

FREEDOM OF SPEECH AND CENSORSHIP



Where does Lebanon stand?

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1. FREEDOM OF EXPRESSION: A NEGATIVE FUNDAMENTAL RIGHT

“If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind.”¹

Freedom of Speech, and by extension Freedom of Expression is a fundamental human right, guaranteed under Article 19² of the Universal Declaration of Human Rights. But is this freedom an absolute? Usually, we associate freedom with the absence of constraints, the ability to do, think, believe, consume anything without outside interference.

Saying that freedom of expression is a fundamental right and a cornerstone of civil liberties means first and foremost that laws and governments cannot curtail, repel or limit it without just cause and due process. It is nevertheless a negative liberty which means that while it must be free from outside restraint, there is no obligation whatsoever to recognize, agree with, facilitate, provide a platform, endorse or legitimize the opinions expressed. However, being a fundamental human right means that it should be exercised freely with no fear of repression, repercussions or retaliation. And yet, freedom of expression is in crisis all over the world.

The UK-based NGO Article 19 reports in its Global Expression Report that it has fallen at its lowest score since 2009. “51% of the world’s population now live in countries rated in crisis – with a GxR score of less than 20/100: that is 3.9 billion people living in contexts where the right to know or the right to speak are routinely violated.”³

1.1. Scope of Freedom of Expression

Paragraph 2 of Article 19 expands freedom of expression from a mere right to speak up to the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media [...]”. As such, its scope goes well beyond simply formulating an opinion in the public sphere to include, the freedom of assembly and the right to protest, the freedom of the press, digital and artistic liberties. Moreover, it is considered to be an eloquent indicator of the health of other fundamental liberties and of a government’s observance of human rights especially when protecting dissent and opposition to its own policies.

Freedom of expression is the pillar upon which democratic values rest. Even in liberal societies, the exercise of democratic rights is futile when dissenting voices are silenced and the access to relevant information stifled, for without relevant information there could be neither enlightened assent nor authentic consent.

1.2. Exceptions

Furthermore, the differences in implementing this fundamental tenet of human rights stem from a quasi-consensus regarding the legitimacy of limiting free speech in some cases, but some divergence regarding what constitutes a valid reason to do so. The problem isn’t as much whether the mere existence of those limitations is legitimate but how appropriate, proportionate and justified these limitations are, and above all, that they’re not being instrumentalized in the sole purpose of suppressing dissent.

1.2.1. The Harm Principle

“The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others”⁴, writes John Stuart Mill in *On Liberty*. This idea became known as the Harm Principle. Even Article 19 of the Universal Declaration of Human Rights acknowledges its applicability to Freedom of Speech in paragraph 3⁵, “for respect of the rights or reputations of others; or the protection of national security or of public order, or of public health or morals.” Pragmatically, when does the harm principle apply, making it legitimate to limit Freedom of Expression? Notable instances are blackmail and extortion⁶, hate speech, inciting violence or discrimination, false advertising, marketing harmful products or pseudoscience and libel.

In Lebanon, so many of these tenets are only regulated on paper or whenever it is convenient to those in power, in order to further entrench their hold. When a popular Lebanese Facebook page *Wayniyyeh El Dawleh* routinely published videos of alleged crimes and misdemeanors, asking its followers to identify the perpetrators⁷, there was a rise in vigilante justice and doxing. Local NGOs like *Helem*, *Kafa* or *SMEX*⁸ denounced a surge in arrests targeting members of the LGBTQIA+ community due in part to the sensationalist nature of some of the videos, designed to elicit outrage, which played into the hand of local law enforcement agencies in seeking to occupy public opinion with arrests that appeal to its biases and away from the rampant corruption. This example alone shows the many ways the exercise of free expression by this page clashes with the fundamental rights of others, like the right to privacy and anonymity or the right to a fair trial guaranteed by the presumption of innocence, which is enshrined in the Lebanese constitution.

Even more insidious is the prevalence of hate speech in the public discourse in Lebanon. It permeates as much social media as it does political rhetoric, journalistic sensationalism⁹ and mainstream ideology. Peddling with racist, xenophobic, homophobic, transphobic and misogynist tropes is common place and disguised as patriotism, chastity, honor and piety. This brand of demagoguery and populism is deeply rooted in the will to safeguard the sectarian divide and clientelism by displacing the Overton window¹⁰ so far into the demonization of any kind of alterity that it normalizes intolerance and erects it as a value.

1.2.2. The Offense Principle

One central question is whether offense qualifies as harm, and if in consequence it is legitimate to legislate the limitations of freedom of expression on the basis of offense. The answer is a resounding no. The difficulty lies in the unquantifiable nature of offense which relies entirely on the sensibilities, openness and subjectivity of the recipient, be it a group, a society as a whole, or an individual. The relative and contingent nature of offense as a criterion renders it ripe for the picking to be exploited and instrumentalized by bigots and despots alike, in order to maintain the *status quo* in a chokehold, hence asserting dominance.

One almost ubiquitous argument is entirely founded on erroneous grounds. Indeed, the reasoning that equates some manifestations of nudity in the public sphere for example, as all equally offensive and therefore necessary to censor is based on the slippery slope fallacy: if we allow nudity to be showcased in a work of art, then we'd be giving exhibitionists license to roam free in the streets. Except while the first, as offensive as it might be to certain sensibilities, must be protected under freedom of expression, the second can and should be penalized by the law because motive, intent and premeditation qualify it as a non-consensual assault.

