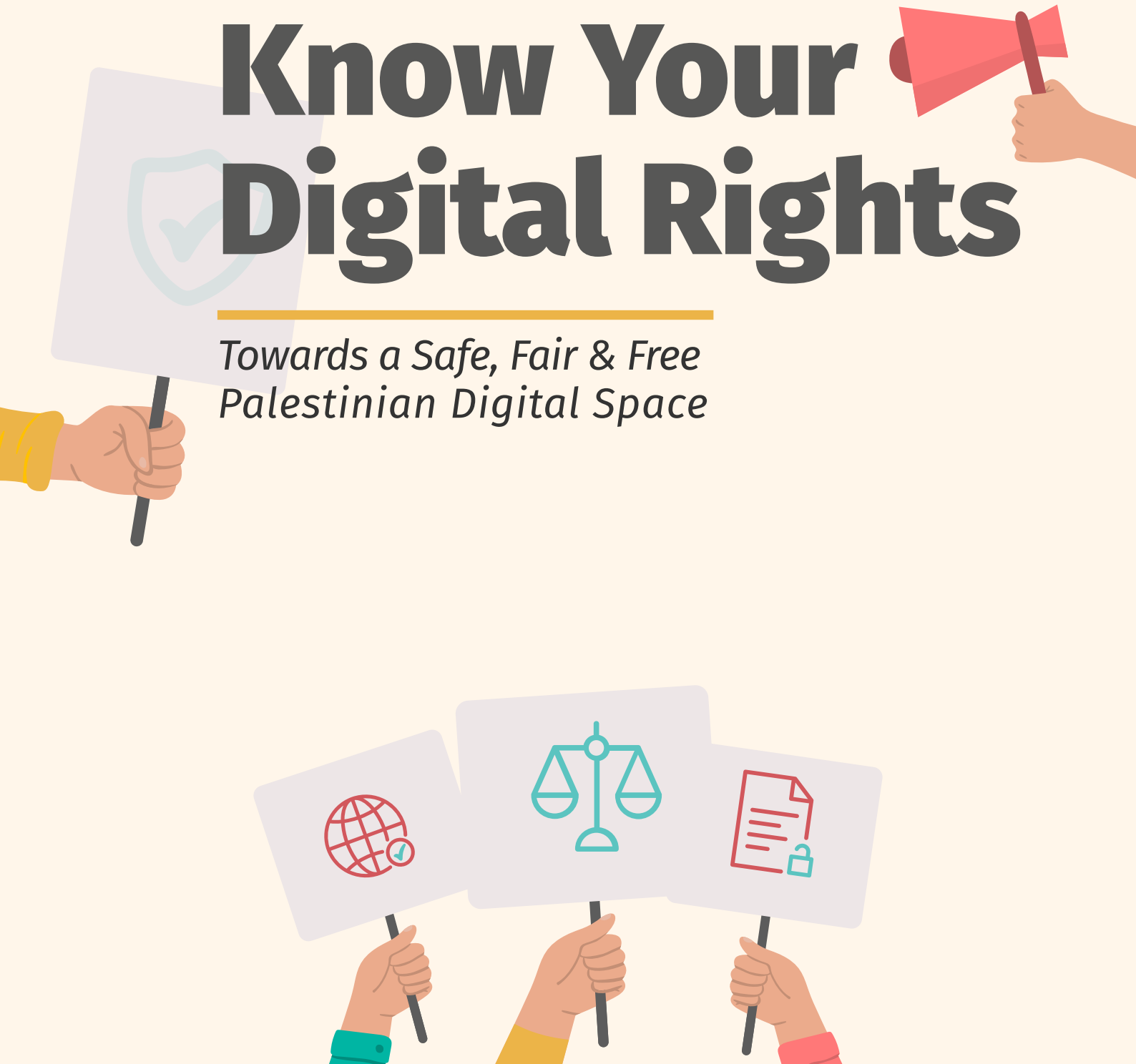


حملة - المركز العربي
لتطوير الإعلام الاجتماعي
7amleh - The Arab Center for
the Advancement of Social Media



Know Your Digital Rights

*Towards a Safe, Fair & Free
Palestinian Digital Space*



7amleh – Arab Center for Social Media Advancement
Know Your Digital Rights
A Guide for Palestinians to Their Human Rights Online

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About This Guide

Many Palestinians are facing increasing limitations and violations to their human rights online. 7amleh - The Arab Center for the Advancement of Social Media's work focuses on protecting the human rights of Palestinians in the online space, and publishes reports on how the digital rights of Palestinians are being violated by State and non-State actors, without having access to effective remedies or accountability measures, in violations of their obligations.

