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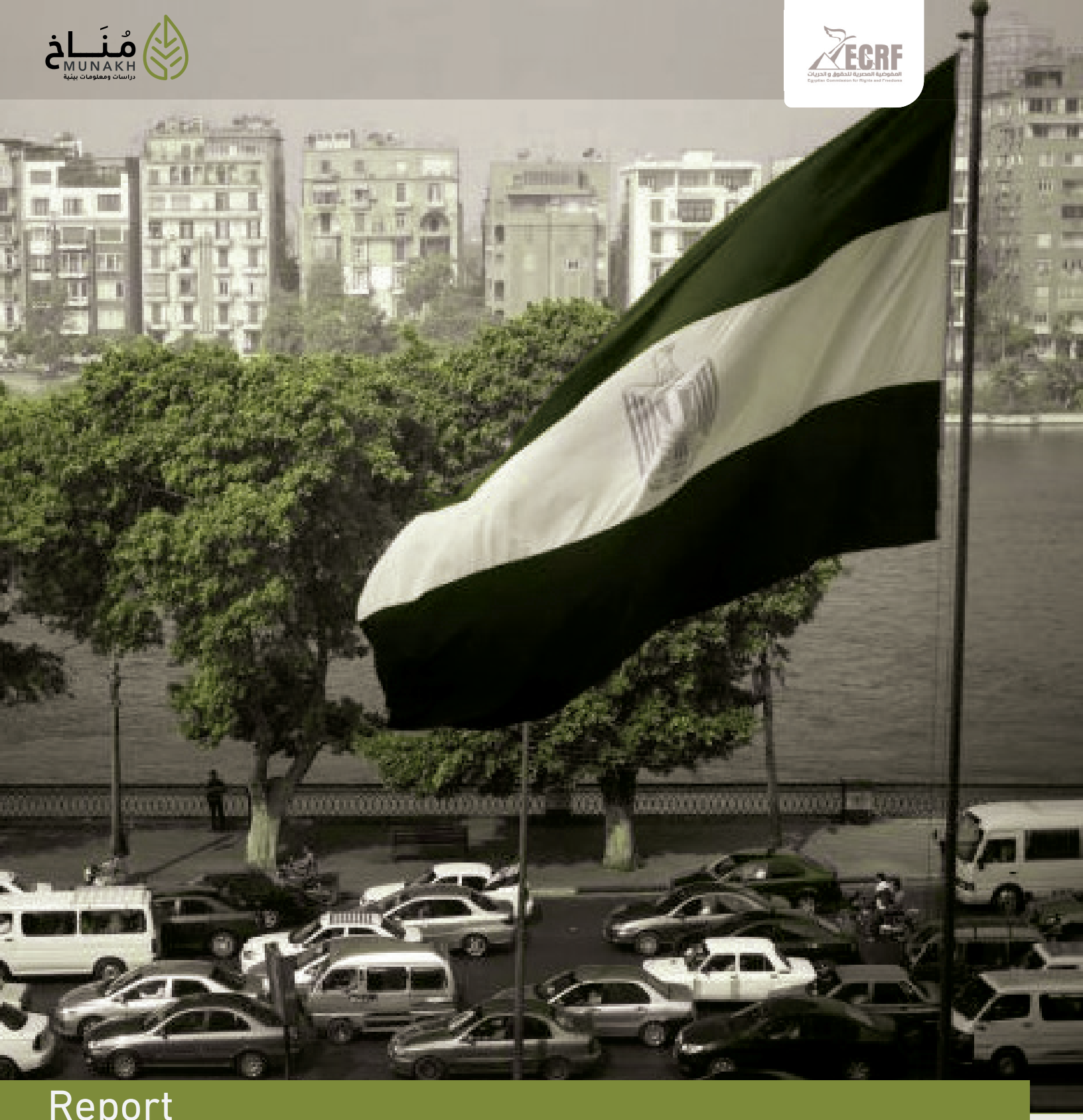

Report

Restricting public space and its relationship to restricting the work of environmental organizations

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to restricting the work of environmental organizations

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Introduction

The Egyptian legislative structure prior to the revolution of the twenty-fifth of January 2011 was largely disciplined in terms of the accuracy of legislative drafting and its conformity with the constitutional principles established in successive Egyptian constitutions, most of which conformed to international human rights standards. Of course, there were flawed laws that the authorities tried to issue from time to time to engineer their executive and legislative powers, but there were always those who addressed these violations, as was represented by the Supreme Constitutional Court, which has a rich history, especially in the nineties where it passed rulings on the unconstitutionality of many flawed laws, reflecting a genuine human rights philosophy and a rich interpretation of constitutional principles applied to legislations issued during that period. Human rights violations have always occurred by circumventing these legislations in violation of them or by digging for loopholes that ensure escaping the rule of law as much as possible, to the extent that the main feature of Mubarak's rule was legalized corruption.

Following the overthrow of the Muslim Brotherhood and the arrest of its leaders in 2013, the President of the Supreme Constitutional Court, Adly Mansour, became interim president of the republic until a new constitution was drafted and presidential elections were held, which ended with Defense Minister Abdel Fattah al-Sisi assuming the presidency from June 3, 2014, until now.

In the period from 2013 until now, the Egyptian legislative authority sought to change the Egyptian legislative structure to ensure the legalization and legitimization of repressive practices and human rights violations and ensure impunity. During that period, 447 laws were decreed by interim President Adly Mansour and then the current president in the absence of parliament in accordance with an exceptional authority granted him by the constitution allowing him to issue decisions that have the force of law until the House of Representatives was elected, to which those laws would then be presented, discussed and approved within fifteen days of the convening of the new Council. [1] The election of parliament was obstructed for many reasons at the time until the end of December 2015 and began its first session on January 10, 2016, to approve all these laws after a superficial review within the stipulated fifteen days period. New laws were issued and amendments made to older laws, bringing the total number of laws issued since July 3, 2013 until now to approximately 1435 laws[2].

During that period, the regime worked to suppress protests and voices opposing it, and the circle of repression and arrests affected all political currents, whether the Islamic current supporting former President Mohamed Morsi or other civil currents and youth movements that had the largest role in the revolution against the rule of Mubarak and the rule of the Muslim Brotherhood after him.

[1] Article 156 of the Constitution for the year 2014 promulgated on 01-18-2014 published on 01-18-2014 and effective as of 01-18-2014 regarding the promulgation of the amended Constitution of the Arab Republic of Egypt for the year 2014. Official Gazette 3 bis (a)

[2] According to the Laws of the East website, the number of laws from July 3, 2013 to July 8, 2022

The number of political prisoners in Egypt from 2013 to 2021 is estimated around 65 thousand political prisoners out of a total of 120 thousand prisoners, meaning that the number of political prisoners account for more than half of the total prison population, a catastrophic figure[3].

The constant response of the Egyptian authorities to international statements condemning the extensive arrests of politicians and activists is that they are criminal prisoners who have been legally arrested and criminally prosecuted and that there are no so-called political detainees in Egyptian prisons. This is a true response given that flawed and broad provisions are used in the Egyptian Penal Code and complementary laws such as the terrorism law to fabricate criminal charges against political opponents, in addition to denying fair trial guarantees using flawed provisions in the law of criminal procedures or exceptional courts according to the emergency state and the military judicial law.

In addition, the regime legislated new laws to restrict freedom of opinion and expression, such as the Cybercrime Law, in conjunction with the expansion of the use of flawed punitive laws issued before the revolution, such as accusations of spreading false news, especially after the regime realized the role played by websites and social media in the 2011 the revolution, where Twitter and Facebook played the main role in mobilizing the masses against Mubarak and overthrowing his regime.

In conjunction with Egypt's hosting of the COP 27 climate summit this year in Sharm El-Sheikh, the Egyptian regime aims to whitewash its face and cover up the file of human rights violations that have increased in frequency in recent years. This report aims to analyze the legislative and executive practices of the Egyptian regime during the last years, from 2013 until now, which focused on restricting the public sphere in the wake of the January revolution and its indirect impact on the environment and the work of environmental organizations on the ground. The report provides an analysis of the laws that undermine freedom of opinion and expression and freedom of assembly, through which the Egyptian regime has completely restricted the public sphere, in a way that constitutes a legalization of human rights violations guaranteed in accordance with the Constitution and international human rights law, starting with the accusation of spreading false news, through cybercrime laws, in addition to the protest law, and finally the law of associations, which restricts the work of civil society organizations, whether human rights or environmental organizations, to clarify the reflection of these legislative practices and the restriction of the public sphere on the environment and their indirect link to restricting the work of environmental organizations

[3] Emerson C. Fishere, February 24, 2021, Egypt's republic of fear has detained tens of thousands. It's cruel — and counterproductive, Washington post https://www.washingtonpost.com/opinions/2021/02/24/egypt-political-prisoners-sissi-fear/

First topic: the legalization of exceptional trials

1- Detention and exceptional trials in the Emergency Law:

In this part of the study, we will shed light on the Emergency Law as a cornerstone in the field of codifying violations of constitutional rights and freedoms and as a common denominator in referring defendants in political cases and trying them according to an exceptional judiciary in which litigation takes place at one degree and the verdict becomes final after ratification by the President of the Republic. We shall also focus on the recent amendments to the flawed law following the Corona pandemic and how the state took advantage of the pandemic to introduce more amendments that undermine Constitutional rights and freedoms on a law that is inherently notorious and does not need further amendments to make it more repressive, given the danger of its use, which has become perpetual by circumventing the text of the constitution regulating the state of emergency and the restrictions on its declaration.

Egypt remained in a state of emergency for continuous 140 years except for only few intermittent years during the last century. This began on July 11, 1882, where military provisions were announced for the first time during the attack of British forces on Egypt before its occupation. With the presence of the British occupation in Egypt, the state of restriction of freedom remained in place without an official declaration of emergency until November 2, 1914, with the beginning of the First World War, when England declared Egypt a British protectorate, and subject to military rule and martial law. That situation remained until it was abolished after the adoption of the Constitution of 1923, where Lord Allenby, the general commander of the British forces, ordered its abolition for a period of 9 years to be re-imposed again in 1939 during the Second World War. It was imposed again during the Palestine War in 1948 and during the Cairo Fire in January 1952 and extended until the July Revolution in 1952, which ended the monarchy and declared a republic. [4]

The emergency law currently in force was issued in 1958 and was activated after the Six-Day War or what is known as the 1967 *Naksa* between Egypt and Israel and remained in force until the end of the rule of President Anwar Sadat. It was lifted and reactivated again after his assassination in 1981. Since then, Egypt has been in a continuous state of emergency for 30 years throughout the rule of ousted President Mubarak until it was abolished in May 2012 following the January revolution. [5]

The declaration of a state of emergency in Egypt is currently constitutionally regulated by the text of Article 154 of the 2014 Constitution, which grants the President of the Republic the right to declare it after taking the opinion of the Council of Ministers, with the obligation to present this

[4] Abdel Halim Hefina, October 28, 2021, the end of a turbulent history in Egypt... the story of 140 years of "emergency," Sky News Arabia, https://www.skynewsarabia.com/middle-east/1474300-%D9%86%D9%87%D8%A7%D9%8A%D8%A9-%D8%AA%D8%A7%D8%B1%D9%8A%D8%AE-%D9%85%D8%B6%D8%B7%D8%B1%D8%A8-%D9%85%D8%B5%D8%B1-%D9%82%D8%B5%D8%A9-140-%D8%B9%D8%A7%D9%85%D8%A7-%D8%A7%D9%84%D8%B7%D9%88%D8%A7%D8%B1%D9%8A%D9%94

[5] ibid

declaration to the House of Representatives within seven days following the issuance of the decision so that the House decides what it deems appropriate. The text requires the approval of the majority of the members of the House to declare the state of emergency and that its declaration be for a specific period not exceeding three months and extended only for another similar period. In the case of an extension it requires the approval of two-thirds of the members, but if the Council does not exist, the matter shall be submitted to the Council of Ministers for approval, with the obligation to present it to the new House of Representatives at its first meeting. [6]

The aforementioned text differs from its counterpart in the 2012 constitution, which was issued during the rule of the Muslim Brotherhood, as it stipulated the declaration of a state of emergency for a period not exceeding six months instead of three, and allowed its extension for another similar period, but in this case it required the approval of the people in a general referendum and not the approval of two-thirds of the members of the House. The two texts agreed that it is not permissible to dissolve the House of Representatives during a state of Emergency[7]. It should be noted that setting a maximum limit for the periods of validity of the state of emergency did not exist in republican constitutions prior to the 2012 constitution, starting with the 1956 constitution and ending with the 1971 constitution, which differed slightly from in its stipulation that the declaration of the state of emergency must be for a specific period without setting a maximum limit and that it may not be extended except with the approval of the People's Assembly. This provision did not constitute a change in the continuity of the state of emergency, which did not end for perpetual periods that made the Egyptian state impose a state of emergency without interruption until the revolution of January 25, 2011, one of the most important demands of which was to end the state of emergency that the state has been imposing for thirty consecutive years[8].

