

Human Rights in the Digital Space
Identifying constraints on Digital Rights in Palestine

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1. Introduction

On June 6, 2021, the Israeli police arrested the 23-years old Palestinian activist Muna El-Kurd and her twin brother Mohammed. According to the media, the siblings were arrested for “committing acts that disturb public security” and eventually dismissed several hours later (Al Jazeera, 2021). Although Muna and Mohammed are now free, their arrest on charges of endangering public safety is a symbolic case. The twins are in fact the icons of the Palestinian resistance in Sheikh Jarrah, a neighbourhood in East Jerusalem at the centre of the dispute between Palestinians and Israelis over the ownership of lands and houses, which is resulting in the “imminent dispossession from their homes” for many Palestinian families (Alsaafin, 2021a). El-Kurd twins are digital natives who brought their activism online launching the hashtag #SaveSheikhJarrah on social media, with the aim to draw attention on the oppression inflicted on their people (Palestinian News & Information Agency-WAFA, 2021). Thereby, Muna and Mohammed became “the social media voices of Palestinians” (Middle East Eye, 2021).

Yet the social media activism cost the two siblings hours in jail. Furthermore, the global success of their social media campaign was constrained by major “content takedowns and accounts suspensions on Facebook, Instagram and Twitter” of activists advocating for Sheikh Jarrah (Alsaafin, 2021b). Muna El-Kurd (2022) herself, whose Instagram profile counts 1.6 million followers, has the link to a reserve account prominently displayed in her bio, probably aware that her first profile is in danger of being closed.

The labelling of Palestinian activism as against public security and the systematic online censorship of pro-Palestinian content are part of a complex web of practices that result in violations of digital rights. The term refers to “the fundamental human rights that are relevant online” including “internet access to all; the right to freedom of expression, association and online protest; the right to freedom from censorship and surveillance; the right to privacy and data protection; and the right to use encryption” (Fatafta, 2018, p. 6). In this regard, academic, political, and activist debates have addressed the need to invoke for human rights also in the digital sphere. In fact, while one side of the debate has praised the digital media as a “liberation technology” (Diamond, 2010, p. 70), other debates have acknowledged the cyber-world as a new space of control, where old authoritarian oppression practices can be amplified by means of new digital technologies and with the approval of private platforms (Custers, 2022, p. 3; Jørgensen, 2018, p. 245). Hence the digital environment is as well a space in need for regulation and protection of fundamental liberties.

Oppressive regimes are prone to interfere and restrict individuals' liberties also in the digital space because the digital media has the potential to "empower the individuals, facilitate independent (...) mobilization, and strengthen an emergent civil society" (Diamond, 2010, p. 70). Particularly under authoritarian regimes, as the usage of social media has shown for the Arab Spring in the early 2010s, individuals can "shape their mobilizations in the intersection of their online and offline realities" (Dwonch, 2020, p. 40). This demonstrates that restrictions on online liberties do not just regard the cyberspace as a parallel world disconnected from the real life, but also affect societal change and collective action on the ground.

Against this background, the present work contributes to shed light on the modes digital rights can be constrained focusing on the case of Palestine. It therefore aims to answer the following research question:

What factors are constraining digital rights in Palestine?

To determine digital rights constraints in Palestine, this work evaluates at first place the multi-level landscape of digital rights understandings in chapter 2. Here, the 'Four Discourses of Digital Rights' framework is presented and adopted as a theoretical lens to delve into the question of digital rights constraints. Chapter 3 highlights the suitability of Palestine as a case study for the aim of this thesis, while chapter 4 presents the methodology used. In this regard, the adequacy of document analysis as research design, the material collection and data evaluation are outlined. Chapter 5 presents an overview of the results, while an in-depth interpretation of the findings follows in chapter 6. Here, the results are linked to existing theories and interpreted according to the research question. Finally, chapter 7 discusses key implications of the findings, the limitations of this thesis, and the need for further research.

2. Theoretical Background

The digital rights debate encompasses a vast landscape of multi-level approaches. The aim of this chapter is to explore the multiple conceptions of digital rights. Chapter 2.1 will therefore provide a general outlook on the subject. Followingly, section 2.2 will explore digital rights through the theoretical lens of the 'Four Discourses of Digital Rights' framework (Karppinen & Puukko, 2020). From this perspective, different discourses of digital rights will be examined and, for each discourse, constraints on digital rights will be evaluated.

2.1 Digital Rights: an overview

Academic, political, and activist debates concerning digital rights have shaped a landscape of multi-disciplinary and multi-level approaches. Hence drawing an uncontested definition is not

attainable and digital rights can be depicted “as a broad umbrella framing” (Karppinen, 2017, p. 9) under which various approaches converge.

The notion of digital rights developed in parallel with the worldwide spread of internet access and usage. Since the early 2000s, state actors, international organisations and civil society have formulated the necessity to enforce fundamental rights also in the digital context. Already in 2001, the association for progressive communication (APC) had drafted a first version of the Internet Rights Charter (APC, 2006). The document enumerated, among others, the right to privacy, to freedom of expression and association and to access to knowledge, applying several points of the Universal Declaration of Human Rights (UDHR) to the digital sphere (APC, 2006). Also referring to the UDHR, the United Nations (UN) have endorsed the view that “human rights apply online as they do offline: human rights standards, as defined in international law, are non-negotiable” (Internet Rights & Principles Coalition, 2014, p. 9). These understandings frame digital rights as “a conceptual ‘expansion’ of the human rights discourse” (Padovani et al., 2010, p. 360). The online space is hence depicted as a continuation of our society wherein the same fundamental liberties apply.

The continuous evolution of the cyberspace has, at the same time, opened new scenarios of rights. These include the right to internet access, the right to encryption, the right to disconnect, and the right to be forgotten, appearing in the debate as “new rights” of the digital environment (Custers, 2022, p. 5; Dror-Shpoliansky & Shany, 2021, p. 29). While one side of the debate considers these new rights as standalone rights and encourages their international legal recognition (Custers, 2022, p. 2), other approaches identify them as specific cases of pre-existing rights (Tully, 2014, p. 175). The integration of new rights in the debate shapes a second orientation to the subject that emphasises the innovative elements of the digital world, encompassing the questions of access, interactivity, and connectivity (Padovani et al., 2010, p. 365).

In addition to the debates centered on the understanding of what digital rights are, Dror-Shpoliansky & Shany (2021) highlight the emergence of a “*third generation* of digital human rights”, which focuses “on the need to revise the traditional configuration of right-holders and duty-bearers developed in international human rights law” (p. 34). This perspective calls attention to the obligations of internet companies and other private entities which exercise the *de facto* role of duty-bearers in the cyber-world (Dror-Shpoliansky & Shany, 2021, p. 5). The discussion also involves the consideration on the right-holders as “*online persons*”, i.e. virtual

portrayals of users “having the right to engage in online activity distinct from the physical person” (Dror-Shpoliansky & Shany, 2021, p. 34).