Similarly, blasphemy laws are built upon false premises that pervert the hierarchy of norms, which is the idea that there is a vertical legal order. Article 384¹¹ of the Lebanese Penal code is one such instance. It stipulates that insults to the president, the flag, the army or religious rites and symbols are offenses liable to prosecution. Except freedom of expression and of conscience are both enshrined in the Lebanese Constitution, making this law unconstitutional and incoherent at best, and in effect abusive. It also contradicts Lebanon's obligations to conform to the statutes of Human Rights international laws and conventions that it ratified throughout its history.

2. FREEDOM OF ASSEMBLY AND THE RIGHT TO PROTEST

Freedom of assembly, defined as the freedom of association in the sense of adherence to a group, party, organization, syndicate or union, is one that is only adjacent to freedom of expression. Where they intersect, however, is in the second acception of the term, that refers to the freedom to join a demonstration or a protest. Historically, protests have often helped enact positive social and political change all over the world, raising awareness and conferring visibility to marginalized and vulnerable groups. They are the bastion of the fight for human rights, civil liberties and social justice.

2.1. A Positive Extension to Freedom of Speech

While freedom of speech is a negative albeit inalienable right, that only binds laws and governments to allowing its exercise unobstructed by any fear, the right to assemble and protest is in any democratic society a

positive right. For a democracy to be a functioning one where civil liberties are unabridged, free and fair elections are not a sufficient condition without the possibility to constantly influence government decisions. The right to assemble and protest is one of checks and balances, the right to express dissent and grievances or demand accountability. Therefore, it comes with the obligation on the part of any democratic State to guarantee the security of peaceful protesters, either from counter-protesters or any individuals or groups that imperil their safety or ability to demonstrate.

When in the beginning of the protests in Lebanon in October 2019, pro-government counter-protesters burned the tents¹² and revolutionary symbols of the demonstrators¹³ and instigated with absolute impunity violent attacks on otherwise peaceful protesters¹⁴, right under the nose of security forces who not only shied away from intervening to stop them, but also facilitated their access to the demonstrators, the Lebanese State failed to meet the standards of its supposedly fundamental principles.

2.2. Militarization of the Anti-Riot Police

It's in no way a coincidence that the trend of the militarization of the police emerged worldwide as soon as civil rights movements started to gain traction all over the world in the 1950s and 1960s. The premise is simple enough: employing military grade weapons, gears, tactics and mindset to ensure a better grip on violence.

Advocates of this phenomenon argue that it helps protect both law enforcement agents and the public from violence. Disproportionate defense budgets¹⁵ use their surplus to endow local police with equipment and training, and the sight of overly militarized riot police standing guard in any kind of protest has become alarmingly familiar. The perverse, but nevertheless predictable consequence, is first and foremost a psychological one. If both the police and the public are conditioned and primed to think it's a military standoff between enemies who pose a lethal threat, then escalation is inevitable. Abraham Maslow's argument in *The Psychology of Science* (1966) particularly resonates in this context: "I suppose it is tempting, if the only tool you have is a hammer, to treat everything as if it were a nail¹⁶." This widespread antagonistic mindset goes hand in hand with the consideration on the part of governments that protests should either be quashed and vilified, or shown to public opinion at least like an inconvenience that disrupts the livelihoods of hard-working people, and at most like a rioting mob threatening public order, as well as the safety and property of all.

Moreover, in the minds of both the police and the public, law enforcements are no longer civil servants but righteous custodians according to the former, and brutal oppressors in the eyes of the latter. As a result, numerous studies¹⁷ demonstrate how militarization is a far cry from the deterrent and the protection its defenders want it to be. On the contrary, it makes all parties involved prone to becoming victims to violence, harboring a climate of mistrust and preemptive defiance. This increasing polarization is leading to a rise in police brutality in the ranks of crowd control officers. Everywhere from

France¹⁸ to Belarus¹⁹, Poland²⁰, Hungary²¹, Turkey²², Iran²³, Hong Kong²⁴, Myanmar²⁵, Chile²⁶, the United States²⁷, Lebanon²⁸, no matter how liberal or illiberal the regime is, the scenes of violent disproportionate clashes between the police and protestors look exactly the same: a spine-chilling dystopian nightmare where dissidents are treated like enemies on their own soil.

2.3. Egregious Violations in Lebanon

Since the beginning of the waves of protests in October 2019, many detailed reports from various Human Rights NGOs and watchdogs²⁹ report the ghastly violations perpetrated by both the police, the military and even plain clothes security forces with no identification of which to speak. Tear gas, rubber bullets and pellets and even live rounds shot into the crowds, often at chest level or close range with the intent to harm. Gas canisters and rubber ammunition fired directly in the faces of protesters caused irreparable injuries most notably to the eyes. Even doctors attending to the injured in the protests were targeted for example during the demonstration held in the aftermath of the Beirut explosions, like Dr. Elie Saliba who told Amnesty International that, on top of being aimed at with rubber pellets and gas canister, he was savagely assaulted and kicked on the floor by an army officer before managing to run away. Journalists and human rights observers are routinely³⁰ forcibly and violently impeded from performing their duties like Fadi Skaff, Makram Halabi, Alexandre Kachachou and Rita Halabi just to name a few. Protesters are arrested and unlawfully detained without charges, and sometimes subjected to torture and intimidation while being interrogated. Women who were arrested were threatened with physical violence and rape. These waves of arrests where people were disappeared for days on end without proper legal representation, caused lawyer collectives to mobilize and ask protesters to scream their own names while being taken away, to enable volunteer lawyers to nominally look for them in detention centers. This violent repression by law enforcement of peaceful protests is often paired with laxism and even enabling pro-government party militias deploying to intimidate and assault those who dare attend the demonstrations. This alone is a testament to how imperiled civil rights are in Lebanon: on one hand the impunity of the few and on the other police brutality to silence righteous demands. Equal representation before the law is nothing but a fiction and a rhetorical device used by those in power to evade accountability.