On the tenth of April 2017, following the two bombings that targeted the churches of St. George in the city of Tanta and St. Mark in the city of Alexandria, the President of the Republic Decree No. 157 of 2017 was issued declaring a state of emergency throughout the country for a period of three months. On the reasoning of the decision, it was stated in its preamble that it was taken due to the serious security conditions that the country is going through. On 4/7/2017, the House of Representatives approved the extension of the state of emergency for another period. Since that time, it has been assumed, according to the text of the current constitution, that the state of emergency would end after the two periods referred to, but it was circumventing the constitutional text by leaving an interval after the expiration of the two expired emergency periods for a day or two before declaring a state of emergency for two new periods. Thus, we lived in a continuous state

[6] Article 154 of the Constitution of the year 2014 issued on 01/18/2014 and published on 01/18/2014 in the Official Gazette, and it comes into force as of 01/18/2014

[7] Article 148 of the Constitution of the year 2012 issued on 12/25/2012 and published on 12/25/2012 in the Official Gazette, and it comes into force as of 12/25/2012

[8] Article 144 of the 1956 Constitution issued on 16/01/1956, Official Gazette/
Article 57 of the 1958 Constitution issued on 03/05/1958, the Official Gazette/
Article 126 of the 1964 Constitution issued on 03/25/1964, Official Gazette/
Article 148 of the 1971 Constitution issued on 09/11/1971 in the Official Gazette

of emergency as before the January revolution and it was not stopped according to the text of the constitution, which prohibited its extension for more than two consecutive periods.

Recently, on October 25, 2021, the current President of the Republic issued a decision to lift the state of emergency after 18 renewals during the last five years[9]. In fact, this sudden cancellation of the state of emergency was only for international propaganda, because days after the lifting of the state of emergency, the House of Representatives ratified three legislative amendments related to "protection of vital facilities", "measures to combat terrorism" and "safeguarding state secrets". The first amendment assigns the permanent protection of public and vital facilities to the army and police forces and refers crimes of infringement on such facilities to military judiciary. The second amendment gives the president the powers to impose measures to confront terrorism, including curfews in some areas, and the third punishes with imprisonment and fines anyone who attempts to collect information on the members and tasks of the armed forces without their permission, all of which are not much different from declaring a state of emergency. [10]

- ## On Law 162 of 1958 regulating the state of emergency

The law regulating the state of emergency in Egypt, currently in force, is Law No. 162 of 1958, known as the Emergency Law, and was issued on 7/10/1958 in the form of a decree by law by Gamal Abdel Nasser, President of the Republic at the time. It allows the declaration of a state of emergency whenever security or public order in the territory of the Republic or in an area thereof is endangered, whether due war, a threatening situation, the occurrence of internal disturbances or public disasters, or the spread of an epidemic[11]. The declaration and termination of the state of emergency - in accordance with the provisions of Article II of the law – by a decision of the President of the Republic includes a statement of the reason for which it was declared, the determination of the area covered by it, the date of its entry into force and its prescribed duration, and the law requires that the decision be submitted to the People's Assembly within the following fifteen days to decide what it deems appropriate, and that it is not permissible to extend the period determined by the decision to declare a state of emergency except with the approval of the People's Assembly and it expires on its own in if the approval is not made before the end of the its declared duration. [12]

It should be noted that all the powers provided for in the law as powers of the President of the Republic during the declaration of a state of emergency may be delegated to his representatives,

[9] Egypt cancels the extension of the state of emergency, October 26, 2021, Independent Arabia TV ، https://www.independentarabia.com/node/271311/%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1/%D8%A7%D9%84%D8%B9%D8%A7%D9%84%D9%85-%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A/%D9%85%D8%B5%D8%B1-%D8%AA%D9%84%D8%BA%D9%8A-%D8%AA%D9%85%D8%AF%D9%8A%D8%AF-%D8%AD%D8%A7%D9%84%D8%A9-%D8%A7%D9%84%D8%B7%D9%88%D8%A7%D8%B1%D8%A6

[10] Was the lifting of the state of emergency in Egypt a formality? November 2, 2021 ،BBC News، https://www.bbc.com/arabic/middleeast-59138767

[11] Article 1 of the Egyptian Emergency Law No. 162 of 1958 published on 09/28/1958

[12] Article 2 of Law No. 162 of 1958 published on 09/28/1958 regarding the state of emergency.

in whole or in part, in all or part of the territory of the Republic or in a specific region or areas thereof. [13]

The declaration of the state of emergency has always been free from judicial oversight, and appeals filed before the courts against decisions declaring a state of emergency have been rejected, as the Egyptian administrative courts have settled in many of their rulings on considering the decisions to declare and extend the state of emergency as acts of sovereignty that do not require judicial oversight. Accordingly, they have always ruled that they have no jurisdiction to hear cases filed to challenge decisions to extend the state of emergency issued by the Prime Minister or the Speaker of the People's Assembly. The Court of Administrative Justice in its judgment issued in 2008 stated that "the state of emergency is declared and extended by a presidential decision and this decision must be presented to the House of Representatives to decide on the matter. The legislator exempted acts that are characterized to be acts of sovereignty whether internal or external from the jurisdiction of the courts, whether the State Council or the courts of ordinary judiciary. This meant that these courts may not consider any lawsuit related to decisions of sovereignty. The judiciary has established the theory of acts of sovereignty, and both the judiciary and jurisprudence could not develop a definition or standard inclusive impediment to these acts and concluded that the final word in that regard if for the judiciary alone to decide with its discretion what is or is not an act of sovereignty. The Supreme Constitutional Court and the Supreme Administrative Court ruled that acts and decisions by the government as a governing authority is one of the acts of sovereignty to be distinguished from acts and decisions made as an administrative authority. They rationalized the exclusion of acts of sovereignty from their jurisdiction saying that these acts are related to the sovereignty of the state at home and abroad because of the surrounding political considerations that justify granting the competent authority the power of a broader and far-reaching assessment in order to achieve the interest of the homeland, its security and safety without authorizing the judiciary to comment on the actions it takes in this regard because its consideration or comment requires the availability of different information, elements and scales of assessment that are not available to the judiciary within the framework of its constitutionally defined role and guided by the principle of flexible separation of powers."[14]

In its ruling, the Court was guided by an old interpretation of the Supreme Court, in which it decided that "the emergency system is a system that the Constitution has authorized to impose whenever its reasons and motives are realized, the first and most important of which is the exposure of the homeland to a danger that threatens its safety and security, the outbreak of war, the threat of its outbreak or the disturbance of security, in order to confront this danger with exceptional measures specified by the Emergency Law in order to preserve the safety and security of the homeland, and

[13] Article 17 of Law No. 162 of 1958 published on 09/28/1958 regarding the state of emergency.
[14] Judgment No. 42479 - for the year 62, the Egyptian Administrative Court, session date 12/23/2008 - page number 212

that the republican decision to declare a state of emergency is considered an act of sovereignty." [15]

- ## Emergency State Security Courts... Exceptional trials and a violation of the right to a fair trial

According to the law, the partial and higher state security courts were established to adjudicate crimes committed in violation of the provisions of the orders issued by the President of the Republic or his representative during the state of emergency, and their jurisdiction is determined by the type of penalties applied to the crimes committed, whatever its punishment. The partial courts are concerned with adjudicating crimes punishable by imprisonment and a fine or one of the two penalties. As for the Supreme State Security Courts, their jurisdiction is determined to adjudicate crimes punishable by the penalty of felony, as well as the crimes specified by the President of the Republic as an exception, regardless of their punishment. [16]

Trials in the aforementioned courts are subject to the so-called exceptional judiciary, which lacks the most basic standards of fair trial, its requirements, and the rights that derive from it, the simplest of which is the right to litigation, which is supposed to be two-tier, which is lacking in the Emergency Law and its exceptional trials, which take place at one level and its decisions cannot be appealed and become final verdicts after their ratification by the president of the republic[17]. The law allowed the president of the republic to close cases before they are submitted to the court and may also order the provisional release of arrested defendants before such cases are referred to the said courts. [18]

The law allows the President of the Republic or whoever acts on his behalf to refer to the State Security Courts the crimes punishable by the General Law. That is, as an exception, during the declaration of the state of emergency, certain crimes may be specified among the crimes stipulated in the Penal Code or in other laws to be heard before the State Security Courts instead of referring them to the natural judge represented in the misdemeanor and criminal courts of all degrees that allow for an appeal, which means that it is litigated at a single level and without the possibility of appealing the court decision in any way.[19]

[15] Case No. 22 of 6, Supreme Court, session 5/2/1977
[16] Article 7 of Law No. 162 of 1958 published on 09/28/1958 regarding the state of emergency.
[17] Article 12 of Law No. 162 of 1958 published on 09/28/1958 regarding the state of emergency.
[18] Article 13 of Law No. 162 of 1958 published on 09/28/1958 regarding the state of emergency.
[19] Article 9 of Law No. 162 of 1958 Publication dated 28/09/1958 regarding the state of emergency.

- **Absolute powers of the President of the Republic during the declaration of a state of emergency**

The Emergency Law included absolute powers for the President of the Republic, which he may exercise to maintain security and public order in a state of emergency. As an example, Article 3 of the law stipulated 6 items[20] that can be measured against, including the order to monitor messages of any kind and to monitor newspapers, bulletins, and publications. documents, fees, and all means of expression, publicity and advertisement prior to their publication, their seizure, confiscation, disabling and closing their places of publication, setting the time for opening and closing public stores, ordering the closure of all or some of these stores, as well as assigning any person to perform any work and seizing any movable or real estate by decisions of the President of the Republic.

The most dangerous powers granted to the President of the Republic in accordance with Article 3 of the Emergency Law were to place restrictions on the freedom of persons to meet, move, reside, pass in certain places and times, arrest and detention of persons, and authorize searches of persons and places without being bound by the provisions of the Code of Criminal Procedure, which is the basis for the arrest of citizens, since the issuance of the law until the January 2011 revolution. The Supreme Constitutional Court ruled this provision unconstitutional in 2013, then the ruling was later circumvented by amending the law in 2017, which will be clarified below.

- **Historic Constitutional Court ruling that arbitrary detention and random searches are unconstitutional**

On 2/6/2013, a ruling was issued by the Supreme Constitutional Court that the first item of Article 3 of the Emergency Law was unconstitutional as it included "allowing the President of the Republic to authorize the arrest, detention, and search of persons and places without being bound by the provisions of the Code of Criminal Procedure." This was the text by which the famous arrest decisions were taken until the outbreak of the 25th of January revolution, along with the random searches and arbitrary arrests of citizens, which were so common that most citizens believed and still believe is an original and natural right of law enforcement officers.

In its rationale, the ruling affirmed that the Emergency Law is an exceptional system intended to support the executive authority and provide it with certain capabilities, with which to limit public rights and freedoms, with the aim of confronting emergency circumstances that threaten public safety or the country's national security, and accordingly it is not permissible to expand its application, but rather the narrow interpretation of its provisions must be adhered to, and the authority specified by the emergency law - represented in the president of the republic or his representative - must adhere to the purpose specified in the emergency law and in a manner that

[20] Article 3 of Law No. 162 of 1958 published on 09/28/1958 regarding the state of emergency.

does not deviate from the means that are consistent with the provisions of the constitution, when taking any of the measures stipulated in Article 3 of the decreed law No. 162 of 1958; otherwise what it would be in violation of the Constitution.

The ruling of the Supreme Constitutional Court considered that the aforementioned text contradicts many constitutional principles, foremost of which is the principle of the state's subordination to the law, which means that a legal state is the one that, in all aspects of its activity, and whatever the nature of its powers, are bound by legal rules that transcend it, and that by itself is a regulator of its actions and behaviors in its various forms. In its ruling, the court stressed that the principle of state subordination to the law coupled with the principle of legality of authority is the basis on which the legal state is based, and therefore the law regulating the state of emergency must adhere to the controls established for legislative action, the most important of which is not to violate other provisions of the constitution. The court added that contested text, which allows arrests, detentions, and search of person and places without a judicial warrant is a violation of personal individual freedoms and an attack on the sanctity of homes, which constitutes a violation of the principle of the rule of law, which is the basis of government in the state.

