Freedom of Expression on Life Support in Egypt

Photo by Benjamin Plackett
Introduction

Article 65 of the Egyptian constitution guarantees freedom of thought and opinion in these terms: “Every person shall have the right to express his/her opinion verbally, in writing, through imagery, or by any other means of expression and publication.”

Article (70) expands this freedom to include the right to establish and operate mass media; “Every Egyptian - whether being natural or legal, public or private person - shall have the right to own and issue newspapers and establish visual, audio and digital media outlets.”

Egypt has also signed the Universal Declaration of Human Rights (UDHR) also guarantee which also guarantee the right to hold and express opinion and to impart information, including through the mass media.

Egypt is also a State party to the African Charter on Human and People’s Rights Article 9 (1-2) of which state that “Every individual shall have the right to receive information, and that Every individual shall have the right to express and disseminate his opinions within the law.”

Despite these constitutional guarantees and international protocols it has committed to, freedom of expression conditions in the country leaves much to be desired.

In 2017, two UN experts David Kaye and Fionnuala Ní Aloáin, special rapporteurs on Freedom of Expression and Human Rights respectively at the time reported that “the situation for journalism and the freedom of expression and access to information in Egypt has been in crisis for several years.” They indicated that the abuse “takes many forms, including the unlawful detention and harassment of journalists and activists.”

A report by Reporters without Borders (RSF) observed that “In Egypt, journalists are frequently accused of disseminating false information whenever they criticise the government, or report on sensitive issues that upset it. This widespread practice leads to self-censorship among journalists in their coverage of events for fear of joining the long list of colleagues who have been prosecuted and imprisoned.”

This damning observation was no exaggeration. The statement epitomizes the brutal repression of press freedom under the autocratic regime of President Abdel Fattah el-Sissi. The government has effectively silenced dissent by constricting space for

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traditional media, disrupting or blocking media websites and jailing dozens of journalists.

On May 29, 2016, for example, a military court in Cairo sentenced journalist Omar Mohamed Ali to 25 years in prison after a trial based on confessions obtained under duress. Ali had been arrested on June 1, 2015, by three men in plain clothes and held for 16 days in state security and military intelligence facilities in Cairo. He was later detained at the Tora Prison until his sentence on charges of “leaking false military information” and of “belonging to a terrorist group.”

The Egyptian government has kept Al Jazeera’s Mahmoud Hussein in prison since December 2016 despite repeated international calls for his release. Hussein was arrested when he arrived in the country to see his family. He was accused of “broadcasting false news”, a charge that is increasingly being abused to persecute critical journalists.

**Weaponising Anti-False News Legislation**

Over the past three years since the above-mentioned RSF report, the Egyptian government has continued to target journalists with the charge of publishing “false news.”

On April 3, 2018, security officers from Egypt’s Ministry of Interior arrested³ Adel Sabri, Editor-in-Chief of the *Masr El-Arabiya* news website. The arrest followed raid on the headquarters of the online news channel Masr in the city of Giza. Sabri was charged with disseminating of false news and the media house was fined 50,000 Egyptian pounds (about US$2,855) “for operating without a license.” The editor was released on July 27, 2020, after spending over two years and three months in detention.

On October 13, 2019, security officers arrested Esraa Abdel Fattah, a reporter with the news website *Tahrir News* in Cairo. The following day, prosecutors charged Abdel Fattah with publishing false news, abuse of social media networks and belonging to a banned group. The national security prosecutor ordered her to be detained for 15 days pending the conclusion of investigations.

The arrest was widely believed to be in connection with a tweet by the journalist demanding the release of people who had been arrested for their opinion since the country was rocked by a series of protests in September 2019.

On November 26, 2019, plain-clothed police officers arrested journalists Solafa Magdy, Hossam el-Sayed and Mohamed Salah in Cairo coffee shop. Magdy’s husband, 

Hossam el-Sayyad and their friend Mohamed Salah also both journalists, were interrogated about their journalistic work and detained. A day after, State Security prosecutors charged Magdy and Salah with “spreading false news” and belonging to a terrorist group. Hossam meanwhile, was charged with the latter offense.

Prosecutors subsequently ordered that the journalists should be detained for 15 days while investigations continued. The journalists have since been detained for almost a year in pre-trial detention. Article 202 of the Egyptian criminal procedures code provides that pre-trial detention should not exceed two years.

The police on September 9, 2020, arrested Islam el-Kalhy⁴, a prominent journalist who reported on the death in police custody of a young man who had been arrested during a demonstration. El-Kalhy was picked up “while he was doing his work,” reported Darb, the news website that he works for. After keeping the journalist in an undisclosed location for 24 hours, the police brought him before the public prosecutor who charged him with broadcasting fake news and ordered that he be detained for 15 days.