3. FREEDOM OF THE PRESS

“Woe to that nation whose literature is cut short by the intrusion of force. This is not merely interference with freedom of the press but the sealing up of a nation’s heart, the excision of its memory.”³¹ The freedom of the press, hailed by many as the epitome of the freedom of expression and the bedrock of democracy, is in many regards Freedom of expression’s most problematic offspring. A free press is indeed indissociable from the true exercise of enlightened and well-informed citizenry,

but at the same time, this freedom is fragile and impossible without complete independence. Consequently, even outside the bounds of dictatorships who blatantly censor the press, its freedom as a fundamental human right, is menaced by various intrinsic and extrinsic sources. Therefore, in the words of Tocqueville, “to get the inestimable good that freedom of the press assures one must know how to submit to the inevitable evil it gives rise to”³², and the path to achieving that is truly understanding all the stakes and the caveats.

3.1. The Press as a Counter-Power

The fourth power, the fourth estate, the fourth branch of government, are all appellations that highlight the vital role that a free press ideally occupies, as separate and independent as the judicial, executive and legislative bodies. In principle, it provides a counter-weight of checks and balances, putting it in the unique position to advocate for transparency and accountability, and to act as a thought leader in influencing and shaping political opinions, provided it swears an oath to uphold the truth. A free, ethical and independent press tames unbridled power by holding it responsible and keeping it from going adrift. It is the ultimate counter-power, an instrument to safeguard and protect against injustice, deceit and manipulation.

3.2. Independence of the Press: Financing and Propaganda

Nevertheless, this inestimable counter-power is under constant threat both from within and from exterior forces. “Freedom of the press is guaranteed only to those who own one”³³ or variations of this same quote have been attributed to numerous writers, journalists and public figures, and describe a sordid reality that threatens the independence and freedom of the press from within: ownership and advertising. If editorial lines and contents are conditioned and stifled by shareholders and advertisers to suit private interests, then there is a subversion of the press’s vocation as a beacon of truth, to become nothing more than lip service that suppresses diversity by bowing down to ensure its financial survival. One notable impact of the digital transformation of the media ecosystem is a decrease in advertising revenue, resulting in massive restructurings and more often than not, vulnerability to outside pressure, namely because the means to face the costs of lengthy litigation, or to protect the anonymity of sources are significantly capsized.

Similarly, governments or political parties’ takeovers of media to tailor content to their ideology jeopardize the press’ ability to help the public make deliberate and mindful judgements and decisions regarding issues that affect their lives.

In Lebanon for example, the situation on that front is dire to say the least. In its 2021 report, Reporters Without Borders paints a chilling image of the status quo in a country ranking 107 out of 180 on its Freedom index, down five ranks from 2020: “Lebanon’s media are outspoken but also extremely politicized and polarized. Its newspapers, radio stations and TV channels serve as the mouthpieces of political parties or businessmen.”³⁴ Instead of striving to be an impartial reliable source of information,

this polarization traps the public in bubbles of confirmation bias and revisionist analyses that cater to consolidating ideological, sectarian or partisan idiosyncrasies.

3.3. Assault on the Press: Oppression and Crisis of Trust

That being said, between the rise of authoritarian regimes and of populist governments, the proliferation of liberticide emergency measures even in supposedly democratic states, and the vilification of the mainstream media paired with the vertiginous burgeoning of disinformation media outlets, the freedom of the press is under assault. Reporters Without Borders notes in its 2020 Report that since its creation in 2013, the global indicator of press freedom worldwide has deteriorated by 12%.

From a geopolitical standpoint, authoritarian governments maintain a tight grip on the flow of information, jail or harm journalists who are critical of their regimes, and attempt to discredit the media by ever more creative methods, leaving state-sponsored propaganda to control the narrative unopposed. The murders of journalists Jamal Khashoggi and Lokman Slim, the unlawful diversion of Roman Protasevich's Ryanair flight to put him into custody, the fabrication of murder, then fake news charges against Somali journalist Kilwe Adan Farah and his unlawful detention and sentencing³⁵, the cyberbullyings of Jamal Rayyan or Ghada Oueiss or Ola al-Fares, are nothing but a small sample of the many ways it's open season on journalists.

From Egypt to Brazil to China, accusations of "fake news" against dissenting media outlets provide a pretext to silence them. Since 2012, the Middle East accounts for the most killings and imprisonment of reporters than in any region of the world³⁶. Populist democratically elected presidents like Bolsonaro in Brazil or Trump in the US to name a few, cultivate a climate of hatred towards journalists, thus making them vulnerable to attacks from angry mobs.

In addition to the rampant disinformation characteristic of this post-truth era, the media faces an unprecedented crisis of trust exacerbated by the coronavirus pandemic. According to the 2021 Edelman Barometer of Trust, "the global infodemic has driven trust in all news sources to record lows with social media (35 percent) and owned media (41 percent) the least trusted; traditional media (53 percent) saw the largest drop in trust at eight points globally."³⁷ In countries where large protests were held, this translated in violence against journalists from both protesters and the police.