As for the argument that the emergency law deals with exceptional situations related to confronting dangerous threats that threaten national interests, which may affect the stability of the state or expose its security and safety to imminent dangers, and that the state of emergency, given its duration and the nature of the risks associated with it, is sometimes not appropriate to the measures taken by the state in normal situations, the response of the Constitutional Court was categorical in this regard by its assertion that the emergency law authorized by the constitution may not be used as a pretext for violating its provisions and unleashing it, as the emergency law - whatever its justifications - remains a legislative act that must abide by all the provisions of the constitution, in particular, the protection of the rights and freedoms of citizens[21].

- ## Circumvention of the ruling of the Constitutional Court in amending the law in 2017

Following the issuance of the ruling of unconstitutionality of the article, it could not be maintained or applied, because the ruling of the supreme constitutional court and its interpretations are binding to all state authorities, which would call for the cancellation of the article that was ruled to be unconstitutional and ending its application the day following its publication[22]. However, the ruling issued against the unconstitutionality of detention was implicitly circumvented by amending the Emergency Law in 2017, by adding two new articles No. 3 bis b and 3 bis c. The first allows

[21] Case No. - for the year 15, the Supreme Constitutional Court, session date 6/2/2013
[22] Article 195 of the Constitution of the year 2014 issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014. - Article 49 of Law No. 48 of 1979 issued on 08/29/1979 published on 06/09/1979 in the Official Gazette regarding the issuance of the Supreme Constitutional Court Law.

judicial police officers, at the time of declaring a state of emergency, to seize the person for whom there is evidence of a felony or misdemeanor and what he possesses by himself or in his residence and all places where he is suspected of concealing any dangerous or explosive materials, weapons, ammunition or other evidence of committing a crime, as an exception to the provisions of other laws, such as the Code of Criminal Procedure. The text did not require the issuance of a judicial order prior to the arrest. Rather, the Public Prosecution is notified later within 24 hours of the arrest, with the possibility of seeking its permission to detain the detainee for a period of up to seven days to complete the collection of evidence.

The new text, although it did not use the same terms included in the text of the first paragraph of Article 3, which was ruled unconstitutional, such as the words "arrest, detention, personal and house search" and used the term "reservation", but basically carries the same content that grants judicial officers wide powers in search and arrest on the basis of their investigations and their personal opinions if they believe "there are indicators of committing a felony or misdemeanor in relation to the person in custody", i.e. carrying the same exemption from the provisions of other laws such as the Code of Criminal Procedure, the procedures of which are considered one of the most important guarantees of a fair trial, and the consequence of its non-availability from the outset constitutes an annulment of all court proceedings.

The amendment explicitly contradicts what was affirmed in Article 54 of the Constitution, which prohibits - except in flagrante delicto - the arrest, search, imprisonment, or restriction of a person's freedom in any way except after the issuance of a causal judicial order necessitating investigation. It also obliges that the person whose freedom is restricted must be presented to the investigation authority within 24 hours of his arrest and not continue to be kept with the prosecution notified within the mentioned 24 hours. The amended text made this a personal authority for the judicial police officer at the time of a state of emergency and without the issuance of a previous judicial order from the Public Prosecution, but merely notifying it later of what had happened, as well as asking its permission to detain the person concerned for a period of up to seven days to complete the collection of evidence required to be available prior to the arrest of citizens without a warrant.

The amendment was not limited to that, but Article 3 bis c allowed the partial state security emergency courts to detain "whoever shows evidence of a danger to public security" for a period of one month, renewable upon the request of the Public Prosecution, i.e. disguised detention without trial and from exceptional, constitutionally prohibited courts without any standards or guarantees for a fair trial.

- **Amendments to the emergency law to confront the Covid pandemic... Exploiting the pandemic for more repression**

On May 6, 2020, Law No. 22 of 2020 was issued to amend some provisions of the Emergency Law, under the pretext of facing the repercussions arising from the Covid pandemic. The first article of the law was a replacement of the text of the first paragraph of Article 4 of the original law, which was dealing with authorizing security and armed forces to carry out the orders issued by the President of the Republic and his representative. The article specifies the role of the armed forces during implementation, so that its officers and non-commissioned officers, starting from the rank appointed by the Minister of Défense, have the authority to prepare reports of violations that occur to orders issued during the declaration of a state of emergency.

The new text, which was replaced by the original text, provides for the granting of judicial police authorities to officers of the armed forces, a procedure that was previously rejected by the administrative judiciary when the minister of justice issued it. When the administrative decision was issued by the Minister of Justice, the amendment to the law legitimized it, to escape it from the consequences of cancellation by the administrative judiciary, as the administrative courts are competent to appeal against administrative decisions only, not laws.

As for the second amendment that was added to the article, it stipulates the jurisdiction of the Military Prosecution to always investigate all crimes that are identified by the armed forces, while granting the President of the Republic or his authorized representatives the authority to assign jurisdiction in the preliminary investigation in all crimes that occur in violation of the Emergency Law to the military prosecution, even if it had not been seized by the armed forces. The last amendment to the article made the authority of the Public Prosecution limited to the final disposition of investigations conducted by the military prosecution, either by referring them to trial or ordering the closure of the file.

The aforementioned amendments reinforce the encroachment of the armed forces and their institutions within the civil structure of the state, which was reinforced in the amendments that were made to the constitution in 2019 as the statement will follow in the last section of our study, which imposed a new constitutional status for the armed forces, placing them as an institution above the constitution, its protector and interpreter to place it officially as a state within the state. According to these constitutional amendments, the role of the armed forces has been re-drafted by adding new tasks to it in the matter of protecting and preserving the constitution, civil life and democracy, with no clear explanation or conception of how the military institution will assume these tasks, which may lead to the legitimization of military coups on the pretext of protecting the constitution, in accordance with the armed forces' interpretation of those concepts Article 200 after the constitutional amendment. The second amendment granted the Supreme Council of the Armed Forces full administrative and executive independence from the President of the Republic by authorizing the Council the authority to choose and appoint the Minister of Defense on a permanent, general and continuous basis and not in transition for two presidential terms as it was before

Article 234 after the constitutional amendment, along with an expansion of military trials of civilians and the scope of the jurisdiction of the military judiciary over them by expanding the concept of assault on military institution to include indirect assault, even verbal, in addition to adding a new provision on the possibility of subjecting civilian state facilities to the protection of the armed forces, so that any direct or indirect attacks on them are subject to military trials and hence involve referral of more civilians to military trials Article 204 after the constitutional amendment [23]. There is no doubt that the permissibility of subjecting civilians to investigation before the military prosecution, which is part of the military judiciary, contradicts the provisions of the constitution prohibiting exceptional trials and legitimizing more of them instead of cancelling the existing ones in particular, not to mention that the emergency law legislates by its nature an exceptional judiciary and emergency state security courts. Accordingly, it contradicts the constitutional prohibition of exceptional trials, as it lacks fair trial standards, foremost of which is the right to litigation at two levels, and necessarily violates the rights of litigation and defense.

The second article of the amended law adds 18 new clauses to the clauses stipulated in Article 3 of the original law, which we previously indicated that it included 6 clauses related to the competencies and measures that the President of the Republic and his representative could take in a state of emergency, which used to leave the new measures to the control of the discretionary courts and to determine whether they are acts of sovereignty or administrative decisions.

The amendments added to the provisions of Article 3 of the original law include many disadvantages and represent a restriction on many constitutional rights and freedoms, including the right to personal freedom, to litigation and defense, to public and private assembly, to demonstrate, and the right to private property, and it will continue to apply even in the context beyond confronting Covid, especially in light of a state of emergency that can always be declared without restrictions and for semi-permanent periods.

Constitutional Violations

The emergency law in its entirety contradicts the foundations and pillars of a democratic state, which is based on the principle of the rule of law and the obligation of the state to be subject to it[24], in addition to its undermining of the principle of the sovereignty of the people as the source of powers[25], and the necessity of establishing the political system on the basis of separation and balance between authorities, which is wasted by the provisions by the flawed law in its entirety, in view of the powers it grants the executive authorities, which bypass the designed constitutional

[23] Muhammad Obeid, April 22, 2019, constitutional regarding unconstitutional amendments ‹ECRF‹ https://www.ec-rf.net/%d8%a7%d9%84%d9%85%d9%81%d9%88%d8%b6%d9%8a%d8%a9-%d8%a7%d9%84%d9%85%d8%b5%d8%b1%d9%8a%d8%a9-%d9%84%d9%84%d8%ad%d9%82%d9%88%d9%82-%d9%88%d8%a7%d9%84%d8%ad%d8%b1%d9%8a%d8%a7%d8%aa-%d8%aa%d8%b7%d9%84-2/

[24] Article No. 1 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.

[25] Article No. 4 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.

boundaries and allows it to control both the legislative and judicial authorities, and infringes on their powers[26].

In addition, the emergency law, including the measures it contains, constitutes a blatant threat to the constitutionally guaranteed right of personal freedom, which prohibits the arrest, search, imprisonment, or restriction of citizens' freedom in any way except by a reasoned judicial order that is required by the investigation, which we have already mentioned is subject to violation by the measures of Article 3 of the law in question[27]. Not to mention the restriction of freedom of movement, which has become almost permanent in accordance with the perpetuation of the state of emergency by circumventing the provision of the Constitution that prohibits its perpetuation[28].

It is worth noting that the right to personal freedom and the rights and freedoms that derive from it are among the rights and freedoms that are closely related to the person of the citizen and that do not tolerate obstruction or derogation, and no law regulating its exercise may restrict it in a way that affects its origin and essence[29].

The emergency law constitutes a complete neglect of the requirements of a fair trial and the constitutional principles associated with it, foremost of which is the principle of the rule of law as the basis of governance in the state, which requires the state to be subject to its supreme law represented by its constitution, and from which stems the necessity of the independence, immunity and impartiality of the judiciary as a basic guarantee for the protection of rights and freedoms[30]. The principle of the legitimacy of crimes and penalties are an essential element within the pillars and requirements of a fair trial. It initially assumes procedural legitimacy of criminalization, which means that trial procedures must be codified in accordance with the Constitution by ensuring the right to litigation at two levels and the right to defense, which is what trials lack according to the emergency law as an exceptional judiciary in which judgments are issued in a single degree of litigation that may not be challenged in any way, in addition to its departure from the normal procedural rules contained in the Code of Criminal Procedure, which governs the procedural legitimacy in criminal trials[31].

The breach of the procedural guarantees associated with the principle of legality of crimes and penalties is considered a presumed breach of the principle which was guaranteed by the 2014 Constitution in Article 96, which affirmed that the defendant is innocent until proven guilty in a fair

[26]Article No. 5 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[27] Article No. 54 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[28]Article No. 62 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[29] Article No. 92 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[30] Article No. 94 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[31] Article No. 95 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.

legal trial in which defense is guaranteed, in addition to what was confirmed by the text of a recent decision that stipulates that the law must organize the appeal in felonies that are legally litigated to the same degree in normal cases and the trials before the ordinary judiciary, while guaranteeing the right to appeal against them by cassation, which the new constitutional text considered not sufficient as a method of appeal. As for trials that take place in accordance with the Emergency Law and are heard by the State Security Courts, they lack even the right to appeal through cassation[32].

Likewise, the Constitution affirmed in its 97th Article that no person may be tried except before his natural judge, and exceptional trials are absolutely prohibited[33]. Also, the exceptional emergency judiciary constitutes a flagrant violation of the principle of judicial independence and impartiality. State security judiciary involves major interference in matters of justice and trials since it lacks fair trial standards, and by making the enforcement or suspension of its rulings subject to the ratification of the President of the Republic and his representative members of his executive authority, which although legalized according to the law concerned, is considered by the constitution to be a crime without statute of limitations since it is an interference in the affairs of justice and a denial of it in accordance with Article 184[34].

The 2014 constitution introduced an updated provision regarding the criminalization of the attack on the private freedom of citizens and other rights and freedoms and considering this a crime without statute of limitations[35].

In the end, the declaration of a state of emergency is constitutionally legalized with controls that should not be breached so that it does not turn into a permanent state, which has become a de facto reality by constantly circumventing the text of Article 154 and separating two declarations with short time intervals, bypassing the purpose of the constitutional legislator who aimed to end the period of emergency and the continuous martial law that the state has imposed since the mid-fifties until the revolution of January 25, 2011. [36]

[32] Article No. 96 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[33] Article No. 97 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[34] Article No. 184 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[35] Article No. 99 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014.
[36] Article No. 154 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014..2014

Conflict with provisions of international human rights law

The permanent state of emergency, with its accompanying restriction of freedoms, contradicts what has been decided by international conventions in this regard, foremost of which is the Universal Declaration of Human Rights, which established the right of every individual to life, liberty, and security of his person[37]. The Universal Declaration of Human Rights prohibits the arbitrary arrest or detention of any person, which is the power expressly granted to the President of the Republic or his representative in accordance with the emergency law[38]. It also stipulates the right to a remedy, which requires the right of every person to a fair trial before his natural judge and to be redressed for any acts that violate fundamental rights granted to him by law, and his right to have his case heard before an independent and impartial court in a fair consideration, a right which the emergency law totally neglects as a system that legitimizes an exceptional and unfair judiciary[39].

