabilitation Centers Management Law stipulates is that it is not permissible Searching the female inmate except by a female police officer.

- **Sterilization:** There is no doubt that permanent sterilization is clearly contrary to the purposes of Islamic Sharia, and thus it is prohibited. However, the Jordanian General Ifta' Department has issued numerous fatwas related to this topic. One of the most important of these fatwas states that "there is no legal objection to birth control if a trusted medical committee reports a confirmed

danger to the mother's life due to pregnancy or childbirth, the death of the newborn, or the presence of physically or mentally ill offspring due to genetic or other reasons. However, if the danger is expected but not certain, it is not permissible to cut off reproduction." Also, Article (14) of the Medical and Health Responsibility Law states that it is not permissible to perform any act or intervention with the intent to cut off a woman's reproduction, except with her written consent and based on an opinion from a specialized medical committee composed of at least three specialists, with the exception of emergency cases. It is noted that this text does not include men and excludes emergency cases without specifying them in particular. Article (21) of the Medical and Health Responsibility Law imposes a penalty on anyone who violates the provisions of Article (14) mentioned above. Similarly, the Cybercrime Law in Article (26) criminalizes anyone who commits any crime not specified in the Cybercrime Law but is punishable under any legislation using information networks, information technology, or an information system, or participates in, intervenes, or incites its commission, and they are punished with the penalty specified in that legislation.

- **Emergency contraception:** Regarding emergency pills, it is clear to us that it is prohibited to trade or prescribe any medicine or drug that has a

therapeutic quality in Jordan unless it is registered and the appropriate decision is taken regarding its pricing and issuing a registration number for it. Therefore, the issue of Determining the legality of circulating any medicine or therapeutic drug in Jordan depends on its approval by the Food and Drug Administration, and this does not happen according to Jordanian legislation except after the medicine or drug has gone through a series of procedures, research and steps specified by Jordanian legislation.

● **Sexually transmitted diseases, especially HIV/AIDS optional reporting and determinants of treatment:** the analysis revealed that there are several legal dimensions which are important in the case of sexually transmitted infections. For example; (301) of the Penalties code increases the penalty for felonies (rape and indecent assault) if the assaulted person becomes infected with a sexual disease, or the victim was a virgin, so her virginity was removed or if one of the felonies leads to the assaulted person contracting /an acquired immunodeficiency virus and the perpetrator knows that he is infected with this disease, then the penalty shall be life imprisonment. We point out here that the law has punished those who caused the transmission of the disease as a result of sexual acts, and did not address cases of transmission of the disease as a result of

concealing information from the doctor or medical staff, leaving that to judicial jurisprudence, which considered this a crime of harm and punished it according to the disease that was transmitted and the harm that was caused to the victim. in addition, and related to the consequences on marriage, Article (116) of the Personal Status Law stipulates that: “If it appears to the wife before or after consummation that the husband is afflicted with an illness or disease that cannot be resided with without harm, such as leprosy, tuberculosis, syphilis, or AIDS, or such illnesses occur, she can request separation from the judge. Article (19/A) of public health law stipulates that: A person infected with a contagious disease shall be isolated, and the isolation shall be in the manner determined by the doctor in such a way as to prevent the exposure of others to infection with the disease. Article (20/A) of the law requires every doctor who supervises or participates in the treatment of any person infected with a contagious disease to inform the director in his area about the infection or death of this disease within twenty-four hours of its occurrence. However, if the disease is serious or spreading in the form of an epidemic, then notification shall be immediate. The provisions of this paragraph also apply to the medical laboratory official who discovered this disease. (Public health law).

● **Using assisted reproductive technology and its restrictions (insemination/in vitro fertilization):** The decision of Fatwa Council in the General Fatwa Department regarding artificial insemination, decided “that if the insemination was with the husband’s water and his wife was inseminated with it, then it is permissible out of necessity if marital circumstances require resorting to it under conditions and rules that guarantee the integrity of the lineages, as extreme caution must be taken in preserving this. Accordingly, it becomes clear that there are several controls for the permissibility of performing artificial insemination or using assisted reproductive technology, which can be concluded, and they are as follows:

- 1- Artificial insemination must be between spouses: The provisions of Islamic Sharia do not approve of any relationship between a man and a woman within the framework of forming a family except through the marital bond.
- 2- Artificial insemination takes place once the marital relationship is established.
- 3- The couple’s satisfaction with the artificial insemination procedure.
- 4- The purpose of artificial insemination is to treat infertility or infertility.
- 5- The practice of artificial insemination by specialized and licensed centers.