However, one alarming way the free press is under assault, is in the instrumentalization of existing laws to intimidate and muzzle opposition. In practice, journalists are met either with abusive defamation litigations or with accusations of treasonous behavior in the service of foreign interests being levelled at them. These systematic campaigns aim at discrediting the opposition and providing a righteous legal cover for employing state means to orchestrate a crusade to annihilate it. Russia's foreign agent law with its many amendments is a textbook example of this tactic. It requires any organization or individual to register as a foreign agent if they

receive any foreign donations. This bill keeps getting broader by the day and targets NGOs, humanitarian organizations, and more recently, the media³⁸ and even influencers who dare voice any criticism. Among other things, it allows the State to force news outlets to disclose their status as "Foreign Agent" when broadcasting or publishing, and has targeted local critical outlets with often abusive arguments to justify how their funding is foreign, subsequently discrediting them to the eyes of the Russian public, and causing advertisers to pull out, signing this way the death warrant of their financial viability.

In Lebanon, libel and defamation laws are systematically and routinely weaponized in a bid to subdue opposition among journalists, some litigations taking place in military courts where the conviction rate is notoriously higher and the burden of proof on prosecutors much lighter. UNESCO's latest Middle East edition of World Trends in Freedom of Expression and Media Development denounces a disproportionate number of such instances directed at women journalists, accompanied by campaigns of organized grassroots mobilizations of harassment, intimidation, cyberbullying and threats of physical harm. In February 2021 for example, journalist Dima Sadek was at the receiving end of such institutionalized³⁹ and populist persecution, and it wasn't the first time. A few months prior to that incident, indecent doctored photos of her were circulated online and sent to her mother causing her to have a stroke. More often than not, misogyny is the tool of choice to slander female journalists with accusations of granting sexual favors to get ahead, or to mask their alleged subjection to foreign interests.

In conclusion, the freedom of the press faces its biggest challenges yet with so many factors and parties conspiring to threaten its independence, but in the words of poet John Donne "and therefore never send to know for whom the *bell* tolls; It tolls for *thee*."

4. DIGITAL FREEDOMS: SOCIAL MEDIA

In 2016, the UN's Human Rights Council passed a non-binding resolution⁴⁰, making internet access a human right, and in 2018, one⁴¹ that stipulates that "the same rights that people have offline must also be protected online", reaffirming the extension of Article 19 to the digital world. And while both leave a lot to be desired, the first preventing states from impeding the access to the internet without facing any penalties in case of infringement, but not committing them to providing equal access to the internet for all, and the second failing to address specific commitments on pressing issues "including abusive laws that target legitimate online dissent, government efforts to undermine anonymity and encryption, and attempts to exert undue pressure on private ICT actors to engage in censorship"⁴², they make evident how preponderant and organic the digital world has become, an extension to our plane of existence.

4.1. Digital Freedoms: The Ultimate Democratic Tool?

Beyond frontiers, distance and physical limitations, the internet is the holy grail of communication and expression, its promise is the liberation of speech, the democratization of the means to create, disseminate, access, share and retrieve a myriad of contents at any time, in any place, to and from anyone. It is the safe space where marginalized and vulnerable communities can freely assemble with no fear of judgement and repercussion, a theoretically egalitarian public sphere where the dominance of hierarchies, elites, institutions, markets and traditional media is challenged and dwarfed⁴³. Nevertheless, in reality, with the ushering of this new dawn, come the drawbacks, and the same potential in the hands of repressive governments becomes an authoritarian toolkit, capitalizing on state sponsored means and ambiguous or inexistent laws to subvert this tremendous potential into an ominous trap.

4.2. Attention Warfare: Disinformation, Entertainment and Mobilization

In spite of the plethora of avenues to be politically engaged and well-informed through internet access, research⁴⁴ shows not only that true political engagement takes a backseat to its recreational and commercial uses, but that the former is correlated with an increased demand for freedoms while the latter lulls people into a sense of satisfaction and contentment even under repressive undemocratic regimes.

Between the abundance of sources of information, user generated content, the mimetic narcissistic lure of social media, and the shortening of the attention span of the average internet user, freedom of expression in the DIY digital age is a snake eating its tail. At the fingertips of the most sinister authoritarian and liberticide impulses, is the low hanging fruit of the perfect depoliticization strategy: divert, deflect, distract, and the spectacle society will take care of the rest.

In addition to this pervasive yet stealth tactic, the metaphors and tropes used to talk about disinformation and misinformation not only influence the way we conceptualize them but also allow for their hijacking by oppressive governments. The most enduring trope is that of the conflict narrative⁴⁵. Headlines about the Information War, the Attention War, the computational warfare, the need to combat, fight or strike back, battle and vanquish disinformation and misinformation are ubiquitous. But instead of highlighting the almost Sisyphean endeavor of resisting a propaganda method that's as old as time, albeit empowered with technological advances, the conflict narrative poses disinformation, a blanket concept, as the enemy and looks for its author to scapegoat. The ensuing polarization offers the perfect opening for political rhetoric and oppressive measures labelled as the champions of this struggle while in reality, they imperil freedom of expression and of information. In many ways, it's the weaponization of the Information Age, a far cry from an egalitarian access to knowledge, informing and guiding active citizenry, it's the active

saturation of passive consumption with a flood of information, thus creating deliberate culturally manufactured ignorance, where individuals cherry pick information that better supports their existing beliefs. Once hardened, these informational bubbles⁴⁶, paired with propaganda, allow the creation of an uncritical support base for the most oppressive policies and illiberal regimes, without the democratic accountability to challenge them.

4.3. Government Digital Oppression, Activism and Solutions

Digital oppression is the new frontier in the bid to suppress civil rights. Hazy, obsolete or inexistent regulations, the non-binding nature of international law in the hierarchy of norms make it easier for liberal and illiberal countries alike to attempt different forms of censorship on the internet. Here are a few examples of what that looks like in practice.