The United Nations Human Rights Council, the leading body responsible for the promotion and protection of all human rights around the globe, have affirmed that "the same rights that people have offline must also be protected online."

Digital rights are part of our human rights in the online world. States must recognize, respect, protect and promote them in a manner consistent with their obligations under international human rights law.

Digital rights are an extension of existing human rights and fundamental freedoms. They are not new rights, and as such do not establish new responsibilities on States or non-state actors to respect, promote or protect them. Private individuals, private sector or state authorities however may restrict or violate our digital rights.

Everyone has the right to know their rights, and what is required by different actors to protect those rights. This guide provides an overview of the human rights online in accordance with international legal standards and frameworks for Palestinians. It is intended to be a useful guide for Palestinians to understand their human rights online and the risks they are facing from different actors, and to provide them with some basic tools on how to protect themselves online.



"The same rights that people have offline must also be protected online."

What Are Digital Human Rights?

Human rights are fundamental rights and freedoms that are inherent to all human beings. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. We must enjoy them without discrimination or arbitrary interference. Human rights also entail obligations. States have obligations and duties under international law to respect, protect and fulfil human rights.

The same human rights we have offline, must be also protected online. Human rights online are primarily the rights that allow us to access the Internet, and protect us while we are using it, whether we are sharing, creating or obtaining data.

Primary Human Rights Online



The Right to Access the Internet



Rights to Freedom of Expression, Opinion & Information



Rights to Peaceful Assembly, Freedom of Association and Participation



The Right to Privacy & Data Protection

Right to Access the Internet

The right to access the Internet is being widely recognized as a human right and is one of the underlying means to enjoy our human rights in the offline and online world. The Internet has become a basis for our participation in sharing and acquiring knowledge online, social networking, political organizing and participation in the economy and development.

The right to access the Internet includes two main dimensions, the right to access the physical infrastructure of information and communications technology required for accessibility to the Internet itself, and the right to access content online.

The right to access the Internet therefore must not be discriminatory on the grounds of race, colour, sex, language, religion, political or another opinion, national or social origin, property, birth or status, including ethnicity, age or sexual orientation.

Authorities must also ensure that access to the Internet is widely available, accessible, affordable, and must facilitate accessibility for all, including for vulnerable and marginalized groups or for people in remote areas.

Rights to Freedom of Expression, Opinion and Information

This includes the right to seek, receive and impart information and ideas of all kinds, without interference and regardless of frontiers, and the relevance of a wide diversity of sources, as well as access to the information society for all.

The right to freedom of expression is safeguarded under [Article 19 of International Covenant on Civil and Political Rights \(ICCPR\)](#), which provides that “everyone shall have the right to hold opinions without interference” and the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his or her choice.”

Individuals must have safeguards to express themselves anonymously on the Internet, to allow for free flow of information and ideas online.

The right to freedom of expression and information is not absolute and states can impose legitimate restrictions on its exercise, essentially to safeguard the rights of others. Article 19(3) provides for restrictions on freedom of expression and information to protect the rights of others, protection of national security or of public order, or of public health or morals. With regards to restrictions on the basis of public morals in the context of the right to freedom of opinion and expression, it is important to note that the Human Rights Committee on Civil and Political Rights (CCPR) have provided that [“public morals” derive from multiple traditions](#) and as such limitations must reflect the universality of human rights and the principle of non-discrimination.

In the context of the protection of the right to freedom of opinion and expression over the Internet, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression have provided that any limitations to the right to freedom of expression, must be:

- **Legal, or “provided by law”:** The law must be provided in a manner that is clear and accessible for everyone.
- **Legitimate:** For restrictions on the right to freedom of opinion and expression to be lawful, they must pursue one of the purposes enumerated in Article 19(3) of the ICCPR, to protect the rights of others, or for the protection of national security or of public order, or of public health or morals
- **Necessary and proportional:** States must demonstrate and prove that the limitations

imposed on the right to freedom of opinion and expression are necessary and the least restrictive means required to achieve the purported aim.