It should be noted that artificial insemination or

assisted reproductive technology has not been regulated by the Jordanian legislator through legislation dealing with this important and sensitive topic for many people. Perhaps this becomes a reason for what is noted in the text of Article (13) of the Medical and Health Liability Law that it does not stipulate Any penalty for the case mentioned in Article (13) thereof.

● **Surrogacy and use of donor eggs:** The General Jordanian Fatwa Department did not permit using surrogates. This was stated in Fatwa No. (553) dated 3/18/2010 AD, regarding the ruling on taking an egg from a wife and implanting it in the uterus of her co-wife. This fatwa stated: “In vitro fertilization is not permissible except when necessary. In order for it to be permissible, it is required that the egg and sperm be from both spouses, and that the fertilized egg be implanted in the uterus of the wife who owned the egg. It is not permissible under any circumstances for it to be implanted in the uterus of another woman, even if it is the uterus of another wife of the same husband, because of the legal and moral evils that such an action would entail. a lot". It was also stated in Fatwa Council Resolution No. (211) dated 12/28/2014 AD that: “It is not permissible to implant a fertilized egg from one wife into the uterus of the other wife, due to the Sharia and legal problems it entails in determining the real mother as to whether she is the

owner of the egg or the donor mother. Using a uterus and using donor eggs is forbidden, insults women's dignity, puts the fetus at risk, and even threatens family lineages and creates difficult problems in societies. It is also noteworthy that the Jordanian Ministry of Health prepared a draft law for the use of modern medical techniques to assist in reproduction in 2009. This draft included Article 11/c, which prohibits the use of another woman's uterus for embryo implantation. Anyone who violates this provision is subject to imprisonment for no more than two years and a fine of not less than two thousand dinars and not more than five thousand dinars. However, this law has not been approved yet and has not come into effect. Therefore, legal matters related to this subject remain governed by relevant existing legislation.

- **Sterilizing people with disabilities such as hysterectomy:** Hysterectomy of mentally disabled women has existed for a long time in Jordan, and families usually consider the step a precautionary measure to protect the girl from any consequences of any sexual assault, while ambiguity prevails in official statements amid demands for legislation to control the phenomenon. The Fatwa Council of the General Fatwa Department decided in its Resolution No. (194) (2/2014 AD) that: "It is not permissible to undertake the removal of an organ created by God

Almighty in human except in pathological cases that can be treated by this operation. As for those with disabilities or mental illness, we do not see, this type of operation is permissible for them, because of the violation of God's creation, the health risk of surgery, and the negative effects that facilitate assault and harm to these girls. It is also noteworthy, that the directions of the Christian and Jewish religions are consistent with the position of Islamic law in this regard. In addition, The Penalties code stipulates harm that leads to illness or disability for more than 20 days in Article (333), which stipulates that: "Anyone who intentionally strikes, wounds, or harms a person by any effective act of violence or assault that results in illness or disability from work for a period exceeding for twenty days, he shall be punished with imprisonment from three months to three years, and the minimum penalty shall be one year if the perpetrator uses a weapon".

- **Female Genital mutilation and Male circumcision:** There is no prohibition in Jordanian national laws against female genital mutilation or cutting (such as circumcision) in specific. However, it is not practiced in Jordan, whether within Jordanian local customs and traditions or religious ideological heritage, but it is not the same for males, as it is practiced for them in Jordan (especially during the period Childhood) due to its connection with the religious doctrinal heritage.

Although the mutilation of any part of the body with the intention of harm is considered a crime punishable by the Penalties code (as we mentioned previously), there is no special text criminalizing the mutilation.