4.3.1. Content Blocking

Content blocking isn't practiced exclusively by authoritarian countries. The reasons cited to do so range from the somewhat legitimate to the preposterous. The methods include but are not limited to: blocking, filtering and tampering with domain names, IP addresses, keywords, forcing content providers to remove search results. China, Saudi Arabia and Russia for example are pioneers in that field, but even democracies like the UK and South Korea indulge in such endeavors with varying degrees of transparency.

4.3.2. Export Control

Export control is the aftermath of economic and trade sanctions practiced by certain governments or the international community against other countries. The most notable example in recent history is the case of Iran in 2019 and 2020⁴⁷. The Trump administration levelled sanctions against Iran after pulling out from the Nuclear Deal, leaving tech companies and content providers with the task of having to interpret the scope of the sanctions. This resulted in many abusive measures such as: GitHub closing the account of a computer science professor teaching at a Canadian university⁴⁸, GoFundMe suspending two different Canadian campaigns to raise funds for a memorial service for the crash victims of the Ukrainian airliner flight PS752⁴⁹, Iranians being blocked from downloading the Twitter app from Google's Play Store and YouTube suspending the UK branch of an Iranian government-funded broadcast outlet⁵⁰. This matters because the obscurantism of the Iranian government and the level of access that traditional international media outlets have inside the country, make user generated content and citizen journalism of the utmost importance to have a clear view of the human rights violations happening inside the country.

4.3.3. Targeting Anonymity

Online anonymity, with its downsides and pitfalls, beyond its relationship to the right to privacy, is sometimes a matter of life or death in countries where freedom of expression and dissent are at stake. Without it, fear of retribution would prevent often vulnerable and

marginalized individuals and communities from exercising their free speech, and would weaken the protections afforded to whistleblowers. The assault on internet anonymity is pervasive in the name of security. Recently, a global law enforcement convention enshrined into international law very few limitations on the collection of user data by law enforcement agencies and even cross-border access by law enforcement, prompting digital freedoms NGOs to protest the ratification of the protocol⁵¹.

4.3.4. Social Media Crackdowns

Social media has revolutionized the way governments and officials communicate with their constituents, and given citizens a platform to reach their representatives more directly, bridging the divide between leaders and the people they represent. The downside of this newfound liberty is providing new means for oppressive governments to identify and trace users. At its least, it's constant surveillance and monitoring, at its worst, a database compiling potential targets. Egypt's assault on influencers, online journalists and citizen reporters continues to escalate, with online activists and users detained either with abusive charges or no due process of which to speak. Who can also forget the work of The Syrian Digital Army at the beginning of the revolution in 2011, who resorted to DDos attacks, phishing scams and other tactics "to fight opposition activists where they're strongest -- online"⁵². Weaponized by governments, data mining from the mere monitoring of social media platforms has had a disastrous effect on vulnerable communities: immigrants deported, asylum seekers denied⁵³, LGBTQIA+ put in real and present danger, women harassed and subjected to violence, minorities vilified⁵⁴ and oppressed.

Human rights organizations and digital rights advocates and NGOs have multiplied initiatives to provide internet users with toolkits to fight the assault on their free speech. To mark World Day against cyber censorship, Reporters Without borders expanded its library of banned and censored content on Minecraft⁵⁵, The Electronic Frontier Foundation has created open source anti tracking browser plug-ins, financed litigations related to digital rights and partnered with Visualizing Impact to create onlinecensorship.org⁵⁶ to help combat abusive corporate censorship on social media posts. Hacktivists are creating uncensorable mirror sites and back-ups of Sci-Hub, a platform that fights the tyranny of copyrights law in academic publications often guarded with exorbitant paywalls, which contributes to inequalities that stunt global progress. La Quadrature du Net⁵⁷ and EDRi⁵⁸ who challenge public and private actors in Europe on matters of digital rights, endeavor to influence legislation that safeguard digital freedoms. SMEX⁵⁹, a Lebanon-based NGO, raises awareness, provides training and mentorship in the Middle East, one of the most vulnerable regions of the world in matters of freedom of expression and digital rights.

Nevertheless, all these initiatives can only have a lasting effect if international law catches up with binding, firm and precise laws to regulate government and corporate infringements on human rights online in general, and on freedom of expression in particular. With the rise of

autocratic and weaponized legalisms, only an ironclad hierarchy of norms with measured and proportionate penalties can prevent the assault on human rights in the digital arena.

4.4. Gaming the Law: Lebanon, the Case of Lawless Legalism

Compared to the rest of the region, Lebanon was once a promising budding beacon of freedom of expression in the digital space, until it wasn't. Thousands of social media users, from journalists and media personalities to activists and ordinary citizens, have found themselves prey to arbitrary detentions, coercive interrogations and SLAPP suits. Strategic Lawsuit Against Public Participation (SLAPP) are litigations whose purpose is to intimidate, discourage or censor critics often with frivolous claims, that the plaintiff does not necessarily expect to win, but hopes that the lengthy legal battle and the accumulating legal costs will silence the defendant. In recent years, especially since the beginning of the protests in October 2019, this phenomenon has caused human rights watchdogs to sound the alarm. While a Cybercrime bureau affiliated with the Internal Security Forces does exist, the arrests and investigations led by it only account for a fraction of the cases. Human Rights Watch reports that they "have documented such interrogations by other security agencies, including General Security, State Security, and Military Intelligence. As each security agency is informally under the influence of a political party, party officials have used the agency loyal to them to intimidate critics."⁶⁰

Internet users detained in these circumstances are often called under false pretenses, subjected to lengthy interrogations, physical violence and torture, and forced to sign legally binding albeit unconstitutional documents where they commit to remove the offending posts or sometimes to forego using social media altogether. The charges pressed against critics to silence them range from libel and defamation lawsuits, to offenses to the president or religious symbols, to incitement of national and confessional strife, and exploit the absence of a regulatory framework for online speech and the antiquated and liberticide laws on the limitations of free speech that they extend to social media⁶¹. However, the most alarming aspect of this thug-like crackdown is how it benefits the political parties and sectarian elites with manufacturing outrage to rally their bases' lynch mobs by bargaining on their biases and sensibilities. What better way indeed to divert public opinion from examining the legitimacy of trying civilians in military courts over Facebook posts, than to paint their authors as treasonous, or blasphemous, or immoral?