Also, legalizing the emergency state is also a complete waste of the principle of human innocence stipulated in Article 11 of the Declaration, which requires that trials be fair and provide all defense guarantees, the most important of which is the fact that litigation has two levels, which is lacking in the emergency appeal system[40].

It is also worth noting that the previous principles were translated by the International Covenant on Civil and Political Rights, which Egypt signed on August 4, 1967, and published in the Official Gazette as a state law ratified on April 15, 1982, which established in Article 9 the right of every individual to liberty and personal safety, and prohibited to arrest or detain anyone arbitrarily or deprive him of his freedom, as well as the necessity of promptly adjudicating before the judiciary without delay or releasing him, and that pretrial detention should not be a general rule, but rather that the victim should be compensated if illegally arrested or detained[41].

Article 14 of the Covenant also stipulates fair trial guarantees, foremost of which is equality before the judiciary and the right of everyone to be tried by a competent, independent and impartial court, which is lacking in exceptional emergency trials. In addition, the text affirmed the right of the convict to review the sentence and the penalty by a higher court in accordance with the law, which does not happen in the system of state security courts in which litigation is carried out on a single level and final rulings are subject to the ratification of the President of the Republic[42].

[37] Article 3 of the Universal Declaration of Human Rights 10/12/1948
[38] Article 9 of the Universal Declaration of Human Rights 10/12/1948
[39] Article 10 of the Universal Declaration of Human Rights 10/12/1948
[40]Article 11 of the Universal Declaration of Human Rights 10/12/1948
[41] Article 9 of Presidential Decree No. 536 of 1981 published on 04/15/1982 approving the International Convention on Civil and Political Rights approved by the United Nations General Assembly on 12/16/1966 and signed by the Arab Republic of Egypt on 4/8/1967.
[42] Article 14 of Presidential Decree No. 536 of 1981 published on 04/15/1982 approving the International Convention on Civil and Political Rights approved by the United Nations General Assembly on 12/16/1966 and signed by the Arab Republic of Egypt on 4/8/1967.

In addition to the requirements of a fair trial, the emergency law, in accordance with the measures provided for in Article 3, constitutes another set of violations that involve a continuous restriction of a number of freedoms, including the freedom of movement stipulated in Article 13 of the Universal Declaration of Human Rights[43] and confirmed by Article 12 of the International Covenant on Rights Civil and Political Rights[44] as well as the right to private property and the inadmissibility of arbitrarily depriving anyone thereof[45], and the right to freedom of opinion and expression that can be completely restricted during the imposition of the state of emergency in violation of the rules of the Declaration[46] and what has been stipulated in article 19 of the International Declaration regarding the right of every person to his free opinions, freedom of expression, search for information or ideas of any kind, receiving them and transferring them irrespective of borders, either verbally, in writing or in print[47].

The emergency law also totally violates the sanctity of private life stipulated in Article 17 of the International Covenant on Civil and Political Rights by granting the President of the Republic and his representative the authority to monitor postal correspondence and telephone communication in accordance with the measures granted him under Article 3 of the law[48], not to mention restricting the right to peaceful assembly in opposition to Article 21 of the texts of the International Covenant on Civil and Political Rights. [49]

2- The Anti-Terrorism Law... More repression and exceptional trials

Confronting terrorism requires dealing with the challenges dictated by the rule of law. These challenges are not limited to the national context of countries, but affect the entire international community, and stem from the principles of democracy and human rights that are threatened by terrorism. Therefore, the crime of terrorism has occupied an important aspect of the responsibilities of the legal system. This responsibility was based on the ability to achieve a balance between two types of requirements: the first is the basic principles of the law, which require respect for the basic rights and freedoms of citizens, and the second is the foundations on which the fight against terrorism is based in preventing or punishing crimes to protect society and human rights. The legal adaptation of the crime of terrorism requires a legal definition adopted by

[43] Article 13 of the Universal Declaration of Human Rights 10/12/1948
[44] Article 12 of Presidential Decree No. 536 of 1981 published on 04/15/1982 approving the International Convention on Civil and Political Rights approved by the United Nations General Assembly on 12/16/1966 and signed by the Arab Republic of Egypt on 4/8/1967
[45] Article 17 of the Universal Declaration of Human Rights 10/12/1948
[46] Article 19 of the Universal Declaration of Human Rights 10/12/1948
[47] Article 19 of Presidential Decree No. 536 of 1981 published on 04/15/1982 approving the International Convention on Civil and Political Rights approved by the United Nations General Assembly on 12/16/1966 and signed by the Arab Republic of Egypt on 4/8/1967.
[48] Article 17 of Presidential Decree No. 536 of 1981 published on 04/15/1982 approving the International Convention on Civil and Political Rights approved by the United Nations General Assembly on 12/16/1966 and signed by the Arab Republic of Egypt on 4/8/1967.
[49] Article 21 of Presidential Decree No. 536 of 1981 published on 04/15/1982 approving the International Convention on Civil and Political Rights approved by the United Nations General Assembly on 12/16/1966 and signed by the Arab Republic of Egypt on 4/8/1967.

the legislator in national legislation, that defines its elements in accordance with the principle of legality of crimes and penalties, while adhering to the constitutional framework of criminalization and punishment that is determined by necessity and proportionality. [50]

To the contrary of the above, the Anti-Terrorism Law provided a broad definition of the concept of terrorist act in terms of lack accuracy, tainted by ambiguity and vagueness, and are subject to many interpretations such as "disturbing public order," "damaging national unity and social peace," "damaging the environment," and other terms that do not specify the material component of the crime such as the use of "prevent" and "obstruction". This is in stark contradiction to the principle of legality of crimes and penalties and the principle of innocence until proven guilty as two basic assumptions to guarantee personal freedom, which requires accuracy in drafting penal texts in a certain way that leaves no doubts about their constitutionality. [51]

The Supreme Constitutional Court has emphasized that punitive texts should not contain vague words, so they must be clear, accurate and carry no more than one meaning to fulfil the principle of legality of punitive texts. In one of its rulings, it said:

"The legislator must always make a careful balance between the interest of society and the concern for its security and stability on the one hand, and the freedoms and rights of individuals on the other. It was also agreed that punitive texts should be formulated in a clear and specific manner that is not hidden or ambiguous, so that these texts are not traps that the legislator casts, preying on their wideness or concealment by those who fall under them or mistake their positions, and they are guarantees whose purpose is that those who are addressed by the punitive texts are aware of their truth, so that their behavior is not contrary to it, but rather consistent with it and submitting to it. [52]

- ## Criminalization according to the law of terrorism and trial according to emergency law... speed and prompt justice from the point of view of the regime

Several local and international human rights organizations confirmed that the Egyptian authorities are using the Terrorism Law to prosecute activists, journalists and opponents because of their peaceful criticism, and that the Egyptian government has used the scarecrow of confronting terrorism as a cover to prosecute opponents of its policies, especially in the period leading up to the last presidential elections in 2018, which witnessed a wave of arrests that extended beyond the elections and involved detention of many prominent activists and journalists on charges of joining a terrorist group included in the Terrorism Law and spreading false news, and referring

[50] Ahmed Fathi Sorour, 2008, The Legal Confrontation of Terrorism, Al-Ahram Center for Translation and Publishing, p. 21.
[51] Article 2 of Law No. 94 of 2015 issued on 08/15/2015 published on 08/15/2015 in the Official Gazette regarding the issuance of the Anti-Terrorism Law.
[52] Judgment of the Supreme Constitutional Court - Case No. 13 of 37 judicial - constitutional - on 06-03-2017.

them to the exceptional emergency state security courts described above, whose rulings may not be appealed, to become thereby convicted for crimes included in the constitutionally flawed terrorism law, in parallel with exceptional trials formed according to the notorious emergency law, that is, by combining two of the worst laws issued by the Egyptian legislator in its history. The reliance on emergency courts adds a tool to a broader legal arsenal used by security forces in the name of combating terrorism, including terrorism courts and hurried legal procedures.

The common denominator in these cases is the accusation of joining a terrorist group without naming that group. In many cases, the details of that accusation were related to human rights work with international organizations such as Amnesty International or Human Rights Watch, or the accusation of Coptic citizens of joining the Muslim Brotherhood, which is impossible considering that the MB is an Islamic religious group, or those accusations would be made against liberal activists who are categorically different from the ideology of the Islamic Brotherhood. The Terrorism Law punishes the crime of joining a terrorist group with rigorous imprisonment in accordance with its article 12. [53]

Since 2013, Egypt has classified many revolutionary and political groups and movements as terrorist groups, and the list included the Muslim Brotherhood and the April 6 Youth Movement, a peaceful group that played a major role in mobilizing protests Mubarak's rule during the January 2011 revolution, as well as associations of football fans that played an important role during the protests in 2011 and the years that followed against the Military Council and the Muslim Brotherhood. The designation as a terrorist group was issued with quick judgments from the Cairo Court for Urgent Matters, which is a court that is not competent to issue such decisions[54].

The official Egyptian media, which is under the control of intelligence services has sought for the past twelve years, since the January 2011 revolution, to portray a wide conspiracy against Egypt that includes human rights activists, journalists, and human rights lawyers as well as terrorist groups. It is surprising and ironic that the Ministry of Interior published a video in 2018 under the name "Cobwebs" that brought together ISIS, the Muslim Brotherhood, and human rights groups, including Human Rights Watch, as part of a union plotting to conspire against Egypt's security[55].

One of the most serious problems in using the Terrorism Law is that it contains the death penalty in many of its articles, especially with trials conducted according to the Exceptional Emergency Law, whose rulings may not be appealed. According to a report issued by Amnesty International in 2022, Egypt ranks third in the world after China and Iran, and the first place in the Arab world in implementing the death penalty[56]. The Anti-Terrorism Law alone contains 12 articles that mention

[53] Article 12 of Law No. 94 of 2015 issued on 08/15/2015 published on 08/15/2015 in the Official Gazette regarding the issuance of the Anti-Terrorism Law.
[54] Egypt: Intensifying Crackdown Under Counterterrorism Guise, July 15, 2018, Human Rights Watch, https://www.hrw.org/news/2018/07/15/egypt-intensifying-crackdown-under-counterterrorism-guise
[55] ibid
[56] Death Penalty 2021: Facts and Figures, May 24, 2022, Amnesty International, https://www.amnesty.org/en/latest/news/2022/05/death-penalty-2021-facts-and-figures/

the death penalty for the crimes stipulated therein. The law was used to prosecute thousands of supporters of Mohamed Morsi, the former President of the Republic who belonged to the Muslim Brotherhood, in mass trials, most of which ended in death penalty[57].

- **Punishment for publishing trial proceedings or anything that contradicts the official state narrative... "Do not listen to anyone else".**

On more than one occasion, the current president of Egypt insists on repeating the phrase, "Do not listen to anyone else but me," expressing his frustration with articles, statements and human rights reports criticizing his economic and security policies[58]. This explains the many laws that restrict press freedom, freedom of opinion and expression and using accusations of spreading false news to oppress views and domesticate them. The Terrorism Law did not neglect to include many texts that punish publication, including any publication or promotion of any news related to terrorism if it contradicts the official accounts issued by the Ministry of Defense[59].

The law also included a rigorous prison sentence for a period of no less than five years for anyone who established a website for what was described as an attempt to influence the course of justice, which is a broad criminalization that extends to all independent and human rights websites that may address the conduct of trials or criticize them in any way. In addition, an article was recently added to the law prohibiting recording, filming, broadcasting or displaying any facts of the trial sessions in terrorist crimes without the permission of the head of the competent court, and whoever violates this shall be punished with a fine between one hundred thousand pounds and three hundred thousand pounds[60], which prevents human rights organizations from monitoring these hearings and determining the extent to which they apply fair trial standards.