● **Promotion of homosexuality and the lesbian, gay, bisexual, queer, transgender, intersex and others (LGBTQIA +) community:** On the legal level, the sexual behavior of the lesbian, gay, bisexual, transgender, and intersex group is not criminalized in Jordan in itself or in particular, but at the same time, the lesbian, gay, bisexual, transgender, and intersex group can be prosecuted judicially in Jordan, such as the rest of the citizens, if the sexual act is accompanied by activities classified as crimes, such as outraging public modesty, violating public morals, morals, and public order, or sexual violence without the consent of a homosexual, or their participation in pornographic or obscene photography, or the practice of debauchery and prostitution, or the presence of males among them in public places designated for women. But according to the Islamic doctrine which is the official religion in the country, it is forbidden to promote or call for anything that contradicts what has been decided in the Islamic doctrine and Islamic jurisprudence, which is unanimously agreed upon and known by the religion by necessity, and is contrary to the moral values that are based on It

is imposed on Muslim societies, as a result, from a religious, moral, societal and legal perspective, the following are rejected.

- 1) Rejecting, legalizing, defending and encouraging homosexuality among segments of society.
- 2) Refusing to permit adultery under any name (such as sexual activity outside of marriage) .
- 3) We categorically reject the expansion of abortion and its availability without acceptable medical reasons.

It is worth noting here that despite the existence of the legislative principle stipulating that (there is no crime or punishment except by a text) and what appears from its application, consensual homosexual acts cannot be considered a crime or punishable acts if they are committed by adults over eighteen years of age, in a place of their own and without financial return, regardless of their gender, whether one of them is male or female, or their sexual orientation. However, The existence of this legal principle does not mean at all allowing public homosexual manifestations and activities or allowing the establishment of private associations or clubs for groups of lesbians and gays and bisexual, transgender and intersex also and does not mean allowing the publication of calls for and programs to gain support for them, or include promoting them and their social activity in the press and media, or in universities,

cultural clubs, or schools, because all of these are governed by other standards and laws of their own, and most of them derive their reference from the tolerant Islamic law and the Islamic religion, which is the official state religion and one of the most important sources of Jordanian legislation that It aims to preserve the family and society, and not to mention the lack of acceptance of homosexuality in Jordan socially, religiously and culturally.

For example, Jordanian law allows the police and administrative rulers to prevent the organization of activities for LGBTQIA + communities to protect order, public peace and public morals. The Public Meetings Law gives the administrative governors of the Ministry of Interior entrusted with its implementation discretionary authority through the Crime Prevention Law to prevent any activity for LGBTQIA + community if it was a meeting, celebration, or campaign, or program to gain support for the same considerations mentioned above. Moreover, regarding “Bisexuals” that the Jordanian Civil Status Law recognizes only two social genders, namely (male and female), and this is clear from the provisions of Article (15) of the law. The penalties code also punishes, under the text of Article (319), any violation of public morals and morals, such as pornographic materials. Whether that is trading, displaying or advertising any obscene

material, or managing or participating in the management of a store that sells, publishes, or displays obscene things, whether printed, manuscripts, photographs, drawings, models, or any other things that may lead to corruption of morals and also included in this regard sexual pleasure items as sex toys. The penalties code criminalizes prostitution and acts of incitement to debauchery. As for the Cybercrimes Law, one of the penalties the one included in Article 13 ; A- 1- Anyone who sends, publishes, prepares, produces, saves, processes, displays, prints, buys, sells, transfers, or promotes pornographic activities or works using the information network, information technology, information system, or website shall be punished with imprisonment for a period not less than for six months or a fine of no less than (3,000) three thousand dinars and no more than (6,000) six thousand dinars .

● **Mandatory reporting of SGBV and the legal impact regarding GBV and SAE:** Article (4) of the Law on Protection from Domestic Violence does not oblige service providers (including health and sexual care service providers such as doctors and nurses) to report crimes of domestic violence committed against fully competent persons over the age of 18, which constitute a misdemeanor. But reporting is mandatory for the

