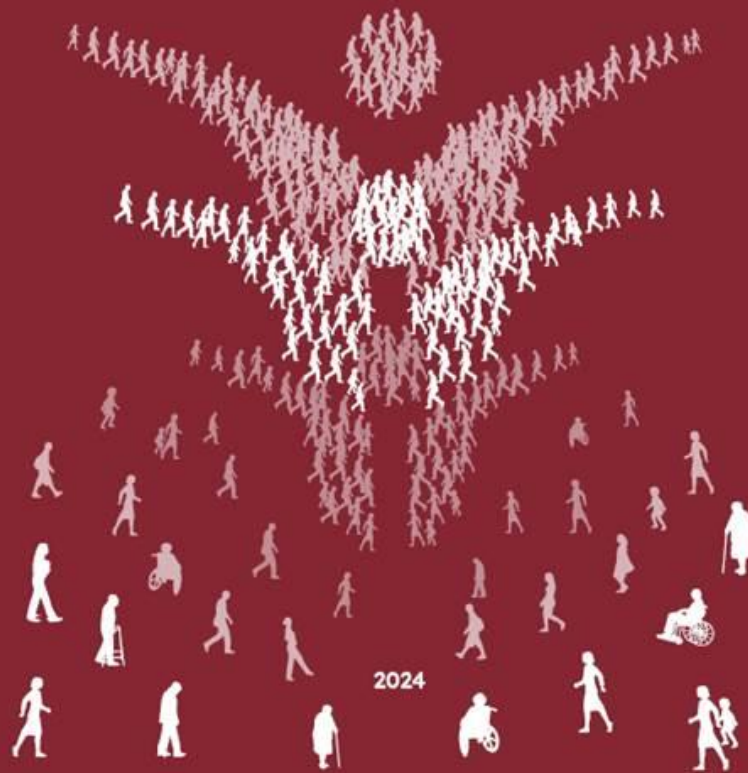


المركز الوطني لحقوق الإنسان
The National Centre for Human Rights



Legislative Impact Assessment Outcomes and Recommendations for the Cybercrimes Law and Its Applications No. (17) of 2023





His Majesty King Abdullah II Ibn Al-Hussein



His Royal Highness Crown Prince Al Hussein bin Abdullah II

The National Centre for Human Rights

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2024

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Introduction:

The Center closely monitored the initial stages of the Cybercrimes Law No. (17) of 2023, affirming the need for specialized legislation to regulate the digital space and address emerging crimes, provided it adheres to constitutional and human rights standards as established by international norms.

In this context, the Center actively engaged in the public discourse on the law during its early legislative stages, conducting a thorough examination of the draft law in light of the Jordanian Constitution and international human rights standards. It issued a statement on the matter and held meetings with the legal committee of the House of Representatives, offering its observations on the proposed draft law. Later, the Center followed the developments of the law and engaged with the legal committee of the House of Lords, whose feedback incorporated several of the Center's comments, which was appreciated at the time.

Based on its mandate under Law No. (51) of 2006 and its amendments, which include the protection and promotion of human rights and their culture, the Center has continued to monitor the implementation of this law to ensure the safeguarding of constitutional rights and those derived from international human rights standards. This ensures that the law does not obstruct the vision of modernization within Jordan's second centennial and that citizens can freely exercise their right to freedom of expression, as highlighted by His Majesty King Abdullah II in his meeting with the Chair and members of the Center's Board of Trustees. This role is primarily carried out by the Center as the independent national mechanism for the protection and promotion of human rights.

Based on this, the Center assumed the task of reviewing the legislative impact of the law and its implications on society, taking into account the perspectives of all relevant parties. The Center believes that legislation is not an end in itself but a means to achieve objectives that are aligned with public interest, based on constitutional and international human rights standards and principles.

The Center established clear mechanisms to study the legislative impact of this law over a one-year period, starting from its entry into force on September 12, 2023. This date marked the launch of public discussions and a hotline for receiving complaints and inquiries about the law, as part of a comprehensive study of its applications and impacts, particularly regarding Articles (15, 16, 17) of the Cybercrimes Law No. (17) of 2023, which formed the core focus of the study to ensure their alignment with the Jordanian Constitution and international human rights standards.