These articles directly violate the right to information and the freedom of the press, as well as the freedom to publish data and circulate information, although the information circulation law has not yet been issued, the general rules stipulated in the Constitution in Articles 66[61] and 68[62] guarantee freedom of expression, whether in writing, photography and other means of expression and publication, as well as the freedom to circulate information, statistics and official documents. Also,

[57] Egypt: Intensifying Crackdown Under Counterterrorism Guise, July 15, 2018, Human Rights Watch, https://www.hrw.org/news/2018/07/15/egypt-intensifying-crackdown-under-counterterrorism-guise

[58] Al-Sisi, agitated: "Do not listen to the words of anyone but me. and whoever will try to harm Egypt, I will remove him from the face of the earth." 24-02-2016, Al-Masry Al-Youm newspaper, https://www.almasryalyoum.com/news/details/898621

[59] Article 35 of Law No. 94 of 2015 issued on 08/15/2015 published on 08/15/2015 in the Official Gazette regarding the issuance of the Anti-Terrorism Law.

[60] Article 36 of Law No. 94 of 2015 issued on 08/15/2015 published on 08/15/2015 in the Official Gazette regarding the issuance of the Anti-Terrorism Law.

[61] Article 66 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014

[62] Article 68 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 20142014

Article 70 [63] guarantees freedom of the press, printing and publishing. According to Article 71[64] censorship or restriction of newspapers to prevent them from carrying out their work is prohibited, and Article 72 obliges the state to guarantee the independence of press institutions and state-owned media to ensure its impartiality and its representation of all opinions, political and intellectual trends, and social interests.

These articles make information and data monopolized by the Ministry of Defense and put press organizations and individuals under constant pressure from announcing any data or information that contradicts what is issued by the Ministry of Defense and makes it the official and only source that carries the absolute truth and criminalizes anyone who publishes or writes different information, data or statistics. Although the penalty is financial and not a deprivation of liberty, it is exaggerated and can affect any press institution or individuals, especially since it can turn into a liberty-depriving penalty if the defendant fails to pay the fine, in accordance with Article 511[65] of the Criminal Procedures Law that provides for imprisonment for a period not exceeding three months for anyone who fails to pay the fines in what is known as physical coercion.

Second topic: Restriction of freedom of opinion, expression, and circulation of information

1- Spreading false news... a ready crime for anyone who expresses his opinion by any means

In the period between 2014 until now, the crime of spreading false news has become a main accusation among the accusations levelled against opponents and opinion holders, as it is directed against politicians, human rights activists, researchers, and students abroad along with the crime of joining a terrorist group simply for publishing opinions on personal pages on social networking sites, or for their articles published on electronic newspapers or human rights websites. There is no exact count of the number of accusations of the crime of spreading false news during the years from 2011 until now, but we can confirm that it is a repeated accusation in thousands of cases under investigation, and it is the accusation that is expected to be directed against the author of this paper upon his return to his country.

[63]Article 70 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014

[64] Article 71 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014

[65] Article 511 of the Egyptian Code of Criminal Procedure - No. 150 of 1950 issued on 09-03-1950, The Egyptian Gazette 90

The crime of disseminating false news from within the country is regulated by Article 102 bis66. As for the dissemination of false news from abroad, it is regulated by Article 80d67 of the Egyptian Penal Code issued in 1937 during the time of the monarchy in Egypt. The crime did not exist in the law before its amendment in 1956 and the addition of two articles among several amendments issued by a decision of President Gamal Abdel Nasser at that time. The articles added by the latter to the Penal Code included many defective texts, including the text of Article 102 bis and Article 80 d, which have recently been used as two main charges among several other charges such as misuse of social media sites, joining a terrorist group, incitement to demonstrate and other broad accusations await every person who has an opinion opposing the ruling regime.

The accusation of spreading false news is also directed against academic researchers and students abroad, such as the case of researcher Patrick Zaki, a student at the University of Bologna, who was arrested while visiting his family in Egypt and was held in pretrial detention for a year and a half before being released on bail and is still under trial at the moment[68]. Also, researcher Ahmed Samir Santawi, a student at the Central European University in Vienna, was arrested while on vacation in Egypt. He was tried in an exceptional trial and was punished by four years in prison, then retried and the sentence was reduced to three years69, according to the same loose accusation of spreading false news.

Article 80d, according to its original version before being amended, states: "A penalty of imprisonment for a period of no less than six months and not exceeding five years and a fine of no less than 100 pounds and not more than 500 pounds, or either of these two penalties, shall be imposed on any Egyptian who intentionally broadcasts news, statements or false or malicious rumors about the country's internal conditions that would weaken the financial confidence in the state or its prestige and status, or if he embarked in any way whatsoever upon an activity that would harm the country's national interests. The penalty shall be imprisonment if the crime occurred during time of war.

Article 102 bis stipulates: "A penalty of imprisonment for a period not exceeding two years and a fine of no less than fifty pounds and not exceeding two hundred pounds, or either of these two penalties, shall be imposed on whoever deliberately broadcasts false or tendentious news, statements or rumors, or broadcasts sensationalist propaganda if this is likely to offend public security, spreading terror among the people, or harming the public interest".

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[66] Article 102 bis - Egyptian Penal Code - No. 58 of 1937 issued on 07-31-1937 published on 08-05-1937 regarding the issuance of the Penal Code. Egyptian facts 71

[67] Article 80 - Egyptian Penal Code - No. 58 of 1937 issued on 07-31-1937 published on 08-05-1937 regarding the issuance of the Penal Code. Egyptian facts 71

[68] Patrick George: The Egyptian authorities release the human rights activist as his trial continues on charges of "spreading false news"- December 7, 2021-BBC News. https://www.bbc.com/arabic/middleeast-59562283

[69] Emergency court hands researcher Ahmed Samir Santawy 3 years' jail time- July 4, 2022- Mada Masr, https://www.madamasr.com/en/2022/07/04/news/politics/emergency-court-hands-researcher-ahmed-samir-santawy-3-years-jail-time/

It can be noted that the two texts coincide in the wording with the difference in the punishment imposed for each of them, the place of the crime and the effect resulting from it. Therefore, we will analyze Article 102 bis related to the dissemination of false news from within, as it does not differ much in terms of the flawed legislative wording with the crime of spreading false news from abroad, which is regulated by Article 80d, in addition to being more frequently applied and used to indict opponents inside the country.

The article was added to the Egyptian Penal Code on May 19, 1957, following the tripartite aggression against Egypt during the Suez War between Egypt on the one hand and England, France and Israel on the other with the aim of protecting the army from statements and publications that might have a bad effect on the morale or harm the military situation during the war. It is clear from the circumstances of issuing the text in its original version that it was based on a state of necessity and exceptional circumstances to confront the disturbances caused by the state of war following the 1956 war.

We note from the analysis of the text in its original version that it did not only criminalize the offense of publishing false news and statements, but also the dissemination of data, even if it was assumed that it was true, if it involved incitement or was characterized as malicious. On July 15, 2006, Article 102 bis was amended by virtue of Law No. 147 of 2006 by deleting the phrase "or tendentious or broadcasting sensational propaganda," which confirms that it includes punishment for the crime of publishing data, whether true or false.

The purpose of the subsequent amendment in 2006 was to delete the aforementioned phrase as it implied an explicit defect of unconstitutionality, which threatened the constitutionality of the text if it was challenged before the Supreme Constitutional Court. At the time if was claimed that the amendment was "to grant the press a space of freedom to publish and to enable it and other means of publication to carry out its responsibilities in accordance with the constitution in expressing the trends of public opinion and contributing to its formation and guidance within the framework of the basic components of society, in a manner that guarantees freedom of opinion for every human being, expressing it, and practicing self-criticism and constructive criticism as a guarantee of the safety of the nation"[70]

It is also clear from the analysis of the text that its application depends on the occurrence of a future result represented in whether the dissemination of false or malicious statements or rumors would disturb public security, spread terror among people or harm the public interest, a result that may or may not be achieved and without which it is not permissible to apply the text. And even assuming its realization, it is not possible to deduce its occurrence in the future at the time of the commission of the crime, and it is difficult to determine whether the perpetrator or the publisher was aware of what may result from the publication and may not in any way expect that his word may result in a disturbance of public security or cast terror among people or harm public interest.

[70] Periodic Book of the Attorney General No. 14 of 2006 regarding publishing crimes

Regarding constitutional breaches, restricting the freedom of expression of opinion by penalizing the publication of statements according to whether they are false or not, and may result in a disturbance of public peace and security violates the current Egyptian constitution issued in 2014 in many respects. The first is what is stipulated in Article 1 of the Constitution, which affirms the establishment of the state system on a democratic basis and the subsequent guarantee of rights and freedoms recognized in democratic countries. In addition, the constitution guaranteed freedom of thought and opinion and the right of everyone to freedom of expression whether verbally, in writing or photography or any other means of expression and publishing[71] in addition to freedom of the press, printing and paper, visual, audio, or electronic publishing[72]. The constitution also prohibited the imposition of freedom-depriving penalties for crimes committed by way of publication or publicity, which contradicts the formulation of the two crimes of publishing false news inside the country or abroad.

In many of its rulings, the Egyptian Supreme Constitutional Court affirmed that "the constitution was keen to impose restrictions on the legislative and executive authorities as it saw fit to guarantee the safeguarding of public rights and freedoms of all kinds, so that none of them would invade the area protected by right or freedom or interfere with it in a way that prevents its exercise. In this context, interest in public affairs has increased in its various fields, and presenting opinions related to their conditions, and criticizing the actions of those in charge of them became covered by constitutional protection, and therefore it is necessary that criticism of public work through the press or other means of expression and its tools be a guaranteed as a right for every citizen, and that freedom to present and circulate opinions in a way that prevents - as a general principle - from impeding them or imposing prior restrictions on their dissemination, which is a freedom required by any democratic system, and it is not intended merely for the critic to express himself, but its ultimate goal is to reach the truth by ensuring the flow of information from its sources. It is unlikely that criticism of the conditions related to public work will be an insight into its shortcomings, leading to the harm of any legitimate interest. Therefore, it is not permissible for the law to be a tool that impedes the freedom of expression regarding manifestations of breach of the integrity of a position, the prosecution, or the public service, or a citizen who deviates from the performance of duties. [73]

On the other hand, we find that Article 102 bis has linked criminalization to the falseness of the published data, which cannot be ascertained in a country that lacks standards of transparency and information circulation, such as Egypt, nor linking it to a future outcome that may or may not happen, while the accused may not be aware with certainty of its verification or non-existence. The notion that the crime could disturb public peace and security clearly contradicts the principle of

[71] Article 65 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014

[72] Article 70 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014

[73] Case No. 37 - for the year 11 - the Egyptian Supreme Constitutional Court, session date 2/6/1992 - Technical Office 5 Part No. 1 - Page No. 183

legitimacy of crimes and penalties[74] and the principle of assumed innocence of any individual as stipulated in the 2014 constitution and which the Egyptian Supreme constitutional court stressed in several of its rulings regarding the formulation of criminal texts, stating ""one of the principal rules demanded by the constitution in penal laws, is that the degree of certainty that regulates its provisions is at its highest levels, and more so in these laws than in any other legislation, because the penal laws impose on personal freedom the most serious and most effective restrictions, and therefore - to guarantee this freedom - the acts that these laws convict must be definitively defined in a way that prevents them from being confused with others, and taking into account that they are always clear and accurate in clarifying the narrow limits of their prohibitions, because ignoring them or ignoring some of their aspects does not allow those accused by them aware of the reality of the actions to be avoided. The purpose of the constitution is to provide every citizen with full opportunities to exercise his freedoms within the framework of the controls it restricted. This is necessary for the restrictions on freedom imposed by the penal laws to be defined with certainty, because they call on the addressees to comply with them in order to defend their right to life as well as their freedoms. The ambiguity of penal laws was historically linked to the abuse of power, and it was imperative that the legislator relied on new methods of drafting that did not slip into those flexible, ambiguous, or fluid expressions loaded with more than one meaning, thereby expanding the circle of criminalization, which may lead to penalizing acts the legislator did not mean to criminalize and to exceeding the limits that the constitution considered a vital field for exercising the rights and freedoms that it guaranteed, which ultimately violates the fundamental controls upon which fair trials are based"[75]

On the international level, the text contradicts what has been confirmed by international covenants and charters regarding freedom of opinion, thought and expression, including Article 19 of the Universal Declaration of Human Rights, which stipulates that "everyone has the right to freedom of opinion and expression, and this right includes the freedom to hold opinions without any interference, and to seek news and ideas, receiving and broadcasting them by any means, regardless of geographic frontiers."

Also, Article 19 of the International Covenant on Civil and Political Rights, establishes the right of every person to hold opinions without prejudice to them, and the right to freedom of expression and to seek, receive and impart all kinds of information and ideas, regardless of frontiers, verbally, in writing, in print, in art, or by any other chosen means".