incapacitated or incomplete capacity. As for Article (207) of the penalties code, anyone who, while practicing a health profession, provides first aid to a person who appears to have been charged with a felony or misdemeanor, is obligated to inform the relevant authorities. Thus, health care service providers (workers in the health sector) are obligated to report crimes under the penalties code. Regardless of the age, legal capacity of the victim, or type of violence. Article (13) of the Cybercrime Act states: "1. Anyone who sends, publishes, prepares, produces, maintains, processes, displays, prints, buys, sells, transmits or promotes pornographic activities or works using the information network, information technology, information system or website shall be liable to imprisonment. 2. Prosecution for the offences provided for in section (1) of this paragraph shall be carried out on the complaint of the victim, who has completed the right of 18 years. If the purpose of the acts provided for in section (1) of this paragraph is to direct or incite the commission of an offence or with the intention of sexual exploitation, it shall be pursued without the need for a complaint. The penalty shall be a term of imprisonment of not less than one year and a fine of not less than (6000) dinars and not more than (15000) dinars". Article (14/b) of the Act also criminalizes anyone who uses the information network, information technology or information

system or establishes a website to facilitate, promote, incite, assist or incite prostitution, debauchery, solicitation of another person or exposure to public morals. for the exploitation of prostitution by persons under 18 years of age or by persons with symptoms of psychiatric illness or mental.

- **Defamation and invasion of privacy:**

The concept of privacy is linked to a person's entity or his private space through which he seeks to protect his private feelings, thoughts, and secrets as an embodiment of his individual being. The right to privacy has been protected from the danger of electronic means in many Arab legislations, such as in the Jordanian Cyber-crimes Law, which stipulates in Article (26) of the criminalization of anyone who commits any crime punishable under any applicable legislation by using the information network or any information system or a website, and Article (348) of the Jordanian penalties code stipulates the criminalization of anyone who violates the privacy of others by eavesdropping on sight or hearing by any means, including audio recording, taking pictures, or using binoculars.

- **Circumventing the Internet Protocol address (IP Address):** The Jordanian legislator views protocol address fraud as a purely Cyber-crime that harms the security of individuals and countries. The perpetrator uses the fake address

to commit any crime or to hide his personal data. Article (12) of the Cybercrimes Law criminalizes circumvention of the protocol address, as it stipulates that: “Anyone who circumvents the protocol address by using a fictitious address or an address belonging to a third party or by any other means with the intention of committing a crime or preventing its discovery shall be punished by imprisonment for a period of not less than six years.” months or a fine of no less than (2,500) two thousand five hundred dinars and no more than (25,000) twenty-five thousand dinars. “One of the most important things to note about the legal limits and applications of this article is that it may appear that it prevents individuals and institutions from hiding their personal identity and not revealing it on the Internet, which may help them express their opinions frankly and clearly and without fear of revealing their identity, but Article (12) stipulates for the crime to be committed, the intent of circumventing the protocol title is to commit a criminal crime, and therefore the freedom of individuals in their right to hide their identity is not infringed as long as this is done in legitimate ways and for purposes and reasons not criminalized by law.

Recommendations

Alternative solutions to disseminate or produce (RESTRICTED) reproductive and sexual health information

After reviewing many of the best legal practices in many countries regarding dealing with the legal aspect of publishing or producing reproductive and sexual health information (especially countries that face many legal and legislative restrictions), and in addition to what was mentioned previously, some alternative solutions can be proposed for publishing or producing reproductive and sexual health information as follows: -

1- Raising awareness of legal risks and disseminating information on how to protect against prosecution (for individuals and institutions) and the limits of legal prosecution with regard to elements of reproductive and sexual health. This is to make it easier to avoid the pitfalls of legal prosecution while at the same time maintaining the smooth flow of work.

2- Building support networks aimed at enhancing solidarity and cooperation between individuals and institutions working to disseminate and produce reproductive and sexual health information in order to identify and share information that is not covered by criminal legal texts. This is within the applicable legal and legislative frameworks.

Topics or words in the field of reproductive health and sexual and reproductive rights That should be avoided during digital and non-digital correspondence

In general, any topics or words that might be considered offensive, embarrassing, or discriminatory should be avoided when discussing reproductive health and sexual and reproductive rights. It is also necessary to avoid everything that violates Jordanian national laws (as stated previously, especially in Clause (5) of this consultation), as well as what conflicts with public order, public morals, and public morals that constitute the religious and social values in Jordanian society.