Any restrictions on the right freedom of opinion and expression must pass this three-part, cumulative test, and must be implemented by an independent body oversight, non-discriminatory, with adequate safeguards against abuse, to ensure that the freedom of expression or information is not undermined. Examples of [legitimate restrictions](#) that may apply to expression and information which incite to discrimination, hostility or violence.

The right to access to information also includes our right to know how authorities or companies (such as Internet service providers) operate, restrict content, or use our data. Such knowledge is vital for the exercise of our human rights, specifically the right to privacy, by being able to make an informed decision on when and how our personal data can be shared, but also to ensure we have access to effective remedies when our human rights are restricted or violated.

Rights to Peaceful Assembly, Freedom of Association and Participation

We also have the right to practice our freedom of assembly and association in the digital age, based on a participatory information sharing approach, in which we are not only recipients of information but can actively contribute to creating content.

[Articles 21 and 22 of the ICCPR](#) both guarantee and recognize the rights to peaceful assembly and freedom of association, respectively. While certain limitations are permissible on the rights to peaceful assembly and freedom of association, they must be prescribed by law and necessary in the “interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others.”

States must ensure that if and when there are any unduly restrictions on peaceful assembly and freedom of association, individuals should have access to an effective remedy and can obtain redress.

[We have the right to participate in online assemblies](#) by choosing any website, application or online tools. This also includes the right to peacefully organize or participate in protests online. We also have the [right to participate, form, or join in online associations](#), which include, inter alia, civil society organizations, clubs, cooperatives, religious associations, political parties, trade unions, or foundations.

Business enterprises also have responsibilities to ensure that our rights to peaceful assembly and freedom of association are also enjoyed and exercised by individuals,

in accordance with their legal obligations. In particular, online platforms and social media companies must be clear and transparent on how their legal obligations, policies, technical standards, financial models and algorithms can affect the exercise of those rights, and to ensure that their platforms are not used as tools to target and surveil individuals online.

Right to Privacy and Data Protection

The right to privacy is a well-established human right that is protected under international human rights law. The right to privacy, including data protection, is increasingly becoming fundamental for the exercise of related human rights online.

[Article 17 of the ICCPR](#) explicitly states that “no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honor and reputation,” and that “everyone has the right to the protection of the law against such interference or attacks.”

While the right to privacy is protected against unlawful or arbitrary interference, [the right to privacy online](#) may be subjected in exceptional circumstances to restrictions. The restrictions on the right to privacy must be consistent with international legal standards, and therefore must be lawful, necessary, proportionate, time-bound, and implemented with independent oversight and transparency.

The right to privacy must be safeguarded from arbitrary and unlawful mass surveillance, the interception of digital communications and the collection of personal data. Such violations not only violate the right of privacy, but also have impacts on the right to life, liberty and security, right to be free from torture, right to health, due process rights, and the rights to freedom of movement, assembly, association, and expression. Some measures of digital surveillance adopted by governments may be permitted in law under very narrow circumstances, such as surveillance for legitimate law enforcement purposes (criminal investigations). However, the “scope and manner” of what type of authoritative discretion granted [under such laws](#) must be “indicated (in the law itself, or in binding, published guidelines) with reasonable clarity”, as explained by a report of the Office of the Human Commissioner on Human Rights on the right to privacy in the digital age:

A law that is accessible, but that does not have foreseeable effects, will not be adequate. The secret nature of specific surveillance powers brings with it a greater risk of arbitrary exercise of discretion which, in turn, demands greater precision in the rule governing the exercise of discretion, and additional oversight.

The adoption of data protection laws is also necessary to guarantee the protection of arbitrary interference of an individual's right to privacy and ensure that information relevant to data protection law is increasingly recognized. [Data protection legislation](#) must adhere to principles and safeguards as provided under international human rights law, which includes but is not limited to:

- **Being lawful and legitimate:** meaning that the legislation must be in compliance with applicable laws that are in line with international human rights law.
- **Purpose specification:** This means that data protection legislation should be clear to individuals by being sufficiently precise in relation to the purposes for which data was obtained.
- **Open data, transparency and accountability:** this is mostly related to the appropriate governance of data, which include the transparency about the type of data being collected and the ability of individuals to access, amend, or change such information as well as how data is being used, shared, transmitted and with whom what. Essential to data governance is the availability of accountability mechanisms, which monitor the compliance of data governance with relevant laws and provide sufficient and effective safeguards against violations, including the ability of individuals to challenge the collection and use of their data before an independent regulatory or judicial body.

