

# Arab Digital Rights Datasets

## -- RESEARCH GUIDANCE DOCUMENT --

### Introduction

#### The Arab Digital Rights Datasets

The open [Arab Digital Rights Datasets](#) aim to illuminate trends in how Arab governments are limiting digital rights, such as free expression and privacy online, within their legal frameworks.

With this dataset, SMEX seeks to empower activists, journalists, civil society, human rights defenders, lawyers, judges, and others to hold all governments accountable to protect and preserve human and civil rights in a digital age.

The current dataset, last updated in May 2016, comprises laws and other legal instruments that have been applied or could potentially be applied to restrict digital rights. With your help, we are now embarking on the next phase of the dataset, during which we will:

- Review and update existing laws, regulations, and translations
- Identify new relevant legislation and draft legislations and their translations
- Note key provisions pertaining to digital rights in law and draft laws
- Locate key caselaw relating to digital rights
- Improve the sourcing of the data to enhance the credibility of the dataset, and
- Remove any irrelevant legislation.

Our goal is to create the most complete, accurate, and accessible set of laws and key caselaw affecting digital rights in the 22 Arab League countries.

This document, in tandem with the Country Research Workbook, aims to provide you with all the guidance you need to collect and review digital rights-related laws and regulations in your country of research and organize your findings.

#### ADRD Methodology: Defining Digital Rights and a Relevant Framework for Digital Rights Law

To guide the research in this phase of the ADRD, SMEX has developed a working definition of digital rights, after conducting a [review](#) of key texts, charters, treaties, reports, academic papers, and other analyses of the emerging field of digital rights. Our working definition of digital rights is as follows:

“Digital rights” describe human rights<sup>1,2</sup> as they are invoked in digitally networked

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<sup>1</sup> As they are established by the UDHR, UN resolutions, international and regional treaties, domestic law, and human rights caselaw.

<sup>2</sup> It is important to note that the field of digital rights is in flux and not well-researched. So while there is “common agreement that human rights apply online as they do offline,” how a given right is interpreted in digitally networked spaces, especially with relation to other rights, is far from fixed. “In practice the modalities of the online realm provide significant challenges to human rights protection, many of which remain largely

spaces. Those spaces may be physically constructed, as in the creation of infrastructure, protocols, and devices. Or they may be virtually constructed, as in the creation of online identities and communities and other forms of expression, as well as the agency exercised over that expression, such as the management of personally identifiable data, pseudonymity, anonymity, and encryption. Such spaces include but aren't necessarily limited to the Internet and mobile networks and related devices and practices.

Also as a result of this review, and particularly Gill et al's article "Towards Digital Constitutionalism," we have developed a five-category framework that will help you think through where to search for digital rights-related laws and regulations:

- I. Legal foundations
- II. Fundamental rights and freedoms
- III. Governance of online and networked spaces
- IV. Sectoral laws
- V. Other laws

We explain and give examples of law that might fall into these categories at length [below](#). These categories, as well as the keywords requested to describe the laws in the workbook, are key aspects of the ADRD methodology and will inform the data taxonomy of the final dataset.

### General instructions

After familiarizing yourself with this guidance document, the elements of the ADRD methodology, the ADRD [file management and file-naming document](#), and the Country Research Workbook, you are to do the following:

1. Review the list of existing laws and translations in the GDrive folder of your country of research (E.g. in the file AE\_UnitedArabEmirates\_DR\_LAWS)
2. Identify, record, source, and save the most recent, official original-language version of laws and regulations in the country of research, including draft laws/regulations, in the Laws or Drafts subfolders of the country folder on GDrive;
3. Identify, record, source, and save, where available, translations in English and/or French in the Translations subfolder in the country folder on GDrive. Note whether the translations are official or unofficial;
4. Identify specific provisions in the laws that have particular bearing on digital rights and note this in the workbook with a brief motivation;
5. Identify any significant caselaw/judicial decisions that impact on the application or interpretation of these specific provisions or the law that contains them as a whole with regards to digital rights, note this in the workbook, and save the decision in the Caselaw subfolder in the country folder on GDrive.