It is worth noting that Egypt is internationally committed to these texts under Article 93 of the Egyptian Constitution, which requires compliance with international human rights conventions,

[74] Article 95 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014

[75] Arab Republic of Egypt - Supreme Constitutional Court - Constitutional [Case No. 3 - for the year 10 J - Session date 1/2/1993 - Technical Office 5 No. Part 2 - Page No. 103] - [Judgment of unconstitutionality

covenants and charters ratified by Egypt, and that they have the force of law as soon as they are published.

At present, the accusation of spreading false news to opponents became a codified way to restrict freedom of opinion and expression and control of the cyberspace after the Egyptian regime realized the danger of circulating opinions and ideas through social networking sites, which played an important role in mobilizations during the January 25, 2011 revolution.

2- Censorship on social networking sites and restriction of freedom of opinion, expression, and information circulation... Cybercrime Law:

One of the forms of silence imposed on freedom of opinion and expression was through the issuance of the Law on Combating Information Technology Crimes on August 14, 2018. These repressive methods began with blocking websites and closing independent media and press platforms and ended with the issuance of new laws regulating the press and media according to flawed texts that guarantee the state to muzzle critics and prohibit the circulation and dissemination of information.

In our study, we will focus on the law against information technology crimes, which was codified and formulated according to broad terms and excessive penalties that paved the way for complete control over the Internet and information technologies to include all users and visitors of cyberspace in a way that undermines freedom of opinion and expression and impedes access to information. Egyptian security authorities have resorted to this after the growing role of information technologies as a major player in the outbreak of the Arab revolutions. In recent years, the authorities have deliberately monitored and surveilled Internet pages and personal accounts on social networking sites and used them to fabricate accusations against many activists and opponents[76].

By studying and analyzing the texts of that law, it was found that it constitutes a real danger and undermines the most important basic freedoms, in addition to its waste of many constitutional texts, in a clear tendency to finish off the freedom of information circulation and digital freedoms, so that only the voice of the state and its media outlets can be heard. The law did not only include legislative defects and constitutional violations, but its analysis reveals ignoring or lack of awareness of the role of information technologies and the nature of their users.

[76] Muhammad Ebaid, September 2, 2018, Silence Legislations: Did not Spare the Internet, ANHRI, https://www.anhri.info/?p=1181&lang=en

- **Definition of the term national security... a broad definition that prevents mere criticism of state institutions and those in charge of them**

The first defective definitions included in the Law on Combating Information Technology Crimes was the definition of the term "national security", which was included in the first article of definitions, which defined national security as: "everything related to the independence, stability, security, unity and territorial integrity of the country, and what is related to the affairs of the Presidency of the Republic and the National Defense Council, the National Security Council, the Ministry of Defense and Military Production, the Ministry of Interior, General Intelligence, the Administrative Oversight Authority, and agencies affiliated with those authorities.

As for the national security authorities, the article specified them as the following: "The Presidency of the Republic, the Ministry of Defense, the Ministry of Interior, General Intelligence, and the Administrative Control Authority.[77]"

Undoubtedly, this definition of national security is broad and loose to the extent that it is not possible to determine what it is, especially with the use of terms such as "everything related to" and "what is related", which means that it is not permissible to address anything related to public affairs at all through information technologies and electronic media. After defining the term, the law repeatedly uses the term as a pretext of severe penalties.

- **Punitive aggravation according to the terms public order - obstructing the provisions of the constitution - harming national unity - social peace.**

The term "national security" is not the only term, but rather the circle of non-standard and loose words is tightened, by defining the aggravating circumstances of information technology crimes so that they cover a large segment of information technology users. Article 34 of the law came to provide for aggravated imprisonment as a punishment for the perpetrators of any crime stipulated in it, if any of them occurred for the purpose of "disturbing public order, endangering the safety and security of society, harming the country's national security or its economic status, preventing or obstructing the public authorities' exercise of their functions, disrupting the provisions of the constitution, laws or regulations, or harming national unity and social peace.[78]" Those terms, included in a penal text, lack accuracy and clarity, and the material and moral elements of the crime are not determined, and thus form something like a trap for defendants.

The Supreme Constitutional Court has established in many of its rulings that the punitive texts must be accurate in their indication of the material and moral elements of the crimes and in specific terms as one of the foundations of the principle of legality of crimes and penalties stipulated in Article 95 of the current constitution. Social peace and other terms mentioned in the text under

[77] Article 1 of Law - No. 175 of 2018 issued on 08-14-2018 published on 08-14-2018 and effective as of 08-15-2018 regarding combating information technology crimes. Official Gazette 32 "bis c"

[78] Article 34 of Law - No. 175 of 2018 issued on 08-14-2018 published on 08-14-2018 and effective as of 08-15-2018 regarding combating information technology crimes. Official Gazette 32 "bis c"

analysis do not allow for a definition of punishable acts in a definitive way, thereby allowing a person to be punished with an excessive penalty such as aggravated imprisonment

- **Criminalizing dancing on social media and imposing patriarchal control on the pretext of protecting "family principles and values".**

One of the strangest terms that were used in the drafting of the law on combating information technology crimes is what was stipulated in Article 25 of the law, which dictated the penalty of imprisonment and a fine for anyone who "attacked any of the family principles and values in the Egyptian society. [79]" It is one of the strangest terms used in a penal law especially since the Egyptian society is a diverse society in nature that is not governed by unified family values, as there are many customs and traditions, from the most conservative to the most liberal and permissive and cannot be limited in any way to one mold or to a specific family framework.

The first application of this text on the ground was in the case known in the media as the "Tik Tok Girls" case, in which a number of girls who were dancing on Tik Tok application were arrested and accused of assaulting the values of the Egyptian family and sentenced to prison terms ranging from two to three years according to this law. Following the escalation of objections by public opinion and women's movements against the rulings, they were rescinded and new charges were brought against them of human trafficking and new sentences were issued with more severe penalties, all of which were accusations that reflected the inherent patriarchy of the police, the public prosecution and the judiciary and an attempt to flirt with conservative Islamic currents to respond to claims by groups such as the Muslim Brotherhood and the Salafi currents that the current regime is fighting Islam and spreading immorality and debauchery.

- **Surveilling users' data and information and sometimes allowing their disclosure... Semi-permanent censorship and non-standard words that do not specify the nature of the concerned data:**

The Law on Combating Information Technology Crimes ordered service providers to keep information related to users for a maximum period of 180 continuous days in accordance with the text of Article 2 in a clear direction for more control over users of information technologies. The danger in this regard is not limited to keeping the data but to the nature of the data and the way it can be used. The article specified five categories of data:

A- Data that enables identification of the service user.

B- Data related to the content and substance of the dealing information system whenever it is under its control.

C - Data related to internet traffic

[79] Article 25 of Law - No. 175 of 2018 issued on 08-14-2018 published on 08-14-2018 and effective as of 08-15-2018 regarding combating information technology crimes. Official Gazette 32 "bis c"

D- Data related to the communication parties.

E- Any other data specified by a decision of the Board of Directors of the National Telecommunications Regulatory Authority[80].

Adding the term "other" to item E means that there is no specification of the data that must be preserved, as it means that any data could be saved and stored by administrative decisions of the National Telecommunications Regulatory Authority. There is no doubt that this opens the way for the administrative authority to overrule the sanctity of private life, which is guaranteed by the Egyptian Constitution in Article 57, which affirmed that it is not permissible to infringe on it and its confidentiality and that it is not permissible to control it except by a reasoned judicial order and for a specific period[81]

Not only that, but the law allowed the disclosure of stored data, including personal data of users, by order of one of the competent judicial authorities[82], without specifying the identity of the latter whether it is the exceptional state security prosecution established by the emergency law. In addition, the article required service providers to provide national security authorities with all the facilities ordered by those authorities at any time. There is no doubt that the purpose of the previous text is clearly to monitor and undermine the personal freedom of users, and service providers do not have the luxury of accepting or refusing to provide these facilities if requested by national security authorities, even if it conflicts with the sanctity of the private life of users, and there is no means or criterion to determine what is or what is not a violation of that sanctity.

- ## Granting status of judicial police to employees of the National Telecommunications Regulatory Authority:

The Law on Combating Information Technology Crimes granted judicial police authority to employees of the National Telecommunications Regulatory Authority, as well as allowing others to be identified by the national security authorities, by a decision of the Minister of Justice in agreement with the competent minister, which is stipulated in Article 5 of the law[83]. In accordance with Article 6 of the law those state employees are given broad powers, including seizing, withdrawing, collecting or retaining data, information or information systems, and tracking them in any place, system, program, electronic support or computer in which they are located, in addition to searching, inspecting, accessing and hacking computer programs, databases, and other information devices and systems to achieve the purpose of seizure, as well as the authority to

[80] Article 2 of Law - No. 175 of 2018 issued on 08-14-2018 published on 08-14-2018 and effective as of 08-15-2018 regarding combating information technology crimes. Official Gazette 32 "bis c"
[81] Article 57 of the 2014 Constitution
[82] Article 2 of Law No. 175 of 2018 issued on 08-14-2018 published on 08-14-2018 and effective as of 08-15-2018 regarding combating information technology crimes. Official Gazette 32 "bis c"
[83] According to Article 5, which states: "It is permissible, by a decision of the Minister of Justice, in agreement with the competent minister, to grant the status of judicial officers to employees of the agency or others who are determined by the national security authorities, with regard to crimes that occur in violation of the provisions of this law and are related to the work of their jobs."

order the service provider to hand over data or information related to an information system or technical device, which is under its control or stored with it, as well as the data of its service users and the communications traffic made on that system or technical device[84].

It is worth noting that these powers are granted to those individuals based on broad terms such as "when this is useful in revealing the truth" or "if this is necessary." These terms have no criterion and make these powers unlimited and contradict the principle of original innocence of an individual and the right to personal freedom, all of which are ignored in those terms.

- **Threatening national security as a pretext for blocking websites by decisions of investigation authorities and in cases of urgency by decisions by investigation and seizure authorities:**

Since May 2017, Egyptian authorities have blocked more than 600 websites without disclosing the reasons and even without declaring their responsibility for the blocking. However, indications have confirmed the current regime's desire to restrict freedom of thought, opinion, and expression, especially that most of the blocked websites were owned by media channels in opposition to the regime or human rights organizations that differ from the one voice of the state[85].

After the issuance of the Law on Combating Information Technology Crimes, the blocking became an authority to be exercised at any time by investigation authorities and without obligation to justify their decision and based on the same broad terms contained in the law. Article 7 of the law stipulated in its first paragraph that "for the competent investigation authority, whenever there is evidence of the fact that a site is broadcasting inside or outside the country, by placing any phrases, numbers, pictures, films, any propaganda material, or the like that is considered to be of the crimes stipulated by law, and poses a threat to national security or endangers the security of the country or its national economy, to order blocking the site or sites, whenever this is technically feasible.[86]"

The law also permits the investigation and control authorities - and without the need to refer to judicial authorities - to inform the National Telecommunications Regulatory Authority to notify the service provider of the immediate temporary blocking of websites in case of urgency due to the presence of an immediate danger, while requiring the service provider to execute the notification as soon as it is received[87]. While the law allows applying grievances against blocking orders, still,

[84] Article 6 of Law No. 175 of 2018 issued on 08-14-2018 published on 08-14-2018 and effective as of 08-15-2018 regarding combating information technology crimes. Official Gazette 32 "bis c"

[85] NGOS CALL ON EGYPT'S GOVERNMENT TO END INTERNET CENSORSHIP AND WEBSITE BLOCKING, November 04, 2020, EUROMED RIGHTS, https://euromedrights.org/publication/ngos-call-on-egypts-government-to-end-internet-censorship-and-website-blocking/#:~:text=Article%207%20of%20the%20law,case%20of%20any%20imminent%20danger.

[86] Article 7 of Law No. 175 of 2018 issued on 08-14-2018 published on 08-14-2018 and effective as of 08-15-2018 regarding combating information technology crimes. Official Gazette 32 "bis c"

[87] The third paragraph of Article 7 of the Law on Combating Information Technology Crimes states that "in the event of urgency due to the existence of a present danger or imminent harm from committing a crime, the competent investigation and control authorities inform the agency – referring to the National Telecommunications Regulatory Authority – so that it notifies the service provider at Immediately block the site, sites, links or content mentioned in the first paragraph of this article in accordance with its provisions. The service provider is obligated to implement the content of the notification as soon as it is received.

anticipating the issuance of judicial rulings and relying on pretexts of security and the national economy and other broad terms to legalize blocking, completely contradicts the principles and constitutional texts that support freedom of thought and opinion guaranteed under the text of Article 65 of the Constitution[88].