5. CULTURAL CENSORSHIP

5.1. Brief Overview of Cultural Censorship and its Typology

That common sense accepts and even desires a certain level of censorship in our societies is an undisputed fact. Children, for example, are not an appropriate audience

for certain contents. The consensus is resoundingly unanimous on criminal and exploitative actions like rape, or murder or animal abuse not belonging in the realm of artistic creation. But while a legitimate and ethical censorship in the domain of the arts in the wake of existing and necessary laws to protect vulnerable demographics is uncontroversial, censorship as a bid to impose a normative and arbitrary morality on responsible and law-abiding citizens is a grievous attempt on the civil rights of both artists and their public. When the State legislates censorship based on exclusionary criteria that stem from an ideology, be it political, religious or classist, it posits that ideology as universal and absolute. The core problem of this approach to censorship, is that it is an apologia of paternalism in governance, an attitude that restricts freedoms and imposes constraints in the name of a supposed good. This rhetoric is founded on the premise of the infantilization of citizens, and of the forfeiture of their civil rights usurped in an ideological power grab to assert dominance. In some respects, the difference between legitimate and ethical censorship and the arbitrary ideological suppression of diversity, is also the difference between being governed and being ruled. The logic of a dogmatic consolidation of power is either a cynical act of tyranny or a misguided and indoctrinated belief in the inerrancy of the ruling ideology. Mill, a staunch critic of censorship, makes this very argument in *On Liberty*: “If any opinion is compelled to silence, that opinion may, for aught we can certainly know, be true. To deny this is to assume our own infallibility.”⁶² By preventing artists from exercising their freedom of expression if it contradicts the dominant ideology, the state commits what Miranda Fricker calls “epistemic injustice”, i.e. robbing people of the instruments to their emancipation, by banning certain ideas and consequently creating systematic ignorance, an ignorance deprived of the means to recognize itself as such⁶³.

5.2. Censorship and Art: from Institutional Censorship to Self-Censorship

Throughout history, art has been censored, altered or outright banned for its transgressive nature. Artistic creativity often pushes the boundaries of the mundane to challenge existing norms. Whether it's explicitly politically engaged or not, unbridled creativity threatens the established power dynamics. “Underlying the fear of works of art is the notion that they are somehow more than art, that they are what they represent and are therefore dangerous. [...] In the end those who seek to censor and destroy art testify to its power”, writes art historian David Freedberg⁶⁴. Seen through this prism, suppressing artistic freedom is an eminently iconoclastic act, one that seeks to topple what is seen by the dominant ideology as false idols. It's no wonder that etymologically *auto-da-fé*, the practice during the Spanish Inquisition of burning heretics and sacrilegious manuscripts, means act of faith. Cultural censorship is after all even in its contemporary iterations an act of faith, in the superiority of the dominant ideology, whatever it may be, and in the righteous annihilation of the threats to its dominion. In this line of reasoning, all forms of cultural

censorship are first and foremost political even if the controversial content is of religious or sexual nature. Indeed, the subversive nature of sexuality lies in the extent to which it represents a sphere of individual autonomy and emancipation, the arena of unadulterated agency and unapologetic self-ownership; *in fine* a slippery slope away from subjection to authority

That being said, the institutional censorship of the arts is not without a cost to the integrity of art. One deleterious consequence is the recourse to self-censorship, deliberate by fear of retribution and sanction, or subconscious by having internalized the enforcing norms of the dominant ideology. That's precisely why Milan Kundera denounces the notion of *kitsch* in *The Unbearable Lightness of Being*: an aesthetic ideal characterized by the absence of innovation, subversion and what's inconvenient. Kitsch is “the absolute denial of shit, in both the literal and the figurative senses of the word”⁶⁵, it's the aesthetic of a prepackaged, uncritical and predictable polished world, a totalitarian disincarnation of art perverted into a gatekeeper of the dominant ideology. Kitsch in this sense is the result of self-censorship and a byproduct of the assault on artistic freedom. Instead of forcing society to progress by highlighting its contradictions, the privileges and the arbitrary in our social structures and our beliefs, art is reduced to a shell of its former self, and settles for a shallow universalism in consensual conformism: “On the surface, an intelligible lie; underneath, the unintelligible truth showing through”⁶⁶.