In addition, the Center prioritized its legal mandate by enhancing knowledge and awareness through training sessions, workshops, and discussion forums on the provisions of this law. The Center participated in training sessions specifically designed for judges assigned to handle cybercrimes cases, focusing on constitutional and international standards governing freedom of expression.

The Center also signed a memorandum of understanding with the National Center for Curriculum Development, aiming to integrate human rights concepts into educational curricula, thereby fostering a legal and cultural environment that promotes human rights and

supports a safe digital space, with a clear understanding of international human rights standards.

Therefore, this report presents the outcomes of the Center's monitoring of the Cybercrimes Law No. (17) of 2023 and its ongoing dialogues with relevant stakeholders concerning the law's implementation. It also offers recommendations aimed at improving the law, ensuring it enhances the protection of individuals from electronic crimes while fostering a safer digital environment.

First: Mechanisms for Studying the Legislative Impact of the Cybercrimes Law

Following the meeting between His Majesty King Abdullah II and the Chairperson and members of the Board of Trustees after the enactment of the Cybercrimes Law, during which His Majesty emphasized the independence of the Center and its pivotal role in protecting and promoting human rights, highlighting its mandate to monitor human rights conditions, including studying the effects of implementing this law in practice, the Center established mechanisms for studying the legislative impact of the Cybercrimes Law. These mechanisms include monitoring the application of the law on individuals, tracking the number of detainees (including conducting visits to examine the circumstances of cases), studying issued rulings, and identifying challenges associated with implementing the Law.

To achieve this, the Center adopted a participatory approach by holding several dialogue sessions with specialists and relevant stakeholders.

Furthermore, the Center launched a specialized hotline to receive complaints related to the Cybercrimes Law.

The Center also studied comparative legislation, international human rights standards, and best practices to develop comprehensive recommendations aimed at improving and amending the Law.

In parallel, and out of its belief in the importance of fostering a comprehensive legal culture, the Center contributed to integrating human rights concepts into educational curricula by reviewing them and proposing necessary amendments. Additionally, the Center, in collaboration with the esteemed Judicial Council, participated in training judges designated by the Council to handle cybercrimes cases, ensuring specialization in this area and contributing to the proper application of the Law.

Section II: Newly Introduced Provisions in the Cybercrimes Law

The primary objective of cybercrime laws is to regulate cyberspace and establish clear legal parameters for offenses that may target or be committed via information systems. The Jordanian Cybercrimes Law has been enacted with this principle in mind.

The Cybercrimes Law No. (17) of 2023 includes a series of amendments and newly introduced provisions. Most of these have not raised significant concerns, except with respect to the monetary penalties imposed. However, certain provisions, particularly Articles (15, 16,

17, 25), have sparked challenges regarding the clarity of the restrictions they impose within the framework of the Jordanian Constitution and international human rights standards.

1. Modified or Newly Introduced Texts under the Cybercrimes Law

The Cybercrimes Law includes several amendments and newly introduced provisions aimed at protecting individuals from cybercrimes. These key changes include:

- **Stricter Penalties:** Enhanced penalties for crimes involving pornography, incitement to debauchery and prostitution, luring others, or violating public morals.
- **Expanded Scope:** Broadening the acts that constitute the material element of the aforementioned crimes to ensure alignment with technological advancements.¹
- **Aggravated Penalty:** Establishing harsher penalties if the content involves children, individuals with intellectual disabilities, or those with mental illnesses,² thereby providing greater protection for these groups.
- **The Cybercrimes Law No. 17 of 2023** introduced several provisions to address existing legal gaps, most notably the inclusion of a provision criminalizing anyone who uses an information system, electronic site, or social media platform to publish, edit, alter, or process any recording, image, scene, or video of matters that an individual seeks to protect and refrain from displaying publicly, with the intent of defamation, harm, or deriving benefit³. This provision aims to safeguard individuals' privacy in the digital space.
- The criminalization of blackmail or threats, whereby any individual who threatens or coerces another person into performing or refraining from performing an act, or to obtain any benefit, using an information system, information network, electronic site, social media platform, or any other technological means, is subject to legal accountability⁴.
- The criminalization of soliciting or collecting funds from the public for the purpose of investment, management, utilization, or growth without a license, using an information system⁵.