- **Using the term "necessity" to issue travel ban decisions:**

The Law on Combating Information Technology Crimes allows the Attorney General or his authorized representative and the competent investigation authorities to order to prevent the accused from traveling outside the country or to put his name on the anticipation lists, "when necessary or when there is sufficient evidence" of the seriousness of the accusation of committing one of the crimes stipulated in the Law. Despite the law's reliance on the term "necessity" as a broad term that cannot be relied upon to prevent a citizen from using his constitutional right to move and emigrate, it used the same word when it permitted the Public Prosecution and the competent investigative bodies to reverse the order issued by it to prevent travel or to be placed on watch lists. Undoubtedly, this illogical contradiction contradicts the rights guaranteed by the constitution, foremost of which is the principle of the presumption of innocence and the right to personal freedom and freedom of movement[89].

- **The crime of illegal access and its conflict with the nature of cyber space and the extent of professionalism and varying experiences of users:**

The Law on Combating Information Technology Crimes punishes illegal access, which means intentional or unintentional access to a site, a private account, or an information system that is prohibited from being accessed[90]. The term "prohibited access" extends to include the techniques used to bypass blocked sites so that violators of the text are punished with imprisonment for a period of not less than one year and a fine of not less than 50,000 and not more than 100,000 pounds, or one of the two penalties, and the penalty shall be increased in the case of copying or re-publishing the data or information on those websites to imprisonment for a period of not less than two years and a fine of not less than 100,000 pounds and not more than 200 thousand or one of these two penalties.

In addition, Article 22 of the law criminalizes possession of programs or codes that may be used to access prohibited sites. If we consider that a court ruling was issued to block a site, and the user acquired a VPN program that allows him to bypass the blocking, then this program, according to this article, is a crime. The formulation of these punitive texts according to these terms reflects the

[88] Article 65 of the 2014 Constitution issued on 01/18/2014 published on 01/18/2014 in the Official Gazette regarding the issuance of the amended Constitution of the Arab Republic of Egypt for the year 2014

[89] Muhammad Ebaid, September 2, 2018, Silence Legislations: Did not Spare the Internet, ANHRI, https://www.anhri.info/?p=1181&lang=en

[90] Article 14 of the law defines the perpetrator of the crime of unlawful entry as follows: "Anyone who deliberately entered or entered by an unintentional mistake and remained unlawfully on a website, a private account, or an information system to which access is prohibited."

legislator's lack of consideration for the nature of cyber space and the users' interaction with it. It punishes acts whose material and moral elements cannot be specified, nor the extent of the criminal intent of the perpetrators, in conjunction with the extent of professionalism and varying experiences of users of information technologies and the extent of their knowledge and awareness thereof, which varies from one person to another. [91]

- ## Punishment of ridicule and creating fake accounts for officials

The Law on Combating Information Technology Crimes criminalizes artificial or fictitious accounts under which satirical pages are created under pseudonyms to imitate the personality of an official in a sarcastic manner, which usually falls under the scope of freedom of opinion and expression and does not constitute a crime in the understandable sense, as these pages are often known to be fake for their visitors[92]**. The text extends its scope to punish those responsible for the sarcastic pages and private accounts which they created for the purpose of criticizing the political and economic conditions in the country, which contradicts the fundamentals of freedom of thought, opinion and expression, which presupposes the consent of state officials to criticism, even in a sarcastic manner, since they have agreed to engage with public work.**

The nature of the Internet and cyber space requires the freedom to circulate and transfer information and express opinions and ideas through it, and it assumes a larger space to protect it, not to undermine and eliminate it. The imposition of restrictions on ideas and opinions does not prevent their circulation, no matter how many attempts to muzzle and restrict, and perhaps the behavior of the legislative authority in issuing a law against crimes via Information technology greatly highlights the authorities' desire to eliminate every outlet through which ideas can be put forward and criticism of the behavior of its officials, especially in view of the role played by those technologies in mobilizing the masses against their governments and the outbreak of the first spark of the Arab revolutions. It is worth noting that most of the penalties and measures stipulated in the Law on Combating Information Technology Crimes, such as blocking, closing, and fabricating charges, were carried out without legislative cover and informally before the law was issued, and the law came to legitimize those actions and further implement them on a larger scale[93]**.**

[91] Muhammad Ebaid, September 2, 2018, Silence Legislations: Did not Spare the Internet, ANHRI, https://www.anhri.info/?p=1181&lang=en

[92] Article 24 of it states that "Whoever fabricates an e-mail, website, or private computer and falsely attributes it to a natural or legal person shall be punished with imprisonment for a period of no less than 3 months and a fine of no less than 10,000 pounds and not exceeding 30,000 pounds, or with one of the two penalties." If the offender uses the fake mail, website, or private account in a matter that offends those to whom it is attributed, the penalty shall be imprisonment for a period of not less than one year and a fine of not less than 50,000 pounds and not exceeding 200,000 pounds, or one of the two penalties. If the crime is committed against a public legal person, the penalty shall be imprisonment and a fine of not less than 100,000 pounds and not more than 300,000 pounds."

[93] Muhammad Ebaid, September 2, 2018, Silence Legislations: Did not Spare the Internet, ANHRI, https://www.anhri.info/?p=1181&lang=en

Third topic: Restricting the right to demonstration and peaceful assembly (Protest Law)

According to the monitoring of several local and international human rights organizations, physical liquidation has become a systematic pattern used by Egyptian security authorities while dealing with defendants. This is not only the case in terrorism cases, but they also use excessive force with heavy weapons in dealing with demonstrators, which we witnessed during the dispersion of protesters in Rabaa Al-Adawiya and Al-Nahda Squares where supporters of former President Mohamed Morsi protested in the wake of the July 3, 2013 coup. This resulted in a massacre that was classified as one of the largest massacres in Egypt's modern history, leaving at least 817 people dead, according to the state's official version, and possibly more than 1,000, according to Human Rights Watch, including women. and children.

The 2014 constitution grants citizens the right to organize public meetings, processions, demonstrations, and all forms of peaceful protests by mere notification. The constitution did not specify the form of the notification or its procedures but made it in accordance with the legal regulation. On November 24, 2013, Law No. 107 of 2013 was issued regarding regulating the right to public meetings, peaceful processions, and demonstrations to regulate that right and define the notification procedures according to impossible conditions that transform it from a mere notification to a permit that must be approved by the Ministry of Interior in a way that undermines and restricts the right and empties it of its essence.

The law requires anyone who wants to organize a public meeting or run a procession or demonstration to notify in writing the police department or station in whose circuit the place of the public meeting is located or the place where the procession or demonstration begins, and that this is done at least three days before the start of the event. The request must be delivered by hand or by a registered correspondence, provided that the notification includes all the information related to the event to be organized in terms of its place, itinerary, start and end times, subject and purpose, as well as the names of the individuals or the organization organizing the event, their capacities, place of residence and means of contact with them[94]. The conditions, especially the statements of the organizers of the event, make the possibility of carrying out it fraught with danger, especially with the suppression of protests and the extensive campaign of arrests that followed the removal of the former president and the prosecution of his supporters, which makes the possibility of reprisals against anyone who requests permission to demonstrate a certainty.

Even assuming that a person or group has given notice to organize a demonstration in accordance with the aforementioned conditions, the law grants the Minister of Interior or the competent director of security the authority to submit a request to the temporary affairs judge of the

[94] Article 8 of Law No. 107 of 2013 issued on 11-24-2013 published on 11-24-2013 and effective as of 11-25-2013 regarding organizing the right to public meetings, processions, and peaceful demonstrations. Official Gazette 47 "bis"

competent court of first instance to cancel or postpone the public meeting, procession, or demonstration, or move it to another place or change its course in the case of what the law called "receiving by security authorities, and before the date set for the start of the general meeting, procession or demonstration, serious information or evidence, about the existence of a threat to security and peace" [95]. Of course, the matter here is subject to the discretion of security authorities, and the authority of the judiciary is limited to issuing a reasoned decision as soon as the application is submitted. The procedure is nothing more than a circumvention of the text of the constitution so that the right to demonstrate is subject to the permission and approval of the Ministry of the Interior instead of being merely a notification to it.

The law also grants wide powers to security forces to use force to break up the demonstration or event. They can, in accordance the law, take the necessary measures according to their assessments and based on an order from the competent field commander to disperse the demonstration and arrest participants on grounds of an act that constitutes a crime or involves a departure from the peaceful nature[96]. Although the law stipulates the gradual dispersal or dispersal of the demonstration, starting with requesting the participants in the public meeting, procession or demonstration to leave voluntarily by giving repeated verbal audible warnings to break up the public meeting, procession or demonstration, including identification and securing the methods that participants take upon their departure, followed by the gradual use of water cannons, the use of tear gas, and the use of batons in the event that participants did not respond to warnings to leave, and in the event that the aforementioned means were not successful in dispersing[97] the security forces may gradually use force by using warning shots and then sound bombs or smoke bombs, then rubber bullets, followed by rounds of non-rubber cartridges. Finally, the law allowed the use of firearms in response to the case of participants in a public meeting, procession, or demonstration resorting to the use of firearms, and left it to security authorities to assess the proportionality of needed force thus allowing the use of excessive force[98].

On the other hand, the law introduced the idea of safe areas for demonstrations, which are specific places in front of vital sites such as presidential headquarters, parliaments, the headquarters of international organizations, foreign diplomatic missions, government, military, security and control facilities, courts and prosecution offices, hospitals, airports, petroleum facilities, educational institutions, museums, archaeological sites and other public facilities, all of which have been determined by a decision of the Minister of Interior in coordination with the competent governor. Participants in the demonstrations are prohibited from going beyond the aforementioned

[95] Article 10 of Law No. 107 of 2013 issued on 11-24-2013 published on 11-24-2013 and effective as of 11-25-2013 regarding organizing the right to public meetings, processions, and peaceful demonstrations. Official Gazette 47 "bis "

[96] Article 11 of Law No. 107 of 2013 issued on 11-24-2013 published on 11-24-2013 and effective as of 11-25-2013 regarding organizing the right to public meetings, processions, and peaceful demonstrations. Official Gazette 47 "bis"

[97] Article 12 of Law No. 107 of 2013 issued on 11-24-2013 published on 11-24-2013 and effective as of 11-25-2013 regarding organizing the right to public meetings, processions, and peaceful demonstrations. Official Gazette 47 "bis"

[98] Article 13 of Law No. 107 of 2013 issued on 11-24-2013 published on 11-24-2013 and effective as of 11-25-2013 regarding organizing the right to public meetings, processions, and peaceful demonstrations. Official Gazette 47 "bis"

campus during their demonstration. The law also stipulated that the competent governor would issue a decision to specify a sufficient area within the governorate in which demonstrations are permitted peacefully without being bound by the notification condition[99].

It is worth noting that following the issuance of the protest law, the Giza Governorate announced the allocation of a place for demonstration, which was a garbage dump near Kerdasa. The closest metro station to the area was the Faisal station about an hour away from the demonstration area. The participants would have to use three different microbuses to arrive. This area was designated to be a parking lot for microbuses. In Cairo, the deputy governor of Cairo for the Western Region announced, in press statements, that it was agreed that the proposed places for peaceful demonstrations would be the car market in Nasr City, and the Fustat Park in Old Cairo. [100]

As for the penalties stipulated in the protest law, they ranged between aggravated imprisonment for a period of no less than seven years, in addition to fines ranging from ten thousand pounds to three hundred thousand pounds as a punishment for acts that violate the law, such as possession of weapons or explosives, or offering cash to organize demonstrations or wearing masks that hide the face and finally organizing a demonstration without notification[101].

Fourth topic: Restricting the work of human rights organizations - National Associations Law

The Egyptian Constitution issued in 2014 stipulated in Article 75 the right to form NGOs and foundations on a democratic basis and to grant them legal personality upon notification. It also stressed their freedom in carrying out their activities and prohibited interference by administrative bodies in their affairs or dissolving them or their administrative boards or boards of trustees except upon a judicial order[102]..

Contrary to those principles, Law No. 149 of 2019 contradicted all safeguards stipulated in the constitutional text regarding NGOs, as it made them completely subject to the administrative authority, whether in the exercise of their activities or control over their financial resources in a way that restricts their work and makes their continuation of their activities almost impossible, In addition, the law allowed the possibility of urgently dissolving associations or their boards of directors by a court ruling in clear abuses of the judicial authority in this regard.