Related Human Rights

In addition to the digital rights mentioned above, there are also related human rights that are important to highlight as these rights intersect with many of the digital rights.



Right to Liberty and Security of Person



Right to Fair Trial



Right to Non-Discrimination



Right to Due Process



Right to Effective Remedy

Right to Liberty and Security of Person

The right to liberty and security of person is found in [Article 9 of the ICCPR](#) which provides that “No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” Article 9 also spells out the specific safeguards for the protection of liberty and security of person from the arbitrary deprivation of their liberty. [On the Internet, the right to liberty and security of person also entail](#) the protection against all forms of crime and the right to enjoy a secure connection to and on the Internet.

States bear a duty to take appropriate measures to protect against the violation of the right to liberty and security of person by third parties, including individuals, groups, companies, or lawful organizations. Similarly, the right to liberty and security of person must be also protected against the unlawful deprivation over the use of the Internet or as a result of the use of digital technology. All measures imposed on the liberty and security of person must be in line with international human rights law standards and safeguards.

Right to Non-Discrimination

The right to non-discrimination, together with equality before the law, constitute core principles to international human rights law and treaties, which expressly prohibit discrimination and call on States to diminish or eliminate all forms of discrimination under the law and take effective measures to protect individuals against discrimination. On the Internet, the right to non-discrimination is the bases for the enjoyment of all other rights.

The CCPR, in its [General Comment No. 18 on non-discrimination](#) in civil and political rights, provided that the term “discrimination” as used in the Covenant should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, color, sex, language, religion, political or opinion, national or social origin, property, birth or status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”

The CCPR calls on states, as provided in the ICCPR, to take measures to guarantee the equality of rights of the persons concerned by adopting legal and administrative measures that guarantee the protection against discrimination in law, including by taking “affirmative action” to protect certain groups, such as marginalized groups.

Right to Effective Remedy

The right to an effective remedy is found under [Article 8 of the Universal Declaration of Human Rights \(UDHR\)](#) which provides “everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him [or her] by the constitution or by law”.

This right must be protected online and offline and create ways for people to seek remedy for having their rights violated by authorities and companies.

Right to Fair Trial

The [right to fair trial](#) is enshrined in [Article 10 of UDHR](#), “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”.

This right must be protected online and offline and create ways for people to a fair trial for having their rights violated by authorities and companies.

Right to Due Process

The [right to due process](#) is protected under Article 14 of the ICCPR, and everyone has the right to due process in relation to any legal claims or possible violations of the law regarding the Internet. This right must be protected online and offline and create ways for people to seek due process. Equality before courts and tribunals, including equal access to justice, has been described by the Human Rights Committee as key to the protection of human rights and the safeguarding of the rule of law.

Responsibilities of Actors to Protect Our Human Rights Online



States



Businesses

The rapid development of information and technological communications have impacted the exercise of our human rights. Some are positive, for example allowing for advancement in the right to development and facilitating opportunities for the right to education to be more accessible and affordable globally. Other impacts, however, have raised serious concerns to the enjoyment of our human rights, primarily to our rights to privacy, freedom of expression and association. Both [States and businesses](#) have responsibilities to protect our human rights online.

States

States have the primary responsibility to respect, protect and promote our human rights and fundamental freedoms online, in a manner consistent with the core principle of non-discrimination. Any limitations on our human rights online must be permissible by law, legitimate and necessary for the intended purpose of limitations. Any undue restrictions on rights and freedoms online are illegal.

The key responsibilities of States to protect our digital rights are:

- Respect, protect and promote our human rights online in accordance with international human rights law standards;
- Promote and facilitate the development of media, information and communication facilities and technologies that ensures Internet accessibility for all without discrimination;
- Protect the rights of certain groups, such as women and girls, persons with disabilities, children, marginalized groups, such as refugees and asylum seekers, that are at a higher risk of being excluded or experience additional barriers accessing the Internet, and as such may be disproportionately impacted by policies that affect human rights and can perpetuate discrimination against them, and promote measures to bridge the digital gap for such groups; and,

- Adopt measures in accordance with their international human rights obligations to protect human rights online, including by adopting national Internet-related public policies that have the objective of universal access and enjoyment of human rights at their core, and formulating, through transparent and inclusive processes with all stakeholders to address human rights concerns and violations on the Internet.