On October 3, 2020, Egyptian authorities arrested journalist Basma Mostafa in the city of Luxor where she had gone to follow-up on the reported killing of a man during a police raid. The news website where she works, al-Manassa, reported that their reporter suspected the police of mounting a surveillance on her to track her movements.

Rights lawyer Hala Doma, who attended Mostafa’s interrogation, said the journalist was accused of disseminating false information. Mostafa was released on October 6 on the orders of Egypt’s prosecutor-general, following an outcry from local and international media freedom advocates.

Other journalists arrested for their work include Ismail Alexandrani, a journalist and prolific writer on the security forces’ anti-terrorist operations in the Sinai Peninsula, Moataz Wednam, whose interview on corruption revealed information that implicated senior government officials and Mohamed al Husseini Hassan, whose story about hyperinflation in the country angered the government.

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Manipulation of Licensing Regime

Media organisations in Egypt are required to obtain licenses to operate, but the authorities often refuse certain media houses licenses as a pretext to silence reporting that the state sees as critical.\(^5\)

Sometimes, however, critical media houses are selectively targeted and punished for operating without licensing. The database of accredited media houses and records about media outlets whose accreditation have expired and those that have renewed their licenses are not unavailable for public scrutiny. This allows the authorities to enforce the licensing regime in an arbitrary and discriminatory manner.

On June 24, 2020, security forces raided the offices of the Al-Manassa news website in Cairo and arrested the editor. The media outlet said in a statement that at least eight police officers raided its offices, searched computers and seized one laptop before taking away its editor, Nora Younis. She was charged with managing a news website without an operating license, Al-Manassa said.

The outlet reported that Younis would remain in custody overnight at the police station and appear before prosecutors on June 25.

On November 24, 2019, Egyptian security forces raided the office of independent news website Mada Masr and briefly detained three of its staff.

“Today at 1:30 pm nine plainclothes security forces entered the Mada Masr office by force,” the media organisation reported on Twitter. “They immediately began confiscating everybody’s laptops and phones.” The three journalists arrested including editor-in-chief Lina Attalah, were released from a local police station later that same day.

The attack on the offices of Mada Masr came a day after security forces raided the Cairo home of Shady Zalat, editor of the independent media outlet. They took the journalist’s laptop, his mobile phone and that of his wife and told her they were taking him to the Giza security directorate.

The management of Mada Masr believed their media outlet had been blacklisted given that the authorities had refused to respond to their application to renew their accreditation.

“Last year, Mada Masr submitted an application to bring our status under the new law regulating the press and media. We did this under no illusion about what our


\(^6\) https://www.middleeastmonitor.com/20191125-independent-egyptian-news-website-says-its-offices-were-raided/
journalistic role is and how Egyptian authorities perceive us. Yet, nearly a year to the day since we submitted our application, we have yet to receive a response. Now, our staff and reporters are at risk,” said Editor in Chief, Lina Attalah.

It was a similar experience for Al Manassa whose owners say they applied for a license in October 2018 but have not received any response from the authorities.

Blocking of Websites

Article 71 of Egypt’s Constitution says “it is prohibited to censor, confiscate, suspend or shut down Egyptian newspapers and media outlets in any way. By way of exception, they may be subject to limited censorship in times of war or general mobilization.”

In total disregard for this provision, however, the government of el-Sisi has blocked several news online news channels.

On April 9, just one month after its launch, the authorities blocked the Darb website without giving any reason. That act of censorship against Darb formed part of a massive crackdown on non-conformist websites. RSF reported in August 2017 that its website had been blocked in Egypt without any notification. The press freedom organisation noted that the action followed its press release criticising the imprisonment of Mahmoud Abou Zeid, a photojournalist who had just been released from four years of illegal detention.

The Tahrir News, which is the online version of the al-Tahrir newspaper, was blocked throughout Egypt in May 2019, and in September, the financial newspaper Al-Borsa the BBC, US-based Arabic language news channel Alhurra were blocked. Internet monitoring organisation, NetBlocks, reporting the incident, also revealed that Facebook messenger was severely restricted by many local internet service providers, as the authorities tried to prevent massive reportage on a wave of demonstrations against the government. Daily News Egypt, Al Watan, Huff Post Arabi and the Arabic channel of Aljazeera are among the online news channels that have been affected by the crackdown.

According to a report published in 2019 by the Tahrir Institute for Middle East Policy, the Egyptian authorities blocked the website of Al-Mashed for six months after the

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newspaper published an article about extortion of business owners by security personnel.


“Denying access to websites of all sorts, but especially news sites, deprives all Egyptians of basic information in the public interest.”

A statement published in 2018 by digital rights advocacy organisation Access Now put the number of websites so far blocked in Egypt at more than 500. Majority of the targeted websites are news channels and the digital platforms of human rights organisations.