Especially the latter perspective indicates how the digital rights debate is constantly evolving and currently shapes a vast landscape of approaches. While giving an uncontested definition of digital rights is thereby not possible, it can be assumed that the “umbrella framing” (Karppinen, 2017, p. 9) of digital rights hosts human rights-based understandings as well as approaches focusing on innovative features of human rights in the digital realm, such as the emergence of new rights, new right-holders, and new duty-bearers. In this regard, academic research highlighted that the digital environment offers as well new modes to constrain rights (Karppinen, 2017, p. 1; Manokha, 2018, p. 227). Innovative digital technologies are in fact at disposal of authoritarian regimes to exercise surveillance and silence political dissenters (Custers, 2022, p. 3; Diamond, 2010, p. 70). Moreover, the commercial interests of private entities, which serve as regulators of the digital sphere, bring to question the fair respect of individuals’ rights (Jørgensen, 2018, p. 245). Different digital rights understandings are thus associated with different power structures behind their enforcement and modes of constraint. Hence a positive debate on what digital rights *are* implies by default to question how and by which means these can be restricted.

2.2 The ‘Four Discourses of Digital Rights’ framework

Among the different conceptualisations of digital rights, this work draws onto the theoretical approach proposed in Karppinen & Puukko’s (2020) ‘Four Discourses of Digital Rights’ framework and further evaluates digital rights against this background. The theory elaborates on the multi-level character of digital rights debates alongside an evaluation of digital rights constraints. The juxtaposition of different digital rights understandings and their constraints makes the framework particularly suitable as theoretical lens to the purpose of this thesis.

Starting from the notion of rights as “inherently indeterminate and subject to discursive contestation” (Karppinen & Puukko, 2020, p. 305), the authors draw from academic, political, and civil society movements debates on digital rights and orchestrate their thematic diversity into a discursive framework. The framework highlights four different discourses: 1) “Digital rights as protection of negative liberties”, 2) “Positive rights and state obligation”, 3) “Rights as a vehicle of ‘informational justice’” and 4) “Affordances provided by platforms” (Karppinen & Puukko, 2020, p. 312).

Each discursive illustration aims to deconstruct the debate on digital rights and therefore also entails considerations concerning “the limits or constraints *against whom* rights are invoked” (Karppinen & Puukko, 2020, p. 311). Evaluating the modes of constraining rights is relevant for the debate as rights are “a form of power, which not only open up possibilities but also circumscribe and channel them” (Karppinen & Puukko, 2020, p. 308).

Followingly, the four discursive frameworks are presented, the subsequent constraints are derived based on Karppinen & Puukko’s (2020) categorisation and further addressed through additional studies. It should be noted that this work builds upon a discursive framework not to adopt it as a research method, but exclusively with the aim to highlight digital rights from different angles and evidence the plurality of practices posing rights restrictions.

2.2.1 Digital rights as “protection of negative liberties”

Karppinen & Puukko (2020) firstly evidence the understanding of digital rights as “protection of negative liberties” (p. 313). Negative liberties are those protecting individuals from unjustified government interference (Karppinen, 2017, p. 4). This rights perspective is reflected in academic and early activist debates focusing on the fight against governmental “laws and restrictions on free speech and privacy on the Internet” (Karppinen & Puukko, 2020, p. 313). Notably, these debates focus on authoritarian states constraining individual online liberties through intervention, censorship, and surveillance (Karppinen & Puukko, 2020, p. 314). Digital rights are thereby depicted as inherent freedoms enjoyed by individuals and constrained by state centralized control.

Lynch (2021) refers to this unjustified government interference as “digital authoritarianism” (p. 5), emphasising the role of digital technologies at disposal of authoritarian state control. In this regard, state surveillance represents a control technique for which governments leverage new technologies, as in case of consumer profiling, online eavesdropping, spyware, selling of personal data to third parties, web crawlers & bots (Wang et al., 1998, p. 65 as cited in Fuchs et al., 2011, p. 21). Making improper usage of personal data, authoritarian governments impede the fundamental right to privacy. The cooperation with private entities is in this regard central, as data collected by public actors may easily be handed over to social networks, online shops, internet providers and vice-versa (Manokha, 2018, p. 226). This sharing of private data blurs the boundaries between private and public actors, leading to a state of “liquid surveillance” (Lyon, 2010, p. 325), as individuals do not have a clear picture of which actors improperly access their data, when and for which purposes.

With regard to surveillance, Penney (2017) adds that the rise of digital surveillance, given the suspect to be watched, induces individuals to self-censor themselves (p. 1). Self-censorship arouses additionally from state (over)moderation of online content, that is people fearing a legal punishment for transgressions or violations tend to self-restrict their online activities due to a so-called “chilling effect” (Penney, 2017, p. 2). In fact, while states are entitled to request censorship of illegal speech online – such as in case of blasphemy, and violent extremism – the vague and shadow regulations ruling states and platforms’ joint conditions of removals leave room for censoring legitimate speech (APC, 2018, pp. 9-10). For example, several states “prohibit disclosures concerning government requests for content removal or access to user data” (UNHCR, Report A/HRC/32/38, 2016, p. 17).

In conclusion, when intended as negative liberties, digital rights face the constraint of invasive state interference, as in the case of digital surveillance and online censorship.

2.2.2 Digital rights as “state obligations”

The negative-rights perspective has presented authoritarian abuse of power as a threat to digital rights. It is nevertheless also true that state intervention is, to a certain degree, required to protect online liberties. The state is in fact called to ensure fair internet access, democratic participation, and group rights (Karppinen & Puukko, 2020, p. 315). The second discursive framework highlights this positive understanding of digital rights, as they create binding “state obligations” (Karppinen & Puukko, 2020, p. 314). This perspective sheds light on other types of constraints, namely the factors interfering with governmental regulation in the digital environment. In this regard, Karppinen & Puukko (2020) refer to market power and, more broadly, to social inequalities (p. 316).

Market power as a constraining factor leads the debate to private entities. In the digital context, in fact, “*the vast majority of social interactions, discussions, expressions and controversies take place on platforms and services provided by private companies*” (Jørgensen, 2018, p. 245).

Chief among them, digital platforms are private entities managing several aspects of rights enforcement (APC, 2018, p. 6). Recent debates on their commercial power have placed emphasis “on the ‘gatekeeper’ role that platforms may play, controlling access to market segments or customers groups” (Dunne, 2020, p. 245). Platforms assume gatekeeper roles of varying degrees based on their size, functions, and scope (Jørgensen 2018, p. 251; Lynskey, 2017, p. 9). Digital platforms with a stronger gatekeeper role will be able to select and enforce

platform policies and rules, thus delimiting the parameters of competitive interaction within their platform and increasing their market power (Dunne, 2020, p. 247).

As for Lynskey (2017), this market dominance impacts the end-user and its digital rights because the monopolisation of the digital environment implies the control over the flow, content, and accessibility of information (p. 10). Selecting and enforcing rules, dominant platforms have in fact control over the spectrum of possibilities granted to each user. Such impacts on the end-users' freedoms are not effectively addressed in market power regulation, which rather mitigates gatekeeping in the digital context through policies protecting fair competition among private entities (Dunne, 2020, p. 261). Legal frameworks view in fact the issue "through an economic lens" and consequently fail in capturing and sectioning "practices that negatively impact upon non-economic parameters, such as freedom of expression and privacy" (Lynskey, 2017, p. 4). Therefore, market power jeopardises digital liberties as state regulations focus on ruling classical economic metrics such as competition and fail to address rights matters, including users' freedom of selection, expression, and information.