Some examples of topics to avoid include:

- **Sexual practices:** Avoid going into details about personal sexual practices or promoting unsafe, immoral, or illegal practices.
- **Sexual health:** Avoid using obscene or offensive language when talking about sexual health, such as using slang, insulting or offensive terms, or using materials and tools that involve sensitive sexual areas of the human body.
- **Abortion:** Avoid expressing negative or judgmental opinions about abortion that conflict with national laws, especially if you do not know the other person's position, such as promoting “illegal” abortion.
- **Childbirth:** Avoid sharing explicit photos or video clips of the birth process without the consent of the person concerned, in a way that exposes private parts or shows the physical areas

of sensitive sexual organs, the display of which is considered indecent and a dissemination of what violates public morals (according to the Jordanian Penalties code).

- **Sexual orientation:** Avoid using discriminatory or derogatory terms when talking about sexual orientation, such as using terms such as “gay” or “lesbian” in a negative way. At the same time, respecting and taking into account religious and social values (established in the Jordanian Constitution and national legislation) in this regard, as stated previously in Clause (5) of this consultation.

- **Disability:** Avoid using discriminatory or derogatory terms when talking about disability when talking about the reproductive and sexual health of people with disabilities.

Instead, you can focus on:

- **Providing accurate and reliable information:** Ensure that information is obtained from reliable sources such as international health organizations or specialized health experts. In accordance with the national legislative system.
- **Use respectful and comprehensive language:** Use respectful and objective language that avoids any discriminatory or insulting terms or that infringe on the religious and social values prevailing in society and are not consistent with the Jordanian penal philosophy and the national

penal legislative approach.

- **Focus on people's experiences:** sharing positive and inspiring stories of people who have faced reproductive, sexual and reproductive health challenges. Taking into account avoiding disdain for the religious and social values prevailing in Jordanian society.
- **Creating a safe space for dialogue:** by encouraging open and honest dialogue about reproductive, sexual and reproductive health, and respecting everyone's opinions, taking into account that some restrictions can be imposed on this, provided that these restrictions are defined by the text of the law and are necessary:

- To respect the rights or reputations of others.

- To protect national security, public order, public health or public morals.

In general, the legal complications resulting from digital and non-digital correspondence and consequently the potential restrictions on freedom of opinion and expression and access to information in relation to them can be summarized, which in their entirety are either related to national public order, public security/safety and public morals, or to the rights of other individuals and their reputations.

The first challenge for individuals' rights is the disclosure of confidential information, specifically those related to trade secrets or private life, for instance. by employees or others on social media. The second challenge is the unauthorized use of trademarks on social media, which may create legal liability due to trademark infringement or unfair competition. Social networking sites have policies for reporting infringement of intellectual property by its owner against those who may adopt it as a username or something similar. The third challenge is when users use materials protected by intellectual property laws, such as texts, music, images, video, or source code, which are copied from other sites. Contents that are open to the public, such as open-source code, may be subject to conditions and must be referred to their owner. The fourth challenge is the issuance of comments and statements on social media that include defamation or slander against a person, official body or social entities, which imposes criminal legal liability on the source of the offensive expressions, and the (anonymity) of the name does not constitute an obstacle to prosecution, as the perpetrator can be tracked through IP digital addresses and other technical means. It should be noted that comments, messages and statements on social media are shorter in length and therefore open to more misinterpretation than emails and written texts. The fifth challenge is the violation of the

privacy of others through photos, films, and comments published on social media sites, as well as employees in companies, especially in the health sector, violating privacy rules, such as disclosing information about the patient's health status on social media.⁽¹⁾

How can the share-netplatform continue to produce and distribute information and materials related to reproductive health and sexual and reproductive rights

We find that the Cybercrime Law subjects the information network, information systems, information technology means, social networking sites and their users to its provisions, which, in addition to the crimes mentioned in the law itself, also criminalizes anyone who commits any crime that is not stipulated in the Cybercrime Law and is punishable under any legislation using the information network, information technology, information system, website, or who participates in, intervenes in, or incites to commit, shall be punished with the penalty stipulated in that legislation. In general, in order for Share-Net Jordan to be able to produce and distribute information and materials related to reproductive and sexual health, it must be noted that while the law approves the freedom to spread the word through modern social networking sites, this freedom is

not absolute, but is restricted by a set of restrictions and controls. Failure to comply with it is considered a crime, and the publisher becomes subject to criminal liability. These controls can be summarized as follows:

1. Ensure the sincerity of the information, investigate accuracy and integrity in transmitting it, and obtain it by a legitimate way. from a reliable source.
2. Not to mislead and spread heresy and misguidance, or broadcast false news, rumors, or inflammatory propaganda that harms the general interest of society, or does not take into account the Islamic principles prevailing in society.
3. Expressing and publishing an opinion should not be an infringement on the freedoms of others. Opinion holders are free to the extent that they do not harm and endanger others. Be wary of any word that causes harm to society and its religious and social values.
4. Freedom of opinion through social networking sites must be moderate, neither excessive nor negligent, but rather allows for subjective and objective criticism, far from differences and lies.
5. Withholding any information that harms the public interest and preserving one's private life from others. Strive for honesty, integrity, and

1) Crimes of social media platforms, Adv. PhD. Ramzi Al-Dabak, previous reference, p

honesty. It is imperative to investigate and understand information before relying on opinion. (2)

Referring to the National Population Strategy 2020-2030 prepared and approved by the Higher Population Council, we find in the third axis (sexual and reproductive health and health axis), specifically the goals of the sexual and reproductive health and health axis, the general third goal of achieving health well-being and the sub-goals emanating from it, which are: (Achieving universal health coverage and comprehensive health insurance, ensuring access to sexual and reproductive health information and services, promoting healthy lifestyles, raising awareness about dealing with health crises), We find in this a wide scope provides Share-Net Jordan producing and distributing information and materials related to reproductive health and sexual rights. Emphasizing that any production and distribution of information must comply with the provisions of Article (33) of the Cybercrimes Law, which granted to the public prosecutor or the court when the information system, website, or service provider is established inside or outside the Kingdom or the social media platforms or the person responsible for any account, public page, public group, channel, or similar powers that we mentioned previously when publishing any materials that violate the provisions of the law or legis-

lation in force in the Kingdom. (In line with what we explained in clause “5” previously).

Encrypted messages or virtual private networks (VPN) used to circulate information

As previously indicated, the Cybercrime Law criminalizes circumvention of the Protocol's address but requires that the elements of criminality be complete that the circumvention is intended to commit an offence or prevent its detection, in the sense that the circumvention of the Protocol's address is intended to commit a criminal offence and therefore does not prejudice individuals' freedom to conceal their identity as long as it is done legitimately and for purposes and for reasons not criminalized by law.

However, with regard to personal data as defined in the Personal Data Protection Law, concealment of identity is considered “processing,” and the law has required obtaining the prior consent of the person concerned or in cases authorized by law. The law stipulates that prior approval must be explicit and documented in writing or electronically, it is specific in terms of duration and purpose, the request is in clear, simple, non-misleading language and it can be easily accessed. The approval of one of the parents or guardians of the person who does not have legal capacity, or the approval of the judge upon the request of the organizational unit responsible for

2) Criminal liability for those who spread rumors through social networks (a jurisprudential study), Sirin Jaradat and Muhammad Al-Qudah, Jerash Journal for Research and Studies, Issue (1) for the year 2019, p. 100.

protecting personal data in the Ministry of Digital Economy and Entrepreneurship if the best interest of the person who does not have legal capacity requires that. It is worth noting here that the law stipulates that processing is considered legal and legitimate and may be performed without obtaining prior approval or informing the person concerned if it is necessary for preventive medical purposes, medical diagnosis, or providing health care by someone licensed to practice any of the medical professions. However, the processed data may not be retained after the purpose of the processing has ended unless the legislation stipulates otherwise.

It can be said that freedom of expression in social media finds its limits, especially in the national penal provisions in each country, when this expression is criminalized and constitutes a penal offense punishable by law. Therefore, actions that use social media in terms of posting photos, making statements that hurt others, or deleting the comments on social media are evaluated in light of traditional legal principles. However, some dispute the possibility of applying legal rules to what is published on social media, which were not originally developed to govern these media. Although freedom of opinion is protected by law, there is an opinion that is not protected if it contains obscenity, impudence, defamation, slander, speech that complements criminal activ-

ity, offensive (offensive) words, child pornography, fraud, or real dangers. Therefore, it can be prevented through the policy of using social media within the institution, without prejudice to the principle of freedom of opinion and expression. In this regard, the European Convention for the Protection of Human Rights and Fundamental Freedoms ⁽³⁾ stipulates in Article 10, Section 2, that the exercise of freedom of opinion and expression may be subject to (formalities), conditions, restrictions or penalties as stipulated in the law and necessary in a democratic society. ⁽⁴⁾

