

On World Press Freedom Day EOHR Presents:

Egypt: Freedom at Risk

Towards Enhancing and Protecting freedom of the press in Egypt

Introduction

Freedom of opinion and expression is one of the fundamental rights of man and a standard for all other freedoms. It is one of the inherent rights of the individual and is guaranteed by human rights treaties and charters. Article 19 of the Universal Declaration of Human Rights defines freedom of opinion and expression as "the freedom to hold opinions without interference, to seek, receive and impart information and ideas by any means without regard to geographical boundaries". The 1966 International Covenant on Civil and Political Rights states that "Everyone has the right to freedom of expression. This right includes freedom to seek, receive and impart information or ideas of any kind, regardless of frontiers, either orally, in writing or in print, Or by any other means of choice, but the International Covenant binds the exercise of these rights "to special duties and responsibilities and may therefore be subject to certain restrictions, but only on the basis of the provisions of the law which are necessary. The Egyptian constitution gave clear attention to this right. The Egyptian Constitution affirmed freedom of thought and opinion and stresses that every human being has the right to express his opinion through speech, writing, photography or any other means of expression. Article 65 of the Constitution, states that "the freedom of artistic and literary creation is guaranteed, so that the state is committed to the advancement of arts and literature, noting that it is not permissible to raise or initiate actions to stop or confiscate works of art and literature and intellectual material." However On the ground we find that there are cases of violations of freedom of opinion and expression like the arrest or investigation and

sometimes the imprisonment of some journalists, which clearly contradicts the provisions of the Egyptian Constitution.

In this context, comes this report by the Egyptian Organization for Human Rights (EOHR), which examines the state of freedom of opinion and expression in Egypt. The report analyses the state of freedom opinion and expression from two perspectives. The first focuses on the legal framework for freedom of opinion and expression, while the second deals with a number of cases observed and documented by EOHR.

1) The Legal framework of Freedom of Opinion and Expression in Egypt

Many international conventions have paid special attention to the right to freedom of opinion and expression and to the right to receive and circulate information, including the Universal Declaration of Human Rights, which states: *"Everyone has the right to freedom of opinion and expression. This right includes the freedom to hold opinions without interference,"* Also Article 29 of the declaration states that *"Everyone has duties to a society in which he or she is free to develop fully and the individual shall exercise his or her rights and freedoms only in such manner as may be determined by law, To ensure the recognition of rights Freedom and respect and to achieve the just requirements of public order, public interest and morals in a democratic society."* Another international convention where this right is clearly enshrined is the International Covenant on Civil and Political Rights which states in Article 19 that *"Everyone has the right to take opinions without interference and everyone has the right to freedom of expression. This right includes the freedom to seek, receive and impart information or ideas of any kind, Orally, in writing or in print, whether in the form of art or any other medium of his choice"*. The Egyptian Constitution also stipulates and protects the right to freedom of opinion and expression; however despite all of this the Egyptian legal system is still inept in this regard and still contains draconian enforceable laws that inhibit freedom of opinion and expression and threaten the freedom of the press.

Article 171 of the penal code widens the scope and definition of defamation and makes it hard not to manipulate any critical words, actions or texts to brand them as defamation or slander. The law also imposes a maximum of a one year prison sentence on those who engage

in defamation according to the law's definition and EOHR believes that this contradicts Egypt's constitution and threatens freedom of expression and opinion. Article 9 of the Publications Law No. 20 of 1936 authorizes the Council of Ministers to prevent publications issued abroad from entering Egypt. It also permits the authorities to prevent the circulation of publications perceived as hateful, offensive to religions, or that could disturb the general peace under the provisions of Article 10 thereof. Another problematic article is article 188 of the penal code. This article enforces a heavy fine and a maximum of a one year prison sentence for those implicated in spreading false news. Such a law that allows the imprisonment of journalists on account of their publications violates the constitution that prohibits imprisonment in cases related to publication. Articles 179 and 184 of the penal code are even more problematic than the aforementioned article 188. Article 184 incriminates offending state institutions such as the Judiciary, Parliament or other symbols of government and article 179 has the same effect regarding offending or insulting the president of the republic. Another notorious legal vehicle of repression is article 98 of the penal code also known as the contempt of religion law; the acronym is self explanatory and it imposes a prison sentence that is not below 6 months and does not exceed 5 years for those who are accused of insulting any of the Abrahamic religions. Article 98 doesn't only violate freedom of opinion and expression, it also violates freedom of religion which is safeguarded by the Egyptian constitution and International Human Rights law. Those silly articles and laws are abused by authorities to stifle criticism of state institutions and government officials in an effort to restrict the freedom of opinion and expression which in EOHR's view is blatant violation of human rights that was, is and will forever remain unacceptable by any standards.

2) Cases of violation of Freedom of Opinion and Expression in Egypt

With the aforementioned maladies with Egypt's law pertaining to freedom of expression it's hardly surprising that instances of institutionalized abuses and violations of basic freedoms occur repeatedly creating an unsafe environment that blocks the existence of a free press.

EOHR in this report lists some cases it has followed that raised alarm in human rights circles in Egypt:

1) Sheriff Al Rubi and Mohamed Oxygen

On April 17th 2018 The Supreme State Security Prosecution ordered that Sheriff Al Rubi and Mohamed Oxygen be placed under preventive custody for 15 days pending investigations of case 441 in which they are accused of spreading false news and information that negatively affects Egypt's national security. Rubi and Oxygen have also been charged with joining an organization that has been established in violation of the law and the constitution by that they meant the 6th of April youth movement that the two detained activists belong to. Case 441 is an extension of case 977 of 2017 also known as the case of the "media axis of the Muslim Brotherhood".