In a broader context, Karppinen & Puukko (2020) also mention social inequalities as limiting digital rights despite state regulation (p. 316). Inequalities are part of the online world, as the digital environment can inherit existing disparities of the analogue society, reinforce, or even expand them (Zillien & Marr, 2013, p. 64). Factors such as gender, physical abilities, education, income, and geographical location can in fact lead to unfavourable inclusion in e-society as well as to a complete digital exclusion (Zheng & Walsham, 2008, p. 227). At the same time, disadvantages in terms of digital usage and access are a cause of inequalities in the analogue society. In this regard, Robinson et al. (2015) highlight the linkage between digital inequalities and one's set of life opportunities assessing that "those who function better in the digital realm and participate more fully in digitally mediated social life enjoy advantages over their digitally disadvantaged counterparts" (p. 570). Inequalities therefore represent a structural constrain, as disadvantaged groups are not able to entirely benefit from digital opportunities and enjoy their digital rights to the fullest.

2.2.3 Digital rights as "vehicle of 'informational justice'"

Karppinen & Puukko's (2020) third discursive framework emphasises the understanding of digital rights as a "vehicle of 'informational justice'" (p. 317). Digital rights are depicted as a means of redemption from inequalities and forms of power imposed by "both state and market colonization" (Karppinen & Puukko, 2020, p. 319). This discursive framework therefore identifies the digital space as a tool to subvert the power hierarchies of the analogue society. In

this regard, cyber-rights should guarantee “equal access and the fair distribution of information resources” but also “economic development, political participation, combating inequality, and societal progress” (Karppinen & Puukko, 2020, p. 317). The core of this understanding is the approach to digital rights not merely as the rights of the individual, but also as a means to achieve societal change and counterbalance of existing inequalities. The factors constraining the enforcement of digital rights remain the concentration of power of state actors and private entities as well as inequalities, which have been respectively explored in chapter 2.2.1 and 2.2.2, in relation to the first two discursive frameworks. Viewing digital rights as “vehicle of ‘informational justice’” (Karppinen & Puukko, 2020, p. 317) nevertheless contributes to accentuate state and market power as a unique source of constraint to online freedoms.

2.2.4 Digital rights as “affordances provided by platforms”

The positive rights framework discussed in chapter 2.2.2 has emphasised state accountability for ensuring a human-rights based application of law on the internet. However, several digital rights debates also highlight the accountability of digital platforms to comply with human rights law. Karppinen and Puukko (2020) resume this perspective in their fourth framework, which uniquely considers the role of digital platforms as regulators. Digital rights are here intended in terms of “affordances provided by platforms” (Karppinen and Puukko 2020, p. 319). The framework eludes the debate on state responsibilities and views rights as a feature “inscribed in technological infrastructure” (Karppinen & Puukko, 2020, p. 319). In so doing, it gives digital platforms “the de facto status of regulators” of the cyber-space (Karppinen & Puukko, 2020, p. 319).

One fundamental issue of viewing digital rights as integrated in the design of digital platforms lies in approaching human rights “as a matter of corporate social responsibility” (Karppinen & Puukko, 2020, p. 321). Digital liberties are then considered as permissions granted by a private entity, rather than fundamental and already existing freedoms in need to be ensured. A further problematic consists in referring exclusively to the platforms users as right-holders (Redeker et al., 2018, p. 314 as cited in Karppinen & Puukko, 2020, p. 320). This approach leaves out all subjects deprived from accessing digital technologies and tramples over their rights.

However, Karppinen & Puukko (2020) place the most emphasis on the “nontransparent corporate policies” as constraining users’ rights (p. 321). In this regard, Langlois et al. (2009) define the nontransparent corporate policies as “the paradox of free and open communication that exists between the use of tools to facilitate the production and circulation of content and the opacity and complexity of an architecture regulated by the economies of data mining” (p. 420). Data

mining assumes relevance in the context of non-transparency, as this is the mode adopted by digital platforms to make decisions for a wide set of activities: among others, algorithms mediate, rank and filter online information (Hunt & McKelvey, 2019, p. 310). On its turn, the opaqueness of algorithmic decisions derives from the complexity of the automated processes, which are not “obvious to the casual human observer” (Tufekci, 2015, p. 206). This brings to question the human-rights conformity of algorithmic decisions, also considering their increasing application in multiple life-fields such as “finance, hiring, price manipulation, and risk assessment” (Hunt & McKelvey, 2019, p. 310). The behind-the-scenes-work of algorithmic decisions therefore contributes to the visualisation of the digital environment as a space that allows individuals only circumscribed room for *manoeuvre* to exercise their rights, without them fully being aware of these limitations. As Mansell (2015) summarises it, “citizens cannot choose to view what they are not aware of or to protest about the absence of content which they cannot discover” (p. 24).

Non-transparency also refers to platforms’ regulation of online content, which is managed according to the respective community standards (Jørgensen, 2018, p. 259). These “internal governance practices” regulate content filtering, blocking or takedowns and are only partially guided by international human rights law (Jørgensen, 2018, p. 259).

In conclusion, viewing digital rights as inscribed in platforms design constrains users’ rights as platforms decisions are led by non-visible algorithms, are not always transparent and only partially conform to human-rights based standards.

2.3 Factors constraining digital rights: intermediate results

The theoretical framework of this thesis has drawn on Karppinen & Puukko’s (2020) ‘Four Discourses of Digital Rights’ to evaluate the key elements of digital rights constraints. It emerged that different discussions on digital rights emphasise different modes to limit these. Throughout the discourses, two actors were identified as leading to digital rights constraints: authoritarian measures by (even formally democratic) states and private entities.

When referring to digital rights as freedoms from external interference, authoritarian state intervention represents a major constraining factor. Authorities can limit individuals’ right to freedom of expression and to privacy by means of state surveillance and online censorship. In these cases, the state can collaborate with private entities to collect private data or to moderate online content (cf. chapter 2.2.1).

The understanding of digital rights as positive state obligations emphasised that also digital platforms can constrain cyber-rights. Availing their power position in the market to dictate competition rules, platforms can control the flow, accessibility, and content of information. In this regard, also social inequalities emerged as a constraining factor. Despite state regulation of the digital environment, marginalised individuals and minority groups may experience digital disadvantages (cf. chapter 2.2.2).

Rights debates also evaluate the enforcement of digital rights as a vehicle to provide justice and counterbalance existing power hierarchies. In this case, the power of state and private entities as well as social inequalities mutually constrain digital rights, as they obstruct equality and justice in the cyber-world in terms of access, information, participation, and progress (cf. chapter 2.2.3).

Finally, when debates frame digital rights as affordances inscribed in platforms services, these can be circumscribed by platforms' arbitrary decisions not complying with human rights-law. In this regard, the algorithmic decision-making process and the lack of transparent policies facilitate the violation of cyber-rights (cf. chapter 2.2.4).

Basing on this elaboration of digital rights constraints, the analytical section of this thesis will aim to determine the factors that constrain digital rights in the Palestinian context. In order to adopt a systematic procedure, the analysis will first evaluate the actors involved in digital rights constraints and then proceed with the assessment of the constraining factors.

3. Palestine as a case study for digital rights constraints

Before delving into the analytical section, this chapter explains the choice of Palestine as a case study for exploring digital rights constraints.