5.2.1. State of Artistic Expression and Censorship in 2021

Freemuse, an international NGO specializing in the defense of artistic freedom, documents in its 2021 report⁶⁷ “978 acts of violations of artistic freedom in 2020 in 89 countries and online spaces. 17 artists were killed, 82 were imprisoned and 133 detained.” 75% of those imprisoned were arrested on political grounds and 20% of them women whose creations touched on feminist issues. 44% of them, the biggest demographic proportion by far, were jailed in the Middle East and North Africa, where counter-terrorism charges maintain artists jailed without trial for a long time as was the case of Egyptian director Shady Habash who died in prison after 800 days of captivity. Women artists are more likely to face indecency charges, backlash and harassment. 15 countries present a particularly alarming picture of artistic freedom:

- Muslim majority **Bangladesh** weaponizes a new digital law to suppress the voices of artists from the Baul minority.
- In **Belarus**, artists' participation in protests against the government resulted in a crackdown, where they were detained, assaulted and humiliated and some went into forced exile to evade retaliation.
- In **Brasil**, in the wake of the ascent to power of evangelist backed Jair Bolsanaro, artistic censorship on religious grounds is rampant in spite of it being ruled unconstitutional by the Supreme Court. The government consolidates its power by disbanding the Ministry of Culture in 2019 and stripping cultural

institutions out of their autonomy by subordinating them to the Ministry of Tourism.

- **China** uses disappearance as a tactic of silencing artists and targets in particular booksellers and writers. Artists are prosecuted for showcasing the human rights abuses in the country.
- **Cuba** entered into law a controversial executive decree prohibiting artists from performing or exposing or publishing their art without prior authorization from the government. The opponents to the decree are systematically persecuted.
- In **Egypt**, artists are disproportionately and abusively targeted by counter-terrorism and indecency laws, and female artists routinely prosecuted for violating the “family values of Egyptian society”. The Musicians Syndicate acting as an enforcer of the values of the regime, banned the Mahraganat music genre, a fusion between *chaabi*, the popular folk genre and electronic music, and banned artists who subscribe to the genre from adhering to their union.
- In **India**, all artistic endeavors that do not align with the Hindu nationalist agenda of the ruling party are censored. Lynch mobs of loyalists to this ideology vandalize spaces, cyberbully and intimidate artists they find offensive with threats of physical violence.
- **Iran** accuses artists it deems subversive of “propaganda against the state”, and those who dare broach gender inequality issues as immoral and inciting prostitution. The prison sentences carried by these offenses can safely be qualified as cruel and unusual punishment. 15 years and 74 lashes were awarded to death metal band Arsames before its members fled the country to evade serving the sentence, and 10 years to documentary filmmaker Mariam Ebrahimvand for two of her films in spite of prior approval from the Ministry of Culture and Islamic Guidance. She has since then gone on a hunger strike and attempted suicide in prison.
- **Kenya**'s Supreme Court empowered with jurisprudence the Kenyan Film Classification Board to act as moral police banning contents deemed at odds with austere Judeo-Christian values or promoting LGBTQIA+ issues in a country that still criminalizes homosexuality.
- **Kuwait** continues its tradition of institutionalized censorship on morality grounds with the Ministry of Information in charge of approving works of art before and after production. Between arbitrary prosecutions of artists both local and foreign, and intimidation tactics aimed at spaces wishing to provide them with a platform, the artistic climate in Kuwait is a barren field, rife with self-censorship.
- In **Nigeria** where the death penalty still looms over its citizens, and the state security apparatus is plagued with implications in “brutality, extortion and extrajudicial killings”, artists spearhead the resistance and protests, leaving them vulnerable to arbitrary detentions, beatings and sentencing with no due process or access to legal representation. The most egregious case is the sentencing to death by hanging

of a 22-year-old Gospel musician for allegedly violating blasphemy laws.

- **Russia**'s hope for a reprieve in artistic freedom was quashed by the result of the referendum extending Putin's eligibility to two more terms after the end of his current one. Meanwhile, the 2013 law criminalizing LGBT propaganda continued to silence diverse voices. Moreover, the government retaliated against individuals who held public office in the cultural sector and allowed the showcasing of critical and dissenting artists by manufacturing corruption and embezzlement of public funds charges against them.
- In **Turkey**, Kurdish artists and cultural centers as well as those supporting the Kurdish cause faced a tremendous assault on their artistic freedom and physical integrity in the name of counter-terrorism. Relentless raids where equipment is confiscated or damaged make artistic expression unsustainable in the long run.
- **Uganda**'s lead into the presidential elections in the beginning of 2021 where the incumbent president, in power since 1986, was challenged by musician turned politician Bobi Wine, polarized the Ugandan society, and saw fellow artists actively engage and mobilize in the opposition. This resulted in accusations and arbitrary detentions on the grounds of inciting sectarian strife.
- As for the **USA**, the social unrest on racial and discrimination issues had its toll on the domain of the arts. Works of art depicting police brutality faced scrutiny in a bid to silence the mounting criticism. This prompted cultural institutions and museums to cancel exhibitions of controversial or divisive work citing security concerns.

On the other end of the spectrum, cancel culture has sparked a debate on how to handle the legacy of artists of the past, now marred in controversy for their appalling behaviors, and whether it is possible to reconcile the art with the morality of its author. Should Gauguin be removed from exhibits because of his exploitation of very young girls in Tahiti, while wittingly giving them syphilis, or Picasso, another sexual predator, be censored because of his notorious misogyny? And what about monuments to the glory of a racist colonial past? Artist and philosophy research fellow Daisy Dixon argues that there is a way around censorship⁶⁸, what feminist curator Maura Reilly called “curatorial activism”⁶⁹, i.e. the counterbalancing of hate speech in artistic content with alternative narratives and adequate curation. For racist monuments, knocking them off of their symbolic pedestal by somehow blocking the apologetic nature of their purpose. She gives the example of a statue of a slave trader in Bristol, which for years had a traffic cone placed on its head. Curatorial activism can also mean an accurate recontextualization of the work that acknowledges and addresses the issues that make it problematic, how a Titian painting eroticizes sexual violence for example. These strategies are not important merely for safeguarding and sacralizing aesthetic artistic ideals, they are the saviors of our collective memory. Invisibilizing problematic works and artists downplays their woes and ends up conveniently serving the amnesic impulses of the dominant group.