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unexplored," writes Rikke Joergensen. This is most evident so far in the debates that have emerged over whether there exists a right to access the internet (as an extension of the right to access information) or a right to be forgotten (as an interpretation of the right to privacy).

6. Identify and record any laws currently included in the dataset that do not have any bearing on digital rights and provide a brief explanation as to why they should be removed.

Please provide source names, URLs, and files for your findings, where relevant, and save them in the Sources subfolder in the country folder on GDrive.

In addition to the above, we will also ask you some general questions regarding the sources of legislation and caselaw in your research country.

### Classification of legislation type

As mentioned above, this phase of the ADRD research organizes digital rights–related laws into 5 different categories:

- I. Legal foundations
- II. Fundamental rights and freedoms
- III. Governance of online and networked spaces
- IV. Sectoral laws
- V. Other laws

For each law, you will be asked to identify to which category it belongs by making a selection from the pull-down menu (see “Original Laws” tab, column E).

There is bound to be overlap between the different categories. Unfortunately, this is unavoidable. Try as best you can to choose the category that best covers the identified law. If you think there is reason to assign a certain law to multiple categories, please enter the law only once in the workbook and enter a comment in the “notes” section, explaining why and where you think the law should be included in another category as well.

Remember, your assessment will be reviewed by another researcher and the legal adviser.

### Category I: legal foundations

Please list all laws and regulations that (1) form part of the foundation of the legal system and address universal rights, responsibilities, due process or other general limits to State power, and (2) contain provisions that refer or apply to how an individual can exercise their rights and freedoms in digitally networked spaces.

For the purpose of our research “digitally networked spaces” is not limited to the internet and social media, but also includes electronic networks other than the internet and the use of devices such as mobile phones.

Examples of foundational laws are constitutions, basic laws, penal codes and codes of procedure. Keep in mind that even if, for example, a constitutional provision guaranteeing

the right to freedom of expression does not specify that this applies to “all media”, this doesn’t preclude it from being applicable to digitally networked spaces.

### Category II: fundamental rights and freedoms

Please list all laws and regulations that (1) establish norms for, enable or restrict the exercise of fundamental rights and freedoms—including the right to freedom of expression, privacy, freedom of religion and freedom of association—and (2) contain provisions that refer or apply to how an individual can exercise these rights and freedoms in digitally networked spaces.

Examples are press laws or laws protecting or limiting the right to privacy, freedom of expression or to access information.

### Category III: governance of online and networked spaces

Please list all laws and regulations that seek to establish a framework for the governing of digitally networked spaces, or seek to establish or codify new norms, rights and/or responsibilities therein.

Examples are computer fraud legislation, cybercrime laws, laws related to e-commerce or electronic signatures, data protection laws, or laws pertaining to issues such as net neutrality.

### Category IV: sectoral laws

Please list all laws and regulations that (1) update or establish norms that implicate digital rights in a specific sector, such as banking or healthcare, or for a specific group of people, such as government employees, and (2) contain provisions that refer or apply to how an individual can exercise their rights and freedoms in digitally networked spaces.

Examples are legislation on electronic patient files, consumer protection laws, or legislation pertaining to issues such as privacy in the workplace.

### Category V: other laws

Please list all laws and regulations that have been cited in charges against individuals or judicial decisions related to activity in digitally networked spaces that do not fit within Category I-IV.

Examples are anti-terrorism laws, national security laws, anti-fraud legislation, drug laws, or IP and copyright laws.

This category looks at all “other laws” used to restrict individuals’ activity in digitally networked spaces. For example: in Vietnam, [tax laws are regularly used to prosecute bloggers](#); in Azerbaijan, journalists have been [prosecuted for “abuse of power” and](#)

[misappropriation](#); and in Ethiopia [anti-terrorism legislation is routinely used to suppress free speech online](#). Some more examples of how “other” legislation can be used to limit activity online are set out in this [presentation](#) (or read a transcript [here](#)).

### Specific guidance for filling out the spreadsheet

The following is additional guidance for entering the research information into the spreadsheet. The information is organised per spreadsheet tab, and identifies the relevant column to which the guidance pertains.