The relevance of Palestine for the purpose of this thesis is linked to its unique geopolitical situation. The lack of geographical unity, the displacement of Palestinians and the oppressiveness of the Israeli and Palestinian regimes towards the population have shed light on the Palestinian cyber-world as a means of “virtual escapism” from the territories (Aouragh, 2012, p. 105) and as a way of “political resistance” (Tawil-Souri & Aouragh, 2014, p. 103). Analysing digital rights restrictions regarding Palestine is thereby significant, given the essential role that the cyber world plays for counterbalancing the geographical and political fragmentations and oppressions.

As for the geographical divisions, Palestine¹ presents itself as a fragmented territory comprising the Gaza Strip and the West Bank, including East Jerusalem (Cristiano et al., 2020, p. 1). Following from the Oslo II Accords, The West Bank is divided into three different areas (B'tselem, 2019). The so-defined Area C constitutes 61% of the territory and is under full Israeli control, while the Palestinian Authority (PA) officially controls Areas A and B (B'tselem, 2019). The displacement of Palestinians results from the Arab-Israeli conflict (UNRWA, n.d.). The Palestinian population in the Occupied Palestinian Territories (OPT) amounts to 4.8 million people, while more than 5 million Palestinians live as refugees between Gaza, the West Bank, Syria, Lebanon and Jordan (United Nations, 2021). Therefore, Palestine presents itself as fragmented both because of the lack of geographical continuity and because of the dislocation of its citizens.

A Report of the United Nations High Commissioner for Human Rights issued in February 2022 indicates that the Israeli regime in the OPT goes against international law, as it establishes and expands settlements in Gaza and the West Bank and it transfers Israeli population in the OPT (UNHCR, Report A/HRC/49/83, 2022a, pp. 2, 4). The report additionally assesses the impacts of settlements on human rights, highlighting that the “severe settler violence – with the acquiescence or, on occasion, practical support by ISF² – is contributing to the worsening of the coercive environment for Palestinians” (UNHCR, Report A/HRC/49/83, 2022a, p. 6). According to the annual report of the Human Rights Council, also the PA is accountable for endangering Palestinians’ human rights. The report sheds light on the measures taken for “restricting civic space” such as the arrests, attacks, death threats and intimidation of political opponents, what induces “concerns of a lasting democratic deficit” (UNHCR, Report A/HRC/49/85, 2022b, p. 9). Therefore, both the Israeli occupation regime and the PA threaten Palestinians’ freedoms and human rights.

In view of this, assessing whether and how Palestinians’ freedoms are constrained online is relevant, as the digital space would offer the opportunity to amplify the voice of Palestinians, speak out against the oppressing regimes and the human rights violations, and bridge the physical distances among the displaced Palestinian population. As stated by Diamond (2010, p. 70) and Dwonch (2020, p. 40) the digital space potentially widens one’s empowerment and

¹ This work uses the nomenclatures Palestine, Palestinian territories, and Occupied Palestinian Territories (OPT) as synonyms for referring to the West Bank (including East Jerusalem) and the Gaza strip.

² By ISF the report means Israeli Security Forces.

mobilization. Therefore, identifying digital rights constraints is relevant as guaranteeing freedoms in the digital sphere enables individuals to act freely also in society.

4. Methods and Research Design

The following chapter explains the methodology adopted in this work, including the choice of the research design, the related material selection and the method applied for data evaluation.

4.1 Document analysis as research design

This work adopts document analysis as form of qualitative research. According to Mayring (2016), the advantage of document analysis is that the research material already exists and does not have to be produced, hence the subjectivity of the researcher does not influence the process of data gathering (p. 47). A fundamental step of document analysis consists in agreeing on a definition of ‘document’ and select the material accordingly (Mayring, 2016, p. 48).

Considering the object of this thesis, the following definition of document was adopted:

Written publications in English language available online and free of charge addressing violations, constraints, or limitations of digital rights in Palestine.

4.2 Material selection

The sample of this work was obtained according to a conscious selection. The process of searching documents was based on the guidelines proposed by Brocke et al. (2009), for whom “the process of excluding sources (and including respectively) has to be made as transparent as possible in order for the review to proof credibility” (p. 1).

Firstly, documents were searched by keywords on Google and Google scholar. The choice of Google as database was aimed to initially review documents from diverse sources and fields (e.g. academic papers, newspaper articles, non-profit reports etc.).

The keyword search was conducted adopting the term “Palestine” together with “digital rights” and further variations (“digital human rights”, “online rights”, “online human rights”, “cyber-rights”). Besides searching by keywords, additional documents were obtained by backward reference searching, thus reviewing the references cited in the source documents, and by forward searching, which enabled to examine the documents citing the source documents (Watson & Webster, 2002, p. 16). This technique enabled the evaluation of material that would have otherwise not appeared in the Google search results due, for example, to ranking

algorithms. The suitability of each selected document to the research aim was proved on a first reading.

The material selection aspired to obtain a sample of documents covering the broadest possible variety of themes. Hence, based on the first reading, some documents were removed to avoid repetitions. News articles were voluntarily excluded from the list of material as, taken singularly, they tended to present the topic in a less exhaustive manner compared to the other types of documents. The final sampling size thus counted 21 publications and included reports, policy briefs, position papers, research and review articles drawn from NGOs, institutions, and academic publications.

Among the 21 selected documents, 14 were released by NGOs. These included 7 publications from 7amleh – The Arab Center for Social Media Advancement, which advocates for Palestinian Digital Rights; 2 documents released by Al Shabaka, The Palestinian Policy Network, which fosters public debate on Palestinian human rights; 1 document from The Institute for Middle East Understanding, which provides access to information about Palestine and Palestinians; 3 documents published by NGOs not exclusively focused on Palestine: Access Now, Human Rights Watch and the Jewish Voice for Peace. In view of their expertise in human rights, NGOs documents were particularly suitable for the purpose of this thesis and therefore formed a significant part of the selected material.

Within the selected material, 3 documents have been released by institutions. One document was published by The International Bank for Reconstruction and Development, which is part of The World Bank Group; one from Global Campus of Human Rights, an international network in the academic field financed by the European Union; one publication came from the Project on Middle East Political Science (POMEPS), supported by two independent foundations based in the USA³.

The last series of documents included 4 academic publications: two book chapters, one article published in the *Journal of Palestine Studies* and one independent research.

Although no time frame was defined in advance, all documents reviewed date between 2015 and 2022. Document 5, hereinafter D5⁴, represents the only exception, as it was published in

³ This study did not voluntarily exclude any document drawn up by Israel-financed or Israel-based institutions. Their absence in the selected material is exclusively dictated by the lack of documentation on the object of research of this thesis, as far as the researcher could assess.

⁴ From now on this nomenclature will be adopted to refer to the documents included in the selected material (e.g. D5, D8, D17).

2012. The document has been nevertheless included, since more recent selected publications do not consider the research findings outdated and have drawn upon them. For each selected publication, the latest version has been chosen.

The complete listing of the selected documents can be found in the bibliography, under “primary sources”.

4.3 Data evaluation

This section summarises the evaluation of data, focusing on the choice of qualitative content analysis and the process of category formation. The software program MAXQDA Plus 2020 was used with the aim to simplify the data gathering and evaluation.