2. On another note, the amendments and newly introduced provisions include specific articles, particularly Articles (15, 16, and 17), which encompass the following:

¹ Article (13/b/2, c)

² 13/b/1

³ Article 20 of the Cybercrimes Law No. 17 of 2023

⁴ Article 18 of the Cybercrimes Law No. 17 of 2023

⁵ Article 23 of the Cybercrimes Law No. 17 of 2023

The Cybercrimes Law No. 17 of 2023 introduced a set of provisions relating to crimes of slander, libel, defamation, spreading false news, character assassination, incitement of discord and sectarianism, and hate speech. These provisions include:

1. **The crime of sending, retransmitting, or publishing content involving false news** that targets national security, societal peace, slander, libel, or defamation.⁶ (*Article 15 of the Cybercrimes Law No. 17 of 2023*)
2. **The criminalization of falsely accusing or attributing actions to individuals** that would amount to character assassination⁷.
3. **The crime of inciting discord, sectarianism, or targeting societal peace**, or advocating for hatred, promoting violence, justifying it, or disparaging religions using the information system⁸.

Additionally, **Article 25** of the Cybercrimes Law broadens the scope of presumed liability, stipulating that the individual responsible for the actual management of an electronic site, social media platform, account, public page, group, channel, or similar entity shall bear responsibility for unlawful content. Such individuals are held accountable for crimes committed contrary to the provisions of the Cybercrimes Law concerning the content itself and are subject to the same penalties as the original perpetrator.

Third: Discussion Sessions with Relevant Stakeholders

The National Center for Human Rights held several consultative sessions on the Cybercrimes Law and its applications, specifically Articles (15, 16, and 17), with stakeholders, individuals, specialists, civil society organizations, and professional associations.

These discussions concluded that the Cybercrimes Law is a necessary tool for regulating the digital space and achieving both general and specific deterrence for crimes committed on or through it. However, the discussions also highlighted issues and challenges within the law itself that have impacted or may impact the integrity of its application. The most notable of these include:

- **The broad scope of certain terms** such as "character assassination," "false news," and "hate speech," without clear criteria or standards defining these acts. This undermines the principle of legality, which stipulates that there shall be no penalty or crime without a legal provision, leaving these terms open to various interpretations and discretionary judgments.
- **Legislative duplication**, particularly between the Penal Code and the Cybercrimes Law, which penalize the same offenses, such as slander, libel, defamation, and inciting sectarianism, but with differing penalties. This is especially evident in the possibility of detention for slander, libel, and defamation under the Cybercrimes Law, whereas the same offenses do not warrant detention under the Penal Code.

⁶ Article 15 of the Cybercrimes Law No. 17 of 2023

⁷ Article 16 of the Cybercrimes Law No. 17 of 2023

⁸ Article 17 of the Cybercrimes Law No. 17 of 2023

- **The possibility of imprisonment under Articles (15, 16)**, while best practices and international human rights standards emphasize resorting to civil compensation or fines in such cases. This is due to the severe consequences of short-term imprisonment and the absence of criminal danger that would justify depriving individuals of their liberty.
- **The high value of fines as penalties for certain crimes**, which in many cases is disproportionate to the severity of the act and does not align with the current economic conditions of individuals and various entities. This necessitates a reassessment of the economic impacts of this law.
- **The psychological and social harm caused by short-term imprisonment**, as well as issues related to the transmission of criminal behavior among inmates, indicating that such punishment fails to achieve general and specific deterrence.
- **Increased self-censorship among journalists** while performing their professional duties in the fields of journalism and media to avoid accountability or criminal prosecution, particularly due to the broad scope of certain terms, especially under Articles (15, 16, and 17).
- **The legislator's expansion of presumed liability in the Cybercrimes Law**, specifically in Article (25), which contradicts a fundamental principle of penal systems, namely the principle of personal liability for penalties.