Therefore, using any means of circumventing the protocol address to commit or conceal a crime is considered a crime under the Cybercrime Law and is therefore subject to legal prosecution. As we stated previously with regard to personal data, the Jordanian legislator considered concealment of identity to be part of the "processing" of data and considered it criminal if it was carried out in ways other than what the law required for its validity.

The utilization of The shadow ban to social media accounts if any of the restricted or prohibited topics are published online

As we stated previously, according to the Jordanian Cybercrime Law, only the public prosecutor or the court can (and when an information

3) European Convention on Human Rights, Convention for the Protection of Human Rights within the Council of Europe, Rome on November 4, 1950. Article (10/2).

4) Crimes of Social Media Platforms, Adv. PhD. Ramzi Al-Dabak, op. cit. Pages 91-94.

system, website, service provider inside or outside the Kingdom, social media platforms, or the person responsible for any account, public page, public group, or channel or something similar by publishing any materials that violate the provisions of the law or legislation in force in the Kingdom "restricted or prohibited topics", issuing an order to those in charge of them) to take any of the following measures: -

1- Remove, block, stop, disable, record, intercept the flow of data or any publication or content, prevent access to it, or block the user or publisher temporarily during the period specified in the decision.

2- Providing them with all the necessary data or information that helps reveal the truth, including the data of the owner or user of the website or information system that helps determine his identity and conduct legal prosecution.

3- Urgent preservation of data and information necessary to reveal the truth, store them and maintain their integrity.

4- Maintaining confidentiality.

It is pertinent to mention that there is a legal responsibility of the Internet service provider, which is that it must implement the decisions of the Public Prosecutor as well in relation to the above case by stopping the access of the fake or stolen protocol address to the Internet, and that

the service provider must provide the necessary data to detect the perpetrator, provided that If he fails to carry out these duties and others stipulated in Article (33), the penalties stipulated in Paragraph (C) of that Article will be imposed, which means that the service provider will fall under criminal liability as well as the related civil liability as a result of his failure to implement the provisions of the Cybercrime Law.

The shadow ban on content on social media platforms is subject to their own usage policies.

The share-net jordan plat form publish information through share-net international or through other channels outside jordan instead of publishing it on its website and communication channels

As we mentioned previously, with regard to personal data, what applies to Share-Net Jordan's activities in terms of publishing data necessarily applies to Share-Net International. The Personal Data Protection Law, when defining the responsible person, states that it is: Any individual or legal entity, whether inside or outside the Kingdom, shall have the data in his custody. He also defined the recipient as: any individual or legal entity, whether inside or outside the Kingdom, to whom the data is transferred or exchanged with the responsible person. Accordingly, any dissemination of information that involves processing within the meaning of the law is prohibited under

the Personal Data Protection Law unless it is carried out in accordance with what is permitted by the law itself.

As for publishing information, news, or other such information in general, it is governed by the provisions of the Press and Publications Law - which were stated previously -, but it must be noted that any publication that includes anything that violates Jordanian National laws and regulations will, as a result, affect Share-Net Jordan, whether that is Share-Net International or Share-Net Jordan, we find that Article (7) of the Press and Publications Law gave freedom of thought and opinion, and made it a right for the citizen and the journalist, with no difference between them, as in Paragraph (7/B),), but it referred to morals (ethics) that a journalist must adhere to so that the published opinion is not a rumor leads to liability, as in Paragraph (7/A), which indicated to refrain from violating privacy, as this is a method of spreading rumors (defamation), and in Article (49 \f) “The electronic publication, its owner, its editor, and the writer of the journalistic material, when it violates the provisions of this law, shall not exempt the writer of the comment from legal responsibility in accordance with the legislation in force for what was stated in his comment.”