4.3.1 Structuring qualitative content analysis

After selecting the material, the latter was analysed according to a structuring qualitative content analysis based on Kuckartz (2018, p. 48). As first clarified by Mayring (2015), the purpose of a structuring content analysis is to filter out and summarise certain topics, contents, and aspects from the material based on the aim of the analysis (p. 119). This analysis aimed at categorising factors constraining digital rights and extracted the contents accordingly. The extracted contents were sorted into categories, as the next section will present.

4.3.2 Deductive-inductive category formation

Kuckartz (2018) examines two procedures of category formation: one is exclusively theory-oriented (“A-priori” or “deductive”) while the other is based on the empirical data (“on the material” or “inductive”) (p. 64). As it is standard practice for most research projects (Kuckartz, 2018, p. 97), the category formation for this study followed a multi-stage procedure, combining deductive and inductive methodologies. All formed categories are “thematic”, as they indicate a specific theme, namely a constraining Factor (Kuckartz, 2018, p. 34).

Firstly, a-priori categories were formed based on the theoretical framework and then summarised and classified in a coding scheme. During the coding procedure, coding guidelines were defined through a category definition, an anchor example and possible coding instructions (Kuckartz, 2018, p. 66).

Before starting with the first coding, the smallest unit of coding (Kuckartz, 2018, p. 41) was defined as a single sentence, while the context unit (Kuckartz, 2018, p. 44) corresponded to several successive paragraphs. Finally, each selected document represented a unit of analysis (Kuckartz, 2018, p. 30).

After coding the documents according to the deductive methodology, the next step consisted in forming inductive categories. These served for further specifying the categories deduced from the theoretical framework and therefore formed subcategories. Kuckartz (2018) defines this type of category system as hierarchically structured, considering that it is conceived in different levels of main- and subcategories (p. 38).

The inductive subcategories have been openly formed and subsequently merged, for developing more general categories, or further differentiated (Kuckartz, 2018, p. 108). For the first inductive coding process, subcategories were therefore formed without adopting any level of abstraction and complied with terminologies used in the text passages, according to an “in-vivo-coding” procedure (Kuckartz, 2018, p. 35). The nomenclatures of the categories were adjusted in the second phase, in which the codes⁵ have been merged or differentiated and then sorted under the main categories.

To sum up, the overall procedure of main categories formation followed a deductive methodology, while the subcategories were formed on the material. Nevertheless, in two cases two groups of subcategories could not be assigned to any already existing main category and two additional main categories were inductively formed.

Once the entire category system was permanently established, the coding procedure has been repeated. In cases of doubt, the assignment of categories or subcategories was made based on the overall assessment of the text (Kuckartz, 2018, p. 102). Nevertheless, cases aroused where more than one subcategory was assigned to a single text passage, as it is to be expected from structuring content analyses (Kuckartz, 2018, p. 102).

5. Results

In this section the findings of the analysis are presented shortly, while an exhaustive interpretation of data follows in chapter 6. The data is displayed based on a thematic grouping: each subchapter identifies one actor constraining digital rights. For each actor, the factors inducing constraints are presented within main- and subcategories. The main categories are written in *italic*. The results are also outlined in a table, which can be found in Appendix C.

5.1 Authoritarian measures by states

The evaluation of data resulted in the identification of four main categories describing the practices of authoritarian measures by states constraining digital rights.

⁵ This work uses the terms “category” and “code” as synonyms (Kuckartz, 2018, p. 36).

Firstly, the dimension of *State over-regulation* turned out to be relevant in the Palestinian context. In this regard, Israel and the PA issue laws threatening online freedoms or do not apply existing law. In relation to online platforms, Israeli over-regulation results in arresting people due to social media activity and in censorship of online speech on social media. The PA, on its turn, censors online websites in the West Bank.

Another aspect of authoritarian constraints to digital rights in Palestine regards the *control over the ICT infrastructure*, which is detained by Israel. Restricting access to the electromagnetic sphere, Israeli authorities limit the quantity of frequencies that Palestinian telecommunication providers can use and consequently the access to internet for Palestinian users. At the same time, offering unauthorised service in the West Bank, Israel imposes market losses on Palestinian operators and forces both operators and customers from Area C to rely on Israeli telecommunication services, in order to have a non-disrupting network coverage. Palestinians from Gaza, instead, can exclusively rely on the telecommunication services of Paltel, the main Palestinian telecom company which has a private regulated monopoly there. As Palestinian operators do not cover all areas, Palestinian territories are isolated from one another. Furthermore, the connection between Palestine and the rest of the world is controlled by Israel's monopoly on international gateways. Also, any ICT equipment imported from outside requires Israeli technical approval.

In Palestine, authorities constrain digital rights also through *state surveillance*. By means of surveillance technologies, Israeli authorities developed eavesdropping software, facial recognition technologies and espionage services. Eavesdropping software also enable Israeli authorities to send text messages to Palestinian phones. By accessing private information online and on personal devices, Israel and the PA target their respective political opponents. On social media, instead, Israel applies a predictive policy system to identify suspects and collects private information to blackmail people, pressuring them into cooperating with the Israeli authorities.

Finally, authorities were seen to limit individuals' digital rights cooperating with private companies, that is through a *public-private partnership*. This occurs between the PA and private internet service providers, as they coordinate to collect data or block access to websites. It also regards the collaboration between Israel and surveillance companies, as well as between Israel and digital platforms.

5.2 Private platforms

Applying the theoretical framework to the sampling material enabled to identify two main categories displaying digital rights constraints induced by private platforms.

Platforms constrain digital rights in Palestine through *censorship*, by closing pages and/or accounts, but also reducing visibility of online content and hashtags. Content takedowns of Palestinians and Palestinian supporters also evidence censorship, together with biased content moderation as in the case of speech against Zionism or posts in Arabic language. Web mapping platforms contribute to censorship through misrepresentation of Palestinian territories on their services. On their turns, payment platforms contribute to a financial censorship by partially blocking payment services in and for Palestine.

A second factor of constraint was addressed in the category *vague regulations*. In this regard, the unclear terms of service and community standards do not clarify content moderation practices in cases of violence, hate speech, terrorism, racism, and anti-Semitism. Once content has been removed, platforms offer unclear explanations for censorship, providing either vague justifications or excusing takedowns as technical glitches. In some cases, platforms decisions are arbitrary and do not comply with international law or their own platform policies. In other cases, social media platforms policies have double-standards.

5.3 Online users

Users' online activity is a main category which has been inductively formed. Online users can constrain their own digital rights through self-censorship. In the Palestinian context, users constrain other users' digital rights targeting them with hate speech. A specific case is represented by online misogyny, directed to Palestinian women and feminists. Online users can furthermore contribute to spreading disinformation on social media by sharing misleading and fake news or spreading smearing content and campaigns.

6. Results Interpretation

This section interprets the results of the analysis following a category-based evaluation (Kuckartz, 2018, pp. 118-119). The rank order of the results follows the thematic grouping displayed in chapter 5. The main categories are written in italic.

In order to evaluate the factors constraining digital rights in Palestine, this work focused on the identification of the actors involved in the first place. It emerged that states (and their authoritarian measures), digital platforms and online users are the key actors accountable for

digital rights restrictions. A closer look at each actor subsequently revealed the constraining factors.