Fourth: The Hotline Dedicated to Cybercrimes

The Center launched a hotline dedicated to the implementation of the Cybercrimes Law No. 17 of 2023, operating 24 hours a day, on September 12, 2023. Since its launch, the hotline has received approximately 134 incoming calls. The Center observed the following regarding these calls:

- The majority of calls received by the Center were inquiries about the law, its application, and the entities individuals could turn to if they were subjected to a cybercrime.
- Inquiries regarding the mechanisms for contacting relevant entities to file complaints related to being victims of cybercrimes, particularly crimes involving electronic blackmail.
- The hotline received three complaints concerning cases related to freedom of expression that fall under Articles (15, 16, and 17) of the same law, all of which were under review by the Jordanian judiciary.
- A general lack of public awareness about the concept of cybercrimes, mechanisms for addressing them, and insufficient information among individuals regarding this law and the actions that constitute crimes under its provisions, whether committed by them or directed against them.

- A lack of awareness regarding the conditions and standards for permissible criticism, as well as the restrictions aligned with international human rights standards and the Jordanian Constitution on the right to freedom of expression among individuals.

Fifth: Case Numbers

The number of cases related to Articles (15, 16, 17) of the Electronic Crimes Law No. (17) of 2023 during the period from September 12, 2023, to September 26, 2024, according to the statistics of the esteemed Judicial Council, is as follows:

First: The number of cases registered in the first-instance courts related to Articles (25, 17, 16, 15) of the Electronic Crimes Law No. (17) of 2023, from September 12, 2023, to September 26, 2024, is as follows⁹:

Article	Article 15		Article 16		Article 17	
Year	2023	2024	2023	2024	2023	2024
Case Numbers	448	2480	1	17	49	175

That is, the total number of cases related to Articles (15, 16, 17) is 3,170 cases. It is noted that the largest number of cases was under Article (15)¹⁰ of the Electronic Crimes Law No. (17) of 2023, with a total of 2,928 cases. These cases include personal disputes between individuals related to defamation, insult, or degradation. The total number of cases related to Article (16) of the law is 18 cases, while the total number of cases related to Article (17)¹¹ of the same law is 224 cases. No cases related to Article (25) of the same law were reported in the Judicial Council's report.

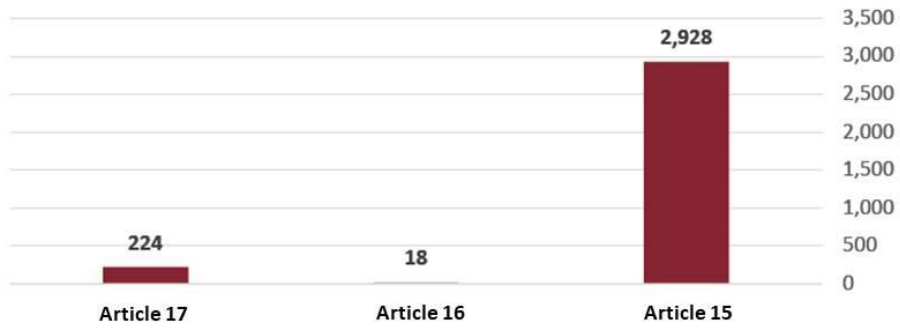
⁹ The Judicial Council's letter No. 3489/30/1/2 dated October 20, 2024

¹⁰ Article 15: "a. Anyone who intentionally sends, re-sends, or publishes data or information via the information network, information technology, information system, website, or social media platforms that contains false news targeting national security and social peace, or defames, slanders, or insults any person, shall be punished with imprisonment for a period of no less than three months or a fine of no less than five thousand (5,000) dinars and no more than twenty thousand (20,000) dinars, or both penalties.

b. The crimes stipulated in paragraph (a) of this article shall be prosecuted by the Public Prosecution without the need to file a complaint or personal claim if they are directed against one of the state's authorities, official bodies, or public administrations."

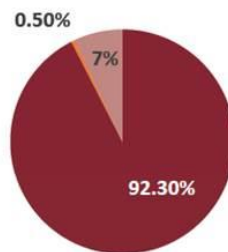
¹¹ Article 17: "Anyone who intentionally uses the information network, information technology, information system, website, or social media platform to publish content that incites discord, promotes sectarianism, targets social peace, incites hatred, calls for or justifies violence, or shows contempt for religions shall be punished with imprisonment for a period ranging from one to three years, or a fine of no less than five thousand (5,000) dinars and no more than twenty thousand (20,000) dinars, or both penalties."