Businesses

Digital technology companies, including telecommunication companies and online service providers, also have responsibilities to protect our human rights and fundamental freedoms online, as provided by the **United Nations Guiding Principles on Business and Human Rights**.

Business enterprises have responsibilities to “respect human rights” by avoiding infringing on the human rights of others and by addressing adverse human rights impacts with which they are involved as provided by the [United Nations Guiding Principles on Business and Human Rights](#), which establish the “global standard[s] of expected conduct” that should apply throughout company operations and wherever they operate.

In line with their due diligence obligations, they must also establish a clear process for assessing how their operations potentially impact human rights, and “avoid causing or contributing to adverse human rights impacts through their own activities and address such impacts when they occur.”

With respect to their responsibilities to protect our human rights online, companies must adopt rights-based policies that ensure that their operations, choices, stakeholders, and engagement prevent or mitigate human rights risks, are transparent and provide effective remedies. This also includes the responsibility to ensure that they take all necessary and lawful measures to ensure that they do not cause, contribute or become complicit in human rights abuses.

How Your Human Rights Online Are Being Violated

The human rights of Palestinians online must be protected by authorities and companies. However, the digital rights of Palestinians, including Palestinian Citizens of Israel and Palestinians residing in the occupied Palestinian territories are being violated by Israel, the Palestinian Authority and Hamas. Since 2016, 7amleh – The Arab Center for the Advancement of Social Media and several human rights organizations have documented how authorities and technology companies violate the digital rights of Palestinians. These findings are developed in an annual report “#Hashtag Palestine”.

Trends in Digital Rights violations of Palestinians

There are worrying trends and violations concerning the human rights of Palestinians online, which 7amleh has documented over the years:

- Palestinians, especially activists and critics, are being imprisoned by all authorities for legitimate expression by sharing what they think or believe online;
- Authorities and social media companies are undermining Palestinians’ right to privacy and data protection, by conducting surveillance and monitoring content online; and,
- Palestinians are blocked access or sharing of content online by authorities and digital companies.
- There are no clear or adequate national laws that protect Palestinian privacy, hate speech online, incitement and extortion of individuals.

How Authorities Violate Your Rights

Some ways in which [authorities violate the digital rights of Palestinians](#), included the following:

- Israel arrests hundreds of Palestinians under broad definitions of incitement for posts on social media.
- Israel uses mass surveillance, including controversial facial recognition technologies, to spy, track and control Palestinian without their consent.
- Israel works to censor Palestinian content and unlawfully issues requests to social

media companies, such as [Facebook](#) and YouTube, to censor Palestinian content on their platforms.

- The Palestinian Authority in the West Bank blocks websites, including social media and news websites and arrested people in relation to their social media posts.
- Hamas, which exercises government-like functions in the Gaza Strip, arrested 66 people for their social media posts in 2019.

How Tech Companies Violate Your Digital Rights

Digital technology companies also caused and contributed to violations of Palestinian's human rights online, for example in 2019:

- Social media companies blocked or otherwise deleted Palestinian accounts and pages on their platforms, including Facebook (950 violations), followed by WhatsApp (26), Twitter (15), and [YouTube](#) (13).
- Platforms essential for accessing the digital services continued to discriminate against Palestinians, for example, [PayPal](#) provides its economic services to Israeli settlers in illegal Israeli settlements but not to Palestinians in the West Bank, excluding East Jerusalem, and the Gaza Strip.
- Platforms falsely misrepresent information on their platforms, such as [Google Maps](#), whose map is not aligned with international law and which supports the settlement of the occupied Palestinian territories with direction features that enable easy movement to Israeli settlements.
- Tourism companies, like Airbnb and Booking.com, encouraged businesses in settlements by allowing settlers to list their homes and businesses on their platforms.
- Surveillance companies developed and utilized their technology using Palestinian data without consent violating Palestinian rights to privacy.

How Different Actors Can Advance Our Human Rights Online

Authorities are obligated to protect human Rights Online

Authorities can and must do more to protect the human rights of Palestinians online.

They must repeal any repressive, ambiguous and broad laws that unduly and arbitrarily infringe upon their digital rights and refrain from adopting any laws, measures or policies that hinder or criminalize the legitimate exercise of their human rights online.

All authorities must not subject Palestinians to mass surveillance or interception measures. [Mass surveillance](#) is always deemed an arbitrary violation of the right to privacy and other human rights, and is beyond the permissible and narrow interferences allowed under international human rights law.