As for states, a double system of authoritarianism could be assessed in the Palestinian context, given that both the Israeli regime and the PA circumscribe cyber-liberties. This occurs with *state over-regulation*, by which authorities restrict free speech, freedom of information and violate individuals' privacy. Specifically, authorities can implement laws threatening online freedoms. In this case, the vague formulation of terms justifies authoritarian interpretations. This becomes well evident with the Facebook Bill, a law proposal which "allows the Israeli Public Prosecution to request Israeli courts to remove any content from the digital space because it is 'inciting' or threatening the 'state security' or 'personal security'" (D16, p. 10). Vagueness also characterises legal policies issued by the PA, as for the Electronic Crimes Law, which has been passed for the sake of "state security and public order" (D14, p. 5). The ambiguity of terms as 'incitement' or 'state security' legitimizes Israel's extensive social media censorship of Palestinians (D20, p. 5), the PA blocking of websites in the West Bank (D13, p. 20) and the arbitrary arrests of Palestinians due to their social media posts (D16, p. 13). The findings of state over-regulation reflect Karppinen's (2017) argumentation for which "unjustified government interference" limits the spectrum of negative liberties (p. 4).

Nonetheless, Karppinen & Puukko's framework (2020) did not elaborate on the enforcement of legal policies as a legitimization of governmental interference, which instead emerged through the analysis of Palestine, thus permitting to further clarify the modes of state intervention. To this regard, Israel's over-regulation of social media activities pointed out that the lack of geographical borders in the digital environment permits authorities a far-reaching misuse of power. In fact, Israel can potentially limit the online activities of not only political dissenters in its territorial domain power, but also of Palestinians and pro-Palestinians living in other areas. This aspect draws attention to the digital environment as an opportunity to expand authoritarian power.

Besides state intervention, the analysis showed that also state non-appliance of existing laws is detrimental to digital rights. Exemplary is the case of the Oslo Accords signed in 1995, which recognised "that the Palestinian side has the right to build and operate separate and independent communication systems and infrastructures" (D1, p. 26). The treaty is not respected by the Israeli authorities, who do have control over the Palestinian ICT infrastructure. As evidenced by Karppinen & Puukko (2020), this contradicts with the state obligations to guarantee online liberties (p. 315). The issue is further addressed within the category *control over the ICT*

infrastructure, which clarifies how Israel's control over the Palestinian ICT restricts digital liberties. Firstly, by controlling the import of ICT equipment and restricting the access of frequencies to Palestinian ICT operators, Israel limits the digital development of Palestine. In this regard, multiple documents have highlighted the revenue losses and the competitive disadvantages for Palestinian operators attributable to the absence of 3G and 4G (D1, p. 6; D2, p. 15; D5, p. 34; D6, p. 3; D13, p. 10).

Nevertheless, the adverse effects also impact Palestinians' digital rights, as their internet access and usage of digital opportunities are restricted, also due to the higher costs of telecommunication services in the territories when compared to similar markets (D1, p. 19). In this regard, D6 highlighted that the delayed release of high frequencies made value-added services for new generation smartphones, such as GPS and PayPal, long not available for users of the Palestinian network (p. 4). This delay impacted the access to the next generation information society "such as, e-governance, e-health, e-commerce, digital media, and other spheres" (D6, p. 5). D3 pointed out that Israel's control over the electromagnetic sphere therefore resulted in a digital gap between Israelis and Palestinians and that the phenomenon of "digital inequalities among different communities under the same rule (...) is not well studied yet" (p. 148). The documents have thus revealed a direct link between Israel's control over the Palestinian ICTs and the arising of digital inequalities. Basing on Robinson et al. (2015), digital inequalities can further lead to social disadvantages (p. 570). Nevertheless, the evaluation of the documents did not permit to draw any conclusions in this regard, as the impacts of digital inequalities on other aspects of Palestinians' lives, such as education or job opportunities, was poorly elaborated.

The documents revealed further constraints to the right to internet access. First and foremost, Israeli mobile operators offer unauthorised service in the West Bank including 4G services (D2, p. 22). This restricts Palestinians' freedom of choice, as they are obliged to rely on Israeli operators to benefit from digital opportunities. Furthermore, it represents an example of market power, as Israeli operators delimit the parameters of competitive interaction (Dunne, 2020, p. 247). The internet access is "doubly state-sanctioned" (D5, p. 33), as Paltel has a private regulated monopoly in Gaza, which further restricts Palestinians' opportunity access the internet.

Israel's control over the electromagnetic sphere does also not allow Paltel to "connect through sufficient microwave links between their infrastructure between the West Bank and Gaza" (D13, p. 10), while East Jerusalem is completely excluded from the Palestinian network (D6,

p. 7). This lack of interconnectedness isolates the Palestinian territories from each other and further hinders the right to internet access and connectivity. Israel also operates the connection of the Palestinian network with the outside world, as it has the monopoly of the international gateways. As the communication between Palestine and the world passes through Israel and Israeli companies (...) the Israeli government maintained control and ability to monitor all communication” (D3, p. 145). This aspect emphasises that Israel’s control over the Palestinian ICT infrastructure also facilitates *state surveillance*, a further authoritarian constraining factor for digital rights.

While the monopoly of gateways facilitates wiretapping, the control over the frequency spectrum enables eavesdropping, as low frequencies bands are easier to monitor (D3, p. 146). This explains Israel’s capability to send messages to Palestinian phones before a military offense (D2, p. 18). The advancement of the Israeli tech sector has furthermore led to the development of surveillance technologies. Among these, the Blue Wolf technology “takes pictures of the faces of Palestinians and matches them with a large-scale image database” (D16, p. 10). The software serves to classify Palestinians “as they pass through the Israeli military checkpoints in terms of ‘danger’ to Israeli occupation soldiers” (D16, p. 10). Israeli surveillance calls into question the right to privacy and data protection: the invasiveness of the monitoring operations risks turning Palestine into what the media have described as a “surveillance tech dystopia” (Nashif, 2021). These results reflect Karppinen & Puukko (2020), who highlighted state surveillance as a form of governmental interference with online liberties (p. 314). The usage of new technologies for surveillance was moreover asserted by Lynch’s (2021) conceptualization of “digital authoritarianism” (p. 5).

Not only tech solutions, but also social media count among the new modes of control documented in the material. D13 has shown that the Palestinian Security Services access personal information by forcing individuals under interrogation “to hand in passwords for their social media accounts (...) to gain direct access to their private information” (p. 23). Likewise, the Israeli intelligence hacks private accounts with the aim to gain personal data, “extort or blackmail the person and turn them into a collaborator” (D21, p. 7). Social network sites as a means of surveillance emphasise the accessibility of private data in the digital age. Users’ online activity does not only provide information which have been consciously disclosed, but also enables to make predictions about non-shared information. This becomes visible with Israel’s development of a predictive policing algorithm, which scans Palestinians’ social media activities and “identifies ‘suspects’ based on a prediction of violence, rather than any actual

attack – or even a plan to commit an attack” (D14, p. 2). The algorithm looks for words such as shaheed (martyr), Zionist state and Al Quds (Jerusalem), as well as for accounts posting pictures of Palestinians killed or jailed by Israel, in order to target potential state enemies (D13, p. 16). The predictive policing system goes against the presumption of innocence as it targets people based on unestablished hypotheses. However, no examined document delved deeper into the technical functioning of the algorithm and rather only addressed its existence. This could be reasoned by the complexity of the automated processes, which are not “obvious to the casual human observer” (Tufekci, 2015, p. 206).