Here we should point out that any publication that affects security and public order is necessar-

ily a reason for legal accountability and punishment in the Cybercrime Law, and that includes publication that affects religious and family values, and the clearest form of it is publishing topics that insult religions, religious beliefs, family values, and private life, and we find that in the text Article (17) of the Cybercrime Law punishes anyone who intentionally uses the information network, information technology, information system, website, or social media platform to spread sedition or strife, or to target societal peace, incitement to hatred, advocacy or justification of violence or disdain religions. Among the most important values of society protected by the law are the religious and social values derived from the teachings of the true Islamic religion and stipulated in the Jordanian Constitution in Article (6/4) that: The family is the foundation of society, based on religion, morals, and love for the homeland. The law preserves its legal entity and strengthens its bonds and values. With regard to publishing information that violates public order and public morals, it should be noted that the text contained in the Cybercrime Law, Article (14/A), does not require that the person publishing that information necessarily be the creator of the website. Rather, the element of criminalization may be achieved by (using) the information network or information technology or the informa-

tion system, such as sites that may be magazines, forums, or other sites that undertake the work of publishing, or creating a website to facilitate, promote, incite, assist, exhort, seduce, or violate public morals, all of which falls within the limits of criminality. Scientific, artistic, educational or other purposes are not excluded from this.

The penalty for association with speech transmitted by automated electronic means and the instigator or intervenor is in the Penal code article (77) which stipulates that: “The two partners in the crime committed by speech transmitted by mechanical means as stated in the second paragraph of Article (73) or in the crime committed by one of the means mentioned in the third paragraph of the same article are the author of the speech, writer and the publisher, except that the first proves that the publication occurred without his consent.”⁽⁵⁾

Article (81) also stipulates that: “The instigator or accomplice shall be punished:

1. A. Imprisonment for life or a period of twenty-five years if the perpetrator is sentenced to death.

B. The same penalty if the perpetrator's penalty is

life imprisonment or life imprisonment.

2. In other cases, the instigator and accomplice shall be punished with the same penalty as the perpetrator after the penalty is reduced from one-sixth to one-third.

3. If incitement to commit a felony or misdemeanor does not result in a result, the penalty specified in the previous two paragraphs of this article shall be reduced by one third.

What is useful from the text of Article (33) of the Cybercrime Law when an information system, website, service provider inside or outside the Kingdom, social media platforms, or the person responsible for any account, public page, public group, channel, or anything similar publishes any Materials that violate the provisions of this law or the legislation in force in the Kingdom, the Public Prosecutor may remove, block, stop, disable, record, or intercept the flow of data or any publication or content, prevent access to it, or block the user or publisher temporarily.

5) Article (73) of the Penal code stipulates forms of publicity, and they are considered means of publicity: 1 - Actions and movements if they take place in a public place or a place open to the public or open to view, or they take place in a place that is not one of the aforementioned places, but they take place in a way that can be seen by any person. A person presents in the aforementioned places. 2- Speech or shouting, whether spoken aloud or conveyed by mechanical means, so that in both cases it can be heard by someone who has no involvement in the act. 3- Writing, drawings, manual and photographic images, films, badges, and various pictures, if they are displayed in a public place or a permissible place. To the public, or displayed for public viewing, sold, offered for sale, distributed to more than one person, or published by electronic means that enable the public to read or view it without restriction.

Share-Net Jordan

The Knowledge Platform on
Sexual and Reproductive Health
and Reproductive Rights




<https://share-net-jordan.org.jo/>

 <https://www.facebook.com/shareNetJordan>

 <https://twitter.com/shareneto>

 https://www.instagram.com/share_net_jo/

 <https://www.linkedin.com/in/share-net-jordan-9703a41a1/>



Amman - Madena Monawara Street
Faeg Haddaden Street, Building No. 13

Tel: 00962 6 5560748

Fax: 00962 6 5519210

P.O.Box 5118 Amman 11183 Jordan

www.hpc.org.jo

 [Facebook.com/hpcjo](https://www.facebook.com/hpcjo)

 [Twitter@HPC_jordan](https://twitter.com/HPC_jordan)

 [Youtube.com/hpcpromise](https://www.youtube.com/hpcpromise)

 [linkedin.com/in/hpcjo](https://www.linkedin.com/in/hpcjo)

 <https://www.instagram.com/Hpcjo>