**New Draconian Legislations**

Egypt’s repressive machinery, was further fortified with the recent adoption a number of restrictive laws regulating media freedom and freedom of expression generally including digital rights.

The laws include Law No. 180 of 2018 on the press, media, and the Supreme Council for Media. The latter provides for a 9-member Council with the President of the Republic appointing the Chairperson and one other member. The Council also reports to the President of the Republic and the Parliament. The law criminalises “insulting state institutions,” and “undermining state interests,” among other freedom of expression offenses that are not clearly defined.

Law No. 180 of 2018 also grants the Supreme Media Council the power to ban or suspend the distribution, broadcast, or operation of any publications, newspapers, media outlets, or advertising materials containing information deemed to threaten national security; disturb the public peace; or promote discrimination, violence, racism, hatred, or intolerance. It also authorises the Supreme Media Council to suspend or block any personal website, blog, or social media account that has more than 5,000 followers if it publishes fake news. Ominously, judicial authorisation is not required to block or shut down a blog or news website.

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11 https://www.accessnow.org/egypt-more-than-500-sites-blocked-ahead-of-the-presidential-election/
AFEX believes that the best guarantee against possible abuse of the powers given to the Council is to insulate it from government influence and interference. Unfortunately, the prerogative granted to the President to appoint the Council’s Head and another member does not augur well for the body’s independence.

The line between fake news and credible information can sometimes be a matter of the opinion of government officials and given the el- Sisi government’s hypersensitivity to critical publications and its dismal record of blocking dissenting news websites, the Supreme Media Council as constituted by the new law could become a tool for repression. Blocking and suspension of news websites should be subject to judicial authorisation.

In August 2018, President Abdel Fattah el-Sisi assented to the “Anti-Cyber and Information Technology Crimes” Law No. 175 of 2018. Article 2 of the law requires telecommunications companies to retain and store users’ data for 180 days in order to assist the authorities in identifying users, metadata, and computer IP addresses. The law legalises mass surveillance which the government was already believed to have been carrying out in breach of Article 57 of the Egyptian Constitution, which safeguards public life.

AFEX is concerned that this law could open the door to massive invasion of online privacy and security of critical journalists, political opponents and human rights defenders. After bringing trumped up charges against a dissenting individual or organization, prosecutors can, for instance, request call and internet activities of their targets in order to trace the movements or probe journalists’ and media houses’ sources.

**Conclusion and Recommendations**

The ongoing crackdown on press freedom and freedom of expression in Egypt represents a failure on the part of the government to live up to the country’s obligations under the relevant national and international legal frameworks.

The mass detention and widespread torture of critical journalists and social activists in dehumanising conditions violate the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, to which Egypt has acceded.

The arbitrary detentions and degrading treatment of critical journalists and bloggers also infringe Article 55 of Egypt’s constitution which says that “Every person who is detained “shall be treated in a manner that maintains his dignity” and “may not be tortured, intimidated, coerced, or physically or morally harmed.”
In view of the above AFEX calls on:

**Media-based Civil Society in Egypt to:**

- Set up and support safety of journalists’ mechanisms to protect journalists and combat impunity for crimes against all media practitioners.
- Offer training and financial assistance to attorneys defending journalists.
- Pressure the Egyptian government to improve its policies by condemning harassment and attacks and raise awareness within Egypt and outside Egypt about the crackdown.
- Establish and support a fact-checking initiative to help combat fake news and false publications, while confirming the veracity and credibility of contested claims.

**Government of Egypt to:**

- Uphold and respect the right to press freedom and freedom of expression as contained in Constitution of Egypt.
- Promote security officers’ appreciation of the important role of journalists by including police-media relations in the training curriculum of security officers.
- Give clear instructions to the security forces to avoid wanton arrest and torture of, as well as assault on journalists.
- Amend and/or repeal repressive provisions in the recent legal arsenal deployed in the media and internet sector to ensure that they align with international standards and do this through a consultative process.

Thoroughly investigate crimes committed by security officers and other state actors against journalists bring to book those found to be culpable, in line with the U.N. Plan of Action on the Safety of Journalists and the Issue of Impunity.

**African Union/United Nations to:**

- Prevail on the government of Egypt to amend its media laws to align with international standards.
- Urge the Egyptian authorities to scrap criminal libel and defamation laws in line with the African Human Rights Court’s decision in the case of Lohé Issa Konaté vs Republic of Burkina Faso.
- Hold accountable culprits (both state and non-state actors) of freedom of expression violations through criminal, civil, administrative, or other sanctions to combat impunity.
- Engage the Egyptian government, through the African Commission Special Rapporteur on Freedom of Expression and Access to Information, to demand thorough investigations into gross violations of press freedom including alleged torture of journalists.