Also, the monitoring of social media sheds light on the *public-private cooperation*, a further constraint for free speech and online privacy. Both the PA and the Israelian government cooperate with private entities to collect and gain users’ personal information as well as for moderating online content. The documents have especially addressed the collaboration between Facebook⁶ and Israel (D2, p. 32; D12, p. 7; D13, p. 14; D14, p. 4; D17, paras. 15-16; D21, p. 11). Since 2015, the Israeli cyber-unit has been responsible to halt ‘incitement’ on social media, working in strong collaboration with Facebook, which accepts governmental requests to remove harmful content (D17, para. 29). D9 evidenced a lack of transparency around governmental requests based on alleges violations of its community standards, not made official by Facebook (paras. 45-46). The lack of transparent regulations ruling states and platforms’ joint conditions of removals echoes the findings of the APC (2018, pp. 9-10).

The israel-Facebook collaboration also indicates the blurred boundaries between state’s surveillance and the contribution of private platforms, in accordance with the concept of “liquid surveillance” (Lyon, 2010, p. 325). Furthermore, the cooperation between state and private actors also brings to question the reason for Facebook’s collaboration with Israelian authorities. In this regard, D12 (p. 8), D14 (p. 4) and D21 (p. 8) suggest that Facebook may benefit from Israel’s well-developed information technology industry and from the start-up sector. D12 also sheds light on “Facebook’s fear of legal action regarding content that denies the holocaust” (p. 8). Accordingly, Facebook would succumb to Israeli requests of censorship of any dissenting voice, so as not to incur any accusation of allowing anti-Semitic speech.

Facebook’s cooperation with Israeli authorities also provides a link to the role of private platforms as actors constraining digital rights. This occurs at first place through *censorship*, in

⁶ Facebook is the parent organization of Facebook, Instagram and WhatsApp and is presently known as Meta. As the change of name occurred in October 2021 and most of the documents have been published beforehand, this work refers to the company as ‘Facebook’.

the forms of content takedowns, reducing visibility of posts and hashtags, closing pages and accounts. D8 (para. 25), D9 (paras. 21-22) and D11 (p. 3) notably highlight systematic takedowns of Palestinian content on Instagram, Facebook, Twitter and Tik Tok coinciding with the Israeli-Palestine crisis in May 2021. The takedowns led to the silencing of Palestinian advocates for Sheikh Jarrah and documenting the airstrikes attacks on the Gaza Strip (D11, p. 8).

The systematic oppression of protesting voices is a constraint to freedom of expression and it especially limits the right to protest and to dissent online. As many studies in this field have shown, there is a relation between social media activity and collective action and Palestine is, in this regard, no exception. The researcher Dwonch (2020), looking at Palestinian mobilization in the internet age, showed that the online sphere provides a space where “like-minded young people” can express their political dissent and by that find each other in an independent and informal way, “outside the structures of official parties and formal political organization” (pp. 148-150). The contribution of the online sphere to the formation of dissenting groups highlights that the censorship of online dissent also affects mass movements on the ground.

Social media blockings also involved the systematic and decontextualized filtering of Anti-Zionist speech and Arabic words, on Facebook but also YouTube, such as ‘martyr,’ ‘Al-Aqsa,’ ‘jihad,’ ‘knife’ (D13, p. 16; D15, p. 134). The over-moderation expanded to Arabic speech in general and, according to D17, this is because Facebook remains “short on moderators who speak local languages” (para. 10). Biased content moderation can be read not only as a result of Facebook’s previously mentioned cooperation with Israel in order to avoid a lawsuit, but also as a case of “digital orientalism” (D17, para. 31). To this regard, D17 (para. 31) highlights that western companies use discriminatory lens to view the Middle East and North Africa region and define disadvantaging policies for their users. This interpretation emphasises that social media platforms may doubly disadvantage Palestinian users: first, over-moderating Palestinian content in accordance with Israel’s requests, second, applying western norms and policies.

A further digital platform, namely Google Maps, constrains Palestinians online, as it misrepresents Palestinian territories on its services. D10 highlights that Google Street view marks only a few places in Gaza and in other Palestinian cities in the West Bank, while “most of Israel is available to view” (p. 11). In particular, the Palestinian villages in Area C which are not officially recognised by Israel are also not represented on the map (D10, p. 11). The document also addresses that the mapping service is “unable to calculate routes within Palestinian rural communities, or to and from Gaza” (D10, p. 14), what constrains the freedom

of movement. A further misleading feature is the absence of any conventional nomenclatures (Palestine, State of Palestine, Palestinian Territory, etc.) for labelling the West Bank and Gaza (D15, p. 139). According to D15, this “immediately signals erasure” (p. 139). Imagining an extension of basic rights to the digital sphere, the misrepresentation on mapping services would harm a fundamental right to exist or to digital existence. Especially, the digital representation of Palestinian territories shapes the outside world’s perception of Palestine and has the power to distort this. Aligning with Israel’s conception of space and territory rather than considering international law and a human rights-based approach, Google maps reduces human rights to a matter of platforms’ decisions and permissions, as reviewed in Karppinen & Puukko’s (2020) discourse of digital rights as “affordances” (p. 319).

Additionally, online payment platforms as PayPal and Venmo inhibit freedom of expression through financial censorship. D13 evidenced that PayPal refuses to operate in the Palestinian Territories, thus hindering the development of the business sector for the Palestinian economy and affecting job opportunities (p. 30).

Although private platforms make usage of algorithms to moderate content, as the biased content moderation of Arabic speech has shown, no category could be formed to evidence the mechanisms of automated censorship. As indicated by Hunt & McKelvey (2019) data mining is used to mediate, rank and filter online information (p. 310). Nevertheless, the process of algorithmic censorship has been only dimly described. The poor description of the algorithmic mechanisms could be explained by the opaqueness and the complexity of automated decision-makings, which have been addressed by Langlois et al. (2009, p. 420).

However, further limitations of digital rights enacted by private platforms could be addressed under the category *vague regulations*. As with the authoritarian vague formulation of legal terms, platforms’ terms of service and community standards are in certain cases unclear and “subjected to personal and unspecific interpretation” (D21, p. 18). The community standards lack for example key definitions as “anti-Semitic” (D20, p. 11), are vaguely formulated and not distinct. Hence many of them could simultaneously apply to a specific case and be invoked to take off-content (D7, p. 18). This vagueness leads to unclear explanations for censorship, as Facebook and YouTube remove content for generally breaching the community standards (D12, p. 7) or “without providing the user a warning or notice” (D9, para. 27). In other situations, platform decisions do not comply at all with their policies or even international law. For example, Google maps automatically calculates routes for Israeli ID holders which are not accessible to Palestinian ID holders, thus contradicting obligations under international human

rights norms (D10, p. 17). Academic evidence had also shown that platforms policies are only partially guided by international human rights law (Jørgensen, 2018, p. 259). Moreover, the non-traceability and non-comprehensiveness of platforms policies can be linked to the conceptualisation of digital rights as affordances provided by platforms, as human rights law is reduced to “a matter of corporate social responsibility” (Karppinen & Puukko, 2020, p. 321).