2) Hossam Al Sowaify and Ahmed Abdel Aziz

Journalists Hossam Al Sowaify and Ahmed Abdel Aziz were both placed under preventive custody by the competent authorities on December 2017 on account of participating in illegal demonstrations and raising signs offensive to the state. The defendants were also charged with joining an illegal organization and facilitating support to a media cell associated with an illegal organization. The two journalists were arrested during an "unauthorized" demonstration.

3) Ismail Al Iskandarani

In 2017 Journalist Islamil Al Iskandarani was detained upon landing at Hurgada international airport. Mr. Al Iskandarani was taken by authorities to the Tora penitentiary in Cairo. On the 31st of October the investigation authorities ordered the placing of Mr. Al Iskandarani under preventive custody for 45 days pending investigation. Al Iskandarani was charged with spreading false news and joining an illegal organization.

4) Mohamed Al Batawi

Journalist Mohamed Al Batawi is still on trail for allegedly joining an illegal organization. Al Batawi was arrested at his house in the city of Toukh by security forces back on the 17th of June 2015.

5) Abdel Halim Qandil and Mohamed Saad Khattab

On November 26th 2016 Northern Cairo's criminal court rejected an appeal by veteran Journalist and editor in chief of Sout Al Uma Abdel Halim Qandil and Journalist Mohamed Saad Khattab against a verdict that sentenced the latter to 2 years in absentia and fined the former 30,000 EGP for offending the Judge's club and its members. The case goes back to 2014 when Ahmed Al Zend the then president of the Judge's club (later minister justice) filed a case against Qandil and Khattab after Sout Al Uma published an article accusing Zend and the club's board of corruption.

6) Mai Al Sabagh and Ahmed Mostafa

Jouranlist Mai Al Sabagh and photographer Ahmed Mostafa were placed under preventive custody for 15 days by the prosecution and charged with joining an illegal organization, spreading false news and working without proper permits. This comes after Al Sabagh and Mostafa were arrested for making an investigative video report with a number of Tram inspectors near Masr train Station in Al Manshia district of Alexandria.

7) Mohamed Al Sayed Saleh editor in chief of Al Masry Al-Youm and others

The Supreme State Security Prosecution opened investigations under case No. 559 of 2018, with the with the former editor of Al-Masry Al-Youm and the eight journalists who had been criticized by government officials for their coverage of the March 2018 presidential elections. Mr. Saleh was charged with spreading misleading news through Al Masry Al-Youm relating to the elections and was released on bail pending investigations.

8) Mostafa Al Asaar and Hassan Al Banna

On the 17th of Feburary 2018 the Supreme State Prosecution started interrogating journalists Mostafa Al Asaar and Hassan Al Banna. Both were charged with joining an illegal organization and spreading false news in favour of the Muslim Brotherhood and its aims.

9) Amr Badr and Mahmoud Al Sakka

On 2 May 2016, journalists Amr Badr and Mahmoud El Sakka were investigated. The list of accusations against Badr and al-Sakka included charges of trying to overthrow the regime and joining illegal organizations that seek to disrupt the provisions of the constitution and the law and prevent state institutions and public authorities from exercising their duties as well as spreading false news to serve those very purposes. Al Sakka and Badr were arrested during a shameful police raid of the Press Syndicate that was never violated in such a manner in its entire history which goes back to 1947.

10) Tarek Ziada

Tarek Ziada was placed under preventive custody by the prosecution in March 2018 after being charged with spreading lies and incitement against the state. This came in response to a film he edited called *Salib 1095* or negative 1095 which included interviews with known dissidents and activists including Shadi Al Ghazali Harb, Azza Suleyman, Mamdouh Hamza, Masoum Marzouk and others.

11) Motaz Wadnan

Journalist Motaz Wadnan of the Huffington Post was arrested and placed in temporary detention by order of State Security Prosecution. Wadnan interviewed Hesham Geneina the former head of the Central Auditing Organization and running mate of former presidential hopeful General Sami Anan who was unable to run due to his incarceration by the military, and the content of this interview led to his arrest as well as the arrest of Geneina who was sentenced to 5 years by a military court. Wadnan was charged with spreading false news aimed to disrupt the state and suspend the provisions of the constitution.

3) Recommendations

- Amendment or suspension of laws impede the right to freedom of opinion and expression as well as freedom of the press and civil society. The law should also be amended to assure that access to information is guaranteed, and a new press law should be issued.
- The establishment of a code of conduct for the press and the media and the modernization of the administrative and financial structures of the media to prevent corruption within them. Also its important to ensure the existence of mechanisms for self-control and internal control in media institutions and the publication of its annual budget for public opinion.
- Eliminate all restrictions that prevent the flow of information and access to it and establish mechanisms and institutional procedures that allow the flow of information and access to it in a smooth, easy and wide manner that includes all information of public interest, except those that have been issued by law in strict and limited terms and for a limited time. Also all government officials and agents who prevent citizens from obtaining this right should receive proper penalties. the issuance of a law on freedom of information and circulation in accordance with democratic standards is a prerequisite to all of this.
- Stop all forms of censorship and restrictions of freedom of opinion and expression, especially the right to freedom of satellite broadcasting and circulation of information. Decisions to suspend satellite channels should be strictly judicial not administrative.
- Stop practices that generally violate the freedom of the press and journalists by the executive authorities and take measures to ensure the safety of journalists against repression, murder, detention, surveillance or exposure. Authorities should also cease the harassment of bloggers and employees of satellite channels, whether through investigating them or referring them to trial, as this violates the right to freedom of opinion and expression as well as the freedom of access to and circulation of information.