The chart illustrates the number of cases based on articles (15, 16, 17) during the period from September 12, 2023, to September 26, 2024



The chart illustrates the number of cases under articles (15, 16, 17) during the period from September 12, 2023, to September 26, 2024

Note: The total number of cases during this period is (3,170)

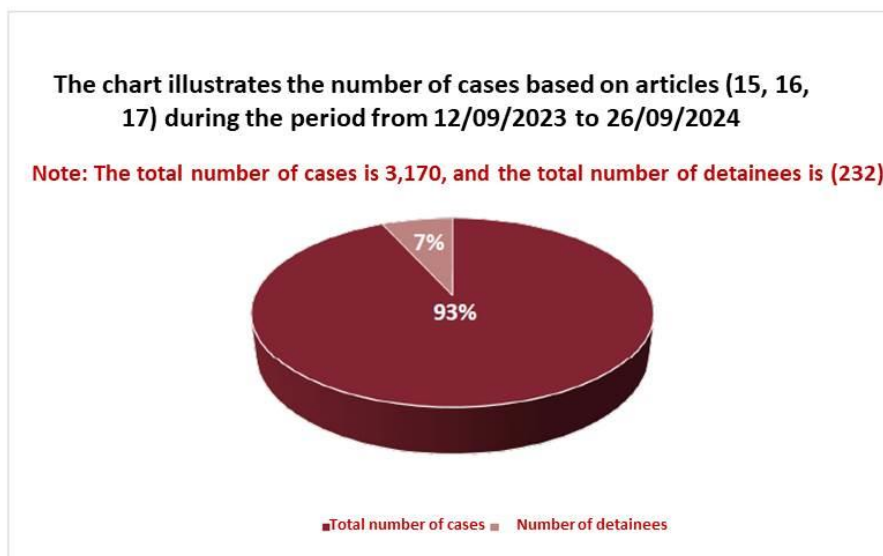


It is worth noting that the correspondence received by the Center from the esteemed Judicial Council indicated that the data from which the above statistics were derived showed that the crimes committed under the provisions of Article (15) of the same Law are mostly crimes of libel, slander, and contempt, targeting specific natural persons.

It is also worth noting that there is repetition in the cases mentioned above, as the statistics were prepared based on the legal articles, and in several cases, the charges against the defendant included more than one crime falling under one or more of the aforementioned articles¹².

Second: The number of detainees in the cases referred to in paragraph (First) was determined based on the provisions of the articles subject to your correspondence, whether they were released or not during the years 2023 and 2024 up to the date of 26/09/2024¹³.

Year	2023	2024	Total
Number	43	189	232



¹² Judicial Council Letter No. 3489/30/1/2 dated 20/10/2024.

¹³ Judicial Council Letter No. 3489/30/1/2 dated 20/10/2024.

Third: The outcomes of the judgments issued in the cases referred to in paragraph (First) by the courts of first instance, whether they have attained finality or not, are as follows:

Judgment Outcome	Article 15		Article 16		Article 17	
	2023	2024	2023	2024	2023	2024
Conviction	128	427	1	1	14	57
Acquittal	30	101	0	0	4	15
Lack of Responsibility	29	78	0	3	24	38
(Referral, Dismissal, Discontinuation of Prosecution, etc.)	222	906	0	3	4	15

Sixth: Results and Recommendations

In principle, the Cybercrimes Law represents a necessary tool for regulating and monitoring emerging crimes committed in the digital space.

The recent amendments to the law have introduced several positive developments, addressing existing legal gaps. Among the most notable is the inclusion of a provision related to publishing recordings, images, or videos of matters individuals wish to keep private, thereby protecting the right to privacy in the digital space. Additionally, provisions addressing electronic extortion and threats were introduced, along with harsher penalties for acts committed against certain groups, such as children and persons with disabilities. The law also criminalizes specific acts more precisely, such as electronic extortion, one of the most prevalent cybercrimes.

The National Center for Human Rights, through its monitoring, follow-up, and discussion sessions, found that the main concerns revolved around the legislative drafting of several provisions, primarily Articles (15, 16, 17, and 25), as well as the rules governing criminal complicity.