5.2.2. Faces of Cultural Censorship in Lebanon

At first glance, Lebanon seems to enjoy much more leeway for artistic expression than any other Arab country. In reality, artistic performances must pass the muster of the Kafkaesque Bureau of Censorship, a structure with a loose regulatory framework, which serves at the pleasure of the ruling political parties and their sectarian affiliations. Officially the guidelines are the same problematic limitations on free speech that are enshrined into law: insulting religious symbols, inciting sectarian strife, endangering public peace, or insulting the president, the flag or the army. In practice, the ambiguity of these mostly abusive guidelines gives the bureau creative license. This explains in part how riddled their choices are with inconsistencies. Sometimes sexually explicit content gets the boot, sometimes references to LGBTQIA+ identities, sometimes it's references to Lebanese political parties, their foreign allies, their enemies, or the Civil War. Lebanon-based NGO, MARCH, compiled a user generated database called the Virtual Censorship Museum to record all known occurrences of these repressive endeavors since the country's birth in 1943 in order to extrapolate trends. Following the Israeli-Arab conflict in 1948, and since censorship became customary in Lebanon in the 1950s, the better part of censored works were variations on the themes of Zionism, Israel or Judaism, sometimes with far-fetched connections. In the few years before the Civil War, rising tensions and the brewing regional conflicts put artistic works with political content on the chopping board. During the war, the decentralized nature of the guerilla-like conflict, the absence of a stable government whose authority is unanimously recognized and the collapse of the institutions, paired the identitarian agendas of the warring factions profiling allegiances arbitrarily, increased the likelihood of artists being kidnapped instead of being institutionally censored. In the beginning of the 90s, the end of the war was ushered by the fraught Taif Agreement. That was the start of unabated attacks on artistic freedom in the name of national unity. Mere mentions of the war were shrouded in taboo, allowing the warlords turned politicians to consolidate their hold on power undeterred by the narratives of the collective trauma to hold them accountable. The *Satanic panic* in the 90s provides an interesting insight into the seemingly disparate evolution of cultural censorship in the country. The unfounded demonization and scapegoating of a subculture sensationalized and amplified in the media, was a unifying force against otherness, a rhetorical device to shift the accusation of alterity from domestic actors to a scourge that threatens everyone alike, the evil lurking to corrupt the youth by subverting their values. Of course, it's not a coincidence that this witch-hunt occurred while the political elites were consolidating a predatory neoliberal ideology paired with sectarian clientelism, consequently pillaging the public sector and weakening the institutions, effectively founding a kleptocracy that only functions to serve their economic interests. The same kind of panic resulting in censorship and arbitrary prosecutions emerged in the US and the UK under Reagan and Thatcher, who both endeavored to

weaken social protections voiding the tenets of the New Deal. Engineered outrage keeps scrutiny at bay while occupying public opinion with trivial issues. In the ensuing years, the Virtual Censorship Museum notes steep spikes in censoring a vast array of cultural and artistic contents during periods of turmoil: the bigger the crisis, the wider the net. The censorship and litigation targeting in 2015 the editors of *Samandal*, the first Middle Eastern comics publication, for igniting confessional strife and insulting religious symbols show how ingenuous and cynical the security apparatus is. Indeed, the artists responsible for the creation of the offending content were spared, one being Belgian and the other, the daughter of a then minister, but only the unconnected and unaffiliated editors were hauled into a lengthy legal battle culminating in crippling fines that threatened the very existence of their publication. Had the religious objection been sincere, it wouldn't have cowered at the perspective of international backlash or of attracting the ire of a powerful politician. What's sincere though in this endeavor, is the commitment to the status quo. Empowering religious authorities as the supposed moral compass of the nation, further entrenches the sectarian divide and achieves the total opposite of the unity imperative advocated in the dominant rhetoric. In the last two years, since the economic crisis started to unravel in Lebanon, the crackdown on artists has grown exponentially. The *Satanic panic* has been replaced with a wave of LGBT panic, yet another otherness to single out and disenfranchise, and behind the simulacra lie the economic and political gains of politicians trying yet again to energize society's base instincts. Mashrou' Leila being prevented from performing in a festival, or Roy Dib's *The Beach House* being forbidden from showing in theaters are manifestations of this phenomenon.

But perhaps the biggest assault on artistic expression and freedom in Lebanon is far more systemic than mere morality debates. It's an insidious and endemic form of censorship that gnaws at the heart of the art world from within. Undeterred by the lack of public sponsorship and funding for the arts, contemporary art has blossomed in the last decade in Beirut thanks to the work of art collectives. Funding comes more often than not from international organizations or patrons of the art, and to secure it as an Arab artist, is to accept a paradoxical position: on one hand, an effort of depoliticization and universalism, and on the other hand the marketing of an eminently personal narrative to prove worthy. The conditional philanthropy of such organizations fetishizes the artist into a token where their expression of individuality and suffering is pitted against other expressions of individuality and suffering in a logic of the markets. Only those who master the codes of fundraising can hope for some visibility but that implies to already be in possession of a cultural capital to navigate the subtlety of what makes them competitive: to claim no affiliation or allegiance while still managing to become a symbol. Artistic freedom is in this sense subjected to a survivalist impulse and conditioned by it, a testament to the fact that true freedom cannot be conceived outside of social justice for all.

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