Platforms’ decision-making authority leaves room for applying law on a case-by-case basis, what brings to double-standard policies. To this regard, the collaboration between Israel and Facebook to halt incitement led to major takedowns of Palestinian content, while an “insufficient monitoring of racism, incitement, and hate speech against Arabs and Palestinians posted in Hebrew” could be observed (D11, p. 11).

The double standards of social media platforms are receiving considerable media attention also in broader terms, against the background of the Russian military occupation in Ukraine started in February 2022. As reported by the newspaper *The Guardian*, Facebook decided to temporarily make allowances in Ukraine, and other neighbouring countries, for forms of political expression that would normally violate its policies, such as violent speech against Russian invaders (Bayoumi, 2022). The decision shows the unevenness of Facebook policies when compared to the moderation practices towards Palestinian activists in May 2021, where “Facebook was definitely not on the side of the occupied” (Bayoumi, 2022). The comparison highlights the inconsistency of platforms policies, which reconsider the threshold of ‘free speech’ and ‘violent speech’ depending on the case matter rather than following a transparent procedure.

Providing consistent and transparent moderation policies is essential also considering that users’ online speech can limit digital rights. This has been addressed within the category *users’ online activity*. Although the theoretical framework of this work did not elaborate on users as actors limiting digital liberties, the evaluation of data permitted to explore this perspective.

When not correctly moderated, users’ speech can have consequences on the freedom of expression of other users. The documents revealed that the incitement against Arabs and Palestinians on social media leaves room for hate speech, with a strong targeting against women. Online misogyny is referred to Palestinian women and a pool from 7amleh showed that “only 39,8% of Palestinian females (compared to 56,2% of males) feel safe to share personal information and photos on social media” (D13, p. 33). Hate speech consequently leads to self-censorship, through which users restrict their own right to freedom of expression also “for fear of reprisals by the occupation authorities and because of the surveillance Israel imposes on

social media” (D16, p. 10). This factor had also been brought up by Penney (2017) with reference to the “chilling effect” (p. 2). Fearing surveillance, legal consequences, but also violent speech from other users, Palestinians may feel discouraged to freely express themselves online. Palestinian human rights defenders are as well subjected to hate speech through smearing content, which falsely labels them as anti-Semitic (D16, p. 22) and could induce to self-censorship. Lastly, users spreading disinformation and fake news on social media (D11, p. 7) can compromise the Palestinian narrative and by that the freedom of information.

7. Conclusion and Outlook

This thesis aimed to assess the factors constraining digital rights in Palestine by means of a document analysis. To answer the research question, the actors accountable for digital rights restrictions were evaluated at first place. For each actor, the constraints modes were subsequently addressed so to obtain a categorization of the constraining factors.

Data identified Israel and the PA, private platforms, and online users as the key actors implicated in digital rights constraints. As for Israel and the PA, these regimes interfere with Palestinians’ cyber-liberties, first and foremost with the right to free speech, by over-regulating the digital environment. In this regard, it could be proved that state over-regulations do have an impact also in the offline world. Notably, Palestinians can be jailed by authorities based on their social media posts. Israel also constrains the liberties of Palestinians through the control of the ICT infrastructure in Palestine. Among others, the control over the electromagnetic field and the monopoly on international gateways facilitate state surveillance. The causal link between the control over the ICT infrastructure and Israel’s surveillance of Palestinians was nevertheless only poorly addressed in the documents and this thesis could not further uncover this connection. Additional research is needed with the aim to better address the violation of privacy and personal data. While the documents showed a connection between Israel’s control over the ICT infrastructure and the arising of digital inequalities in Palestine, no aftermath on social inequalities could be assessed. Further research is required to provide evidence also in this regard.

The endorsement of private entities of Israel and the PA’s surveillance was emphasised as a further factor leading to constraints of cyber-liberties. This evidenced that public and private bodies work, to some extent, jointly and their combined action results in limitations of digital liberties. The case of Facebook and Israel’s cooperation supported this thesis, as both actors jointly contribute to the censorship of Palestinian online content. The analysis further revealed that private platforms use systematic content takedowns, also through the algorithmic detection

of Arabic words or Arabic speech, to restrict Palestinians' right to freely express themselves. Not only Facebook's interests to collaborate with Israel, but also "digital orientalism" could explain the censorship of Palestinian content, thus subjecting Palestinians to a doubly disadvantaged system of content moderation. The present work could not further explore the hypothesis of a double censorship system, and additional studies on other regions from the Middle East and North Africa should be considered to put credence in this assumption. However, it could be assessed that platforms censorship does not only have an impact in the virtual world, but also leads to further limitations on the ground. The silencing of Palestinian online protests threatens *any* form of activism and dissent, as the digital sphere is an essential tool to promote action on the ground.

Additionally, the non-transparency of digital platforms' regulations was addressed as a major constraining factor. Social media platforms decisions on content moderation follow a case-by-case practice and are not always comprehensible. This legitimizes censorship of legal content and does not enable to dig into the mechanisms of algorithmic decision-making processes, as these are just not visible. Further research is needed to bridge this gap, in order to address more concretely the procedures of private platforms that should be made more transparent. Furthermore, the degree and modes of transparency should be better defined by external standards, rather than handled by platforms' arbitrary decisions.

Lastly, platforms' double-standard policies particularly affect Palestinians, as hate speech content and fake news against Palestinians often remain online. Hence users are given the chance to restrict digital rights too. Discriminating and misogynistic posts, smearing content and fake news induce Palestinians to self-censor themselves and limit their own freedom of expression.

The present categorisation of the constraining factors to digital rights does nevertheless not provide a comprehensive overview of the Palestinian case. This is where the limitations of this work concentrate. First of all, this study was based on a small and non-representative sample, so that the results should be replicated and amplified through representative sampling. Secondly, the analysis of the constraining factors was based upon a very specific theoretical lens, namely Karppinen & Puukko's (2020) 'Four Discourses of Digital Rights' framework. This may have induced the researcher to prioritise certain constraining factors over others. Although the combination of a deductive and an inductive methodology tried to prevent this, the theoretical framework had an influence on the interpretation of the material. Other studies

should therefore aim to enlarge and replicate the results, drawing from different theoretical frameworks, and eventually merging their findings together.

The findings of this work could be helpful to NGOs, institutions and independent researchers dealing with digital rights violations in Palestine. The recognition of the constraining factors (and actors) behind the effective violation of a digital right is in fact essential to address the issue in a systematic and comprehensive manner to the international community and to ensure a fair addressing of online regulations. The urge to further research in the digital rights field is supported by the fact that online restrictions translate into restrictions on the ground. Henceforth, the digital sphere is a fundamental place where human rights need to be monitored.

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9. List of abbreviations

3G/4G: 3rd Generation/ 4th Generation

APC: Association for Progressive Communication

GPS: Global Positioning System

ICT: Information and Communications Technology

NGO: Non-Governmental Organization

PA: Palestinian Authority

UDHR: Universal Declaration of Human Rights

UN: United Nations

UNHCR: United Nations High Commissioner for Refugees

UNRWA: United Nations Relief and Works Agency