According to figures provided by the esteemed Judicial Council, the total number of cases related to Articles (15, 16, and 17) during the period covered by the report—from September 12, 2023, to September 26, 2024—amounted to **3,170 cases**. The majority were under Article (15) of the Cybercrimes Law No. (17) of 2023, with a total of **2,928 cases**, while cases related to Article (16) totaled **18**, and those related to Article (17) amounted to **224**.

Regarding the number of detainees based on these crimes, the total number of detainees, according to the Judicial Council's correspondence, reached **232 detainees** for the aforementioned cases.

As for the hotline launched by the Center to monitor the implementation of the Cybercrimes Law, the Center received three complaints, all of which were under judicial review. This is out of **134 calls** received, which primarily sought legal advice on the authorities to approach when facing cybercrimes.

Based on the above and in light of the monitoring conducted and recommendations provided by stakeholders during consultative sessions, the Center reached several recommendations aimed at enhancing and improving the Law, including the following:

- **Promoting Public Dialogue:** To achieve the principle of inclusiveness and believing in the necessity of engaging stakeholders in the legislative process, the Center calls for conducting a societal dialogue to reach a consensus on the key features of the Cybercrimes Law. This ensures a balance between public interest and the protection and promotion of human rights.
- **Relying on General Rules for Libel and Defamation:** Limiting the treatment of libel, slander, and contempt cases to the general rules provided in the Penal Code No. (16) of 1960 and its amendments, as these existing provisions are sufficient and avoid legislative duplication. If this provision remains in the Cybercrimes Law, the penalties should be reduced to align with the Penal Code to ensure no detention occurs.
- **Revising Legislative Drafting:** Reformulating provisions related to specific crimes, such as character assassination, to ensure clarity, comprehension, and application by individuals. This includes explicitly defining the elements of such crimes to prevent varying interpretations.
- **Defining Hate Speech and Misleading Terms:** Regulating criminal acts, particularly hate speech, and clearly defining its elements in line with Article (20) of the International Covenant on Civil and Political Rights. This includes clarifying terms such as "fake news" in the law.
- **Adhering to General Criminal Legislative Principles:** Complying with general principles in criminal legislation, especially regarding rules of criminal complicity and applying the principle of individualized penalties. The Center calls for revisiting Article (27) of the law.
- **Codifying Permissible Criticism:** Legislating permissible criticism principles established by the esteemed Jordanian judiciary, particularly in its rulings on publications and press cases.
- **Exempting Journalists from Prosecution:** Explicitly stipulating that journalists cannot be prosecuted for their professional work except under the Publications and Publishing Law, which serves as the legal framework governing journalistic work in Jordan.
- **Expanding Alternative Penalties:** Broadening the use of alternative penalties, particularly for certain crimes stipulated in the law, to alleviate overcrowding in correctional and rehabilitation centers.
- **Assessing Economic Impacts:** Studying the economic implications of implementing the Cybercrimes Law, including the nature and value of fines imposed on individuals and entities. The Center emphasizes listening to stakeholders in this regard, including reducing fine amounts for certain crimes and relying solely on fines based on the

severity of the offense, which also helps reduce overcrowding in correctional facilities.

- **Enhancing the Right to Information:** Strengthening and activating the Right to Access Information Law to ensure the smooth flow of information to individuals proactively, thereby limiting rumors, misinformation, and fake news.
- **Raising Awareness:** Increasing public awareness of the Cybercrimes Law among individuals and all relevant entities.

In Conclusion,,,

The Center reiterates its structural recommendation, as highlighted in its annual reports, regarding the necessity of institutionalizing an effective national legislative system aimed at ensuring a strong connection between legislation and society. This system should be based on the following key pillars:

1. **Partnership:** Ensuring the involvement of all relevant stakeholders within the legislative process.
2. **Analysis of Social Phenomena:** Conducting impact studies of proposed legislation by analyzing social, economic, cultural, and political phenomena within society.
3. **Rights-Based Legislative Policy:** Adopting a legislative policy that approaches human rights laws by reviewing the matrix of relevant legislation as a unified whole. This approach ensures the protection of rights and freedoms as enshrined in the Jordanian Constitution and international human rights standards.



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