Israel must stop the mass surveillance of Palestinians through the use of surveillance technologies or through requests to companies to censor and surveil Palestinian content.

Palestinian authorities in the West Bank and Gaza Strip must adopt laws that explicitly protect and uphold the rights to privacy, freedom of expression, data protection and access to information in the digital context with adequate legal safeguards, to ensure access to redress and accountability.

Companies are obligated to protect the digital rights of Palestinians

They must ensure as companies operating in a situation of occupation that their activities do not contribute to the violations of Palestinian digital rights, as per their obligations under the Guiding Principles on Business and Human Rights and international human rights law standards.

They also have responsibilities to respect human rights and ensure they are not complicit in abuses, especially if they facilitate surveillance or provide surveillance technologies to authorities.

In case your human rights are violated in the context of the Internet, by various actors, including State authorities, companies or private individuals, all State authorities mentioned above have the primary responsibility to provide you with effective remedies in addition to guarantees to the rights to fair trial and due process.

How You Can Protect Yourself and Your Rights Online

Utilize Basic Digital Security

It's important that you understand the risks you are facing to the realization of your human rights online and that you develop basic digital security practices to protect yourself online. [Zamleh has 10 basic practices](#) on how you can stay safe and protect your privacy online:



Use search engines that allow you to browse the internet anonymously.



Control your privacy settings especially on social media.



Control what you share online and on what platforms.



Anything you share online stays online, so properly manage your information and protect your sensitive information.



Use circumvention tools when necessary to bypass censorship, and ensure that the tools you are using are safe, secure and protect you from further surveillance.



Disable geolocation tracking when not needed.



Use Virtual Private Network (VPN) to protect your data from being spied on locally.



Use antivirus software and make sure it is regularly updated.



Avoid phishing attacks and protect yourself and devices from phishing attacks.



Use encryption technology to protect your online communications.

[Zamleh's guide on digital security for Palestinians](#)

provides you with more detailed information on digital security more generally.

Back-Up Your content



To protect yourself from having your content taken down, and inaccessible to you (essentially disappeared), it is important to back up your content. Do not use platforms to store your content, but instead make your own archive either on your computer or in the cloud.

Appeal and Report Violations



In recent years there have been efforts to improve mechanisms for reporting violations to digital rights online. This includes both civil society initiatives as well as initiatives by social media companies themselves that provide easy ways to report a violation to your rights. At the same time, many issues still exist regarding the transparency and accountability of these reporting mechanisms.

1. If your content is taken down, you [can report to Silenced.Online](#), an independent civil society platform and campaign.
2. You can learn about how to appeal decisions by social media companies including Facebook, Twitter, YouTube and others from this [online guide to appeals](#).

About 7amleh

7amleh - The Arab Center for the Advancement of Social Media is a non-profit organization focused on protecting the human rights of Palestinians in the online space. Our programmes build the capacity of Palestinians to safely access the internet, run effective digital campaigns and advocate for digital rights and human rights. 7amleh's team works across Jerusalem, Gaza, the West Bank and Israel and regularly cooperates with local and international partners.

Trainings & Workshops: Working with civil society organizations, grassroots initiatives, media professionals, human rights defenders and activists to strengthen their digital security, campaigning and digital campaigning capacity. 7amleh has trained hundreds of people in Palestine and throughout the MENA region in digital security, digital campaigning and storytelling.

Campaigning: Coordinating and managing public campaigns, utilizing digital resources, on various issues related to Palestinian rights. Campaigns include research reports, infographics, videos and other materials. One of our most successful [online campaigns](#) in 2019, was focused on gender based violence online and organically reached 1,000,000 Palestinians in the Gaza Strip, Jerusalem, Israel and the West Bank.

Research & Advocacy: 7amleh works with civil society to develop evidence based advocacy strategies to change the policies of states and technology companies. On a weekly basis we monitor digital rights violations including arrest, content takedowns, hate speech and surveillance among other issues impacting Palestinians. In 2019 we published research focused on the right to access economic markets, freedom of expression for youth and the digital occupation of the Palestinian ICT Infrastructure.

Palestine Digital Activism Forum: On an annual basis 7amleh hold a week long conference (in 2020 it was digital in response to corona) to enhance multi-stakeholder dialogue with members of government, private sector, civil society and educational institutions among others. More information about PDAF can be seen at the www.PDAF.ps website.

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