<b><i>Original Laws</i></b>	
Column B, OriginalLaw_Name	<p>Please enter the name of the law or regulation.</p> <p>In some jurisdictions, amendments are issued separately from the laws to which they apply, rather than integrated into the law. If this is the case in the country you’re covering, then please enter the amendment as you would a law or regulation on the Original Laws tab.</p>
Column E, Legislation_Type	<p>Please enter what type of law or regulation you are entering into the form: primary legislation, secondary legislation (for example, a directive issued to further implement a law), or an amendment to an existing law or regulation.</p>
Column F, Related_Legislation	<p>If the law or regulation concerns secondary legislation or an amendment to an existing law or regulation, please select here which original piece of legislation it relates to. The pulldown menu will automatically display all laws and regulations previously entered into the worksheet.</p>
Column G, OriginalLaw_Category:	<p>Please see the guidance above under “classification of legislation type” and select the most appropriate category for the law from the pulldown menu.</p>
Column H, Currently in SMEX Dataset:	<p>Is the law present in the DR_LAWS list of laws (e.g. in the AE_UnitedArabEmirates_DR_LAWS file) in</p>

	<p>the GDrive country folder? If so, access the law via the link provided and verify if this is the most recent, official version of the law. Then, enter the information in the relevant columns, as requested.</p> <p>If the law is present in the dataset, but not in its most recent, official version, kindly select “no”, provide all info regarding the better version you sourced in the spreadsheet and make a brief note in the notes column to indicate that this is an improvement on a law currently present in the dataset.</p>
Column L, OriginalLaw_GDrive_URL:	<p>If the original law is present, please save it to the relevant Laws subfolder and name it according to the file-naming formats. If the original law is not in the DR_LAWS list, please try to obtain a copy of the most recent, original law elsewhere. Note that this question is not limited to the availability of the law online only, but that a search for the law includes trying to obtain a hard- or soft copy from other sources as well.</p> <p>In obtaining a copy of the law, please focus your efforts on an official copy of the law, i.e. the law as it was formally adopted in accordance with the country’s legislative procedures. Only if this is impossible, kindly source the text of the law from elsewhere.</p> <p>Save a softcopy (make a high-quality scan if you have a hard copy only) to the specific subfolder in the GDrive country folder, in accordance with the <a href="#">file naming format</a>. Please indicate the source name and URL in the workbook, and if this concerns an official or unofficial copy of the law in the relevant columns.</p>
Notes	<p>Please use the notes section to make any clarifications or provide additional information you think might be necessary or helpful.</p>

**Original Law Translations**

Column B, OLTranslation\_Name:

Please provide the common English or French translation of the law name. If you have not come across references to the law in English or French before, please do a search of secondary sources, such as NGOs that publish on the country, State Department [reports](#), or English- or French-language news services to determine what the most common translation is. If this does not yield any results, please create as accurate a translation as possible yourself.

**Original Law Key Digital Rights Provisions**

Column E, OLKeyProvision\_Source\_Name:

If the provision is being routinely used to regulate individuals exercising their digital rights, but the provision is not explicitly aimed at that (i.e. the relevance of the provision for the digital rights sphere is apparent more from practice than the provision itself), kindly provide a source for your finding, where possible. This can be a report from a human rights organisation, a news report, etc. Please detail the source information in the relevant columns as requested. If it is not possible to provide sources for your findings, please include a brief explanation in the notes column.

**Caselaw**

General:

This section looks at any judicial decisions that give an authoritative interpretation of laws or provisions impacting on digital rights. If such decisions emanate from tribunals or decision-making bodies other than courts, such as a national data protection authority, please include them.

Notes:

If you were unable to source any caselaw relevant to the laws identified, please briefly indicate why you think this is the case.

<b><u>Draft Laws</u></b>	
General:	All guidance provided above for the original laws applies <i>mutatis mutandis</i> to the sections related to draft legislation.
<b><u>Erroneous Laws</u></b>	
General:	Please identify any laws currently present in the DR_LAWS list in the GDrive country folder that do not fit into category I-V and provide a brief explanation as to why they should be removed from the dataset.



## Works consulted to date for the ADRD digital rights definition and framework

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