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[99] Article 15 of Law No. 107 of 2013 issued on 11-24-2013 published on 11-24-2013 and effective as of 11-25-2013 regarding organizing the right to public meetings, processions, and peaceful demonstrations. Official Gazette 47 "bis"

[100] Places of demonstrations in Cairo and Giza.. “Hyde Park” is rejected by the demonstrators and residents. https://www.almasryalyoum.com/news/details/353998

[101] Article 17-18-20-21 of Law No. 107 of 2013 issued on 24-11-2013 published on 11-24-2013 and effective as of 25-11-2013 regarding the regulation of the right to public meetings, processions and peaceful demonstrations. Official Gazette 47 "bis"

[102] Article 75 of the 2014 Constitution

Law No. 149 of 2019 regulating the current practice of civil work was issued on August 19, 2019 following the objections to the previous law in 2017[103] by civil society organizations, in addition to international objections that prompted the current president to return the previous law to the House of Representatives to amend it in an attempt to improve the country's image, especially since Egypt was waiting for the UPR report before the Human Rights Council in November 2019.

The truth is that the amendments to the Law of NGOs were not fundamental amendments, but merely superficial ones, as they retained most of the texts of the previous Law No. 70 of 2017.

The law requires all associations, civil institutions, unions, regional and foreign non-governmental organizations, and entities that practice civil work to reconcile their statuses in accordance with its provisions within one year from the date of implementing its executive regulations, otherwise the competent court will rule to dissolve them[104], and their funds would go to the NGO Support Fund, which was established by law. The law made procedures for reconciling the situation by notifying the competent ministry in the affairs of associations and civil work with all data of the association, civil institution, federation, organization or entity, its activities, sources of funding, programs, protocols and memoranda of understanding, on a form prepared for this purpose, and also to amend its bylaws to ensure that they comply with provisions of the law.

The law contains many problems that impede the freedom of associations and NGOs to carry out their work and makes the possibility of continuation of their activity almost impossible, especially if they are human rights organizations working on monitoring and documenting human rights violations. The main problems are as follows:

I: Broad terms and restriction of activities:

The law prohibits associations from many activities specified in Article 15[105] of the law exclusively, including what is stipulated in Clause D of Article, where it prohibits the practice of activities "that would prejudice public order, public morals, national unity or national security," which are loos terms with no accurate terms of reference and allow the administrative authority to stop the association's activity at any time, especially independent human rights organizations working in the field of human rights, as this clause will be used to restrict their work and stigmatize their work in monitoring human rights violations as disturbing public order or public morals or National Unity and prohibiting it from dealing with violations committed by the security authorities, as they are among the national security authorities.

[103] Article 8 issuance of Law No. 149 of 2019 issued on 08-19-2019 published on 08-19-2019 and is effective as of 08-20-2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b
" The law regulating the work of associations and other institutions working in the field of civil work promulgated by Law No. 70 of 2017 is repealed, as is every provision that contradicts the provisions of this law and the accompanying law."
[104] Article 2 Issuance of Law No. 149 of 2019 issued on 08-19-2019 published on 08-19-2019 and effective as of 08-20-2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b
[105] Article 15 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

Clause E of Article 15 also prohibits associations from "calling for discrimination between citizens on the grounds of sex, origin, color, language, religion or creed, or any activity that calls for racism or incitement to hatred or for any other reason that is contrary to the constitution and the law." The text may seem at first glance acceptable in terms of meaning, however the words used in its formulation may be exploited by the administrative authorities to stop activities and reports related to religious, ethnic, or other minorities, especially with the use of the phrase "or other reasons" at the end of the article, which the administrative authorities may use to restrict the work of organizations according to their interpretation of the text.

In addition, the law prohibits conducting opinion polls, publishing, or making available their results, or conducting field research or presenting their results before the approval of the Central Agency for Public Mobilization and Statistics on the pretext of ensuring their integrity, impartiality, and relatedness to the activity of the association. The law also prohibits associations from concluding an agreement in any form with a foreign entity inside or outside the country before the approval of the administrative authority, as well as any amendment thereto, which will be subject to discretionary approvals from security authorities and will lead to deliberate obstruction of many activities of human rights institutions rejected by the security authorities because of their reports aimed at monitoring and documenting violations.

II: Interference in the work of associations by administrative authorities

The law grants the administration authority broad powers to ensure tight control over the work of associations and NGOs and the oversight of their activities in a manner that categorically contradicts what is stipulated in the constitution regarding their freedom to practice their activities and the prohibition of the administrative authorities from interfering in their affairs. Those powers include the power to issue a decree stopping activities of associations or foundations which do not abide by the law within one year of enactment of the executive regulations. And in case those associations do not receive a permit from the relevant administrative authority, the latter can close its offices and stop their activities by force of law[106].

The establishment of an association requires a notification to be submitted to the administrative authority on a specific form and requires the completion of certain documents to fulfil the legal requirements[107]. In view of the documents required in accordance with the executive regulations, they include founding documents and a statement of the entity's activities, sources of funding, programs, protocols, memoranda of understanding and other forms of intended cooperation,

[106] Article 4 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

[107] Article 2 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

which gives the administrative authority wide powers to refuse to grant a license in the event of objection to the activities.

The law also grants representatives of the administrative authority the powers of judicial police to enter the headquarters of any of the civil society institutions or its branches, after notifying them, on the pretext of following up their activities, accessing their records and examining their work in terms of administrative, financial and technical terms. Although this is done after notifying the association, representatives of the administrative body were allowed to enter the association without prior notice based on an official complaint. In addition, the law subjected any activities that fall within the purposes of associations to the control of the administrative body, even if they were practiced by entities of another legal form such as civil companies[108].

An example of interference in the work of associations is the law granting the administrative authority the right to monitor the association's decisions. If the management body decides that the decisions issued by the association violate the provisions of the law or the association's statute, it may request the association to withdraw this decision within thirty working days while giving the association a period of seven days to clarify its opinion to the administrative body, otherwise the administrative body will take the measures stipulated in the law. [109]

Regarding the financial resources of associations, the law ordered associations to open a bank account in one of the banks subject to the supervision of the Central Bank, with an obligation that expenditure on their purposes or the receipt of any money be through these accounts only. Although the law grants associations the right to receive cash from inside the Republic from Egyptian natural or legal persons or foreign non-governmental organizations authorized to operate in Egypt, it requires them to notify the administrative authority of receiving the funds and the ways of disbursing them[110]. The law also requires that the administrative body must be informed authority before the collection of any donations[111].

On the other hand, and for more control over the financial associations' resources, the law required that associations, in the event of accepting funds, grants and gifts, whether from inside or outside, deposit those funds in their bank account only, and record that in their files and notify the administrative authority within thirty working days from the date of receiving the funds entered the association's account, and gave the administrative body the right to object within the sixty working days following the date of the notification of accepting or receiving the funds. It prohibited associations to disburse the funds during the sixty days of awaiting the response of the

[108] Article 30 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

[109] Article 34 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

[110] Article 24 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

[111] Article 25 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

administrative body, which constitutes Undoubtedly, this constitutes a blatant violation and restriction of the work of these associations.

The control did not stop at the associations' financial resources only but grants the administrative body the authority to ensure that the institutions' activities comply with the law and verify the spending of funds in the banks designated for them. The competent minister, in accordance with the authorities of the supervisory administrative authority, may suspend the association's activity for a period not exceeding one year. The administration may take judicial measures to dissolve the association or the civil institution or dismiss the board of directors or the board of trustees, and it may request the Public Prosecution to issue a decision to freeze the board of directors until the judicial ruling of its dissolution. [112]

III: Suspending the activities of associations, dissolving their boards of directors, and dissolving them by administrative decisions and quick judicial rulings

The law allows the competent minister to issue temporary decisions to suspend the association for a period not exceeding one year and to close its headquarters in several cases, including the violation of the founding statements and the practice of activities other than those mentioned in their application, or which have not been authorized, or in the event that the association's board of directors disposes of its funds, or allocates them in to other than the purposes for which it was established, or moving to a new headquarters without notifying the administrative authority within three months at most from the date of the move, in addition to many articles that are subject to the discretion of the management authority according to its interpretations of violations[113]. All the above constitutes a circumvention of the text of the Constitution which prohibits interference in the work of NGOs except in accordance with judicial rulings. The law stipulates: that the administrative authority after issuing the temporary suspension decision must request the competent court within seven working days from the date of the issuance of the suspension decision to support this decision, and the court decides on this request expeditiously.

Regarding the dissolution and liquidation of associations and their boards of directors, the law stipulates that a judicial ruling must be issued at the request of the administrative body or any other concerned party in several cases, including the association obtaining funds from a foreign entity or sending funds to a foreign entity, collecting donations or obtaining funds from a foreign entity without the approval of the administrative authority, not enabling the administrative authority to follow up and examine its work, and other cases[114] in which it is possible to impose

112 Article 29 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

113 Article 45 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

114 Article 47 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

more restriction and control on the work of associations and subject them to the authority of the management authority. The law required the competent court to decide on cases filed by the administrative body regarding dissolution of associations or their boards or their prompt liquidation without consultation with the state counselors as an exception to the state council law[115], which constitutes a flagrant violation of litigation procedures which are part of the public order and which are supposed to be equal in terms of procedural terms and dates in compliance with the rule of law and the right to litigation and equality in the field of litigation according to standard procedures.

IV: Restricting Activities of Foreign Non-Governmental Organizations:

Regarding foreign non-governmental organizations, the law permits them to engage in one or more of the activities of NGOs and foundations for a specific period determined by the competent minister and prohibits them from practicing any activity before obtaining this permit. [116] It requires that their activities be in line with the "priorities and needs of the Egyptian society in accordance with development plans" and this may mean identifying specific actions that these organizations can work on other than the field of human rights that are not among the priorities of society according to the Egyptian authority's point of view and according to what the current president disclosed on more than one occasion. It also prohibits activities that, according to the wording of the law, "harm national security of the country, public order, public morals, or public health, or incite discrimination, hatred, or incitement to strife. [117]" This will result in restricting the work of these organizations and surveillance of their activities in accordance with the opinion of the state and makes them subject to closure and restrictions of its activities according to what the administrative authority would consider a violation of the law.

In addition, the law prohibits the authorized foreign non-governmental organization from sending, or transferring any funds or donations to any person, organization, body, institution or entity abroad without the approval of the competent minister, and it is also prohibits them from receiving any funds from any natural or legal person other than the sources of their funding stipulated in the permit issued to them, except after the approval of the competent minister[118], which means tight control over these organizations, which may prevent them from working freely and naturally in monitoring government violations and practices.

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115 Article 49 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

116 Article 65 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

117 Article 68 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

118 Article 70 of Law No. 149 of 2019 issued on 08/19/2019 published on 08/19/2019 and effective as of 08/20/2019 regarding the issuance of a law regulating the practice of civil work. Official Gazette 33 bis b

V: Unfair financial penalties:

Following the many criticisms levelled at the previous law, which included freedom-depriving penalties, the penalties in the new law were amended to include fine penalties only to cover many violations of the law. The minimum fine is from twenty thousand pounds to one hundred thousand pounds, and the maximum is from five hundred thousand to one million pounds for many acts that are in violation of the law, according to the estimation of the administrative authority. Receive money and donations

Fifth topic: Impact of legislation that restricts public space on the work of environmental organizations

In a report published by Human Rights Watch, the organization documented a sharp decline in the space for civil work related to the environment and climate. The report was based on interviews with 13 activists, academics, scientists, and journalists working in the field of environmental issues in Egypt. The report emphasized that the state was only tolerating environmental activities that correspond to the priorities of government policy, while restrictions were placed on organizations that criticize the state's urban policies that have a negative impact on the environment[119].

In its report, Human Rights Watch clarified the Egyptian government's failure to protect rights when they conflict with the interests of companies whose practices have caused many environmental damages resulting from urban development, tourism and agriculture, in addition to the devastating environmental impact of the activities of the Ministry of Defense such as the exploitation of quarries and cement factories, as well as infrastructure projects such as the new administrative projects, which the Egyptian government considers a red line for environmental organizations which may not be addressed in any way.

The impact of laws restricting the public sphere on environmental organizations operating in Egypt was clearly obvious, as the Human Rights Watch report indicated, that restricting access to grants and donations, the prosecution of dozens of human rights organizations, and the imposition of travel bans had a negative impact on the work of environmental organizations for fear of such prosecutions. The organizations also faced significant difficulties in their registration, in addition to their reluctance to conduct field research for fear of arrest and for the impossibility of obtaining permits that require the approval of security authorities, especially in remote or border areas such as the Halayeb Triangle, Sinai or Western Sahara.

The Human Rights Watch report stressed the difficulty of accessing information and its circulation in view of the blocking of more than 700 independent websites, including independent news media

[119] Egypt: Government Undercuts Environmental Groups, September 2021 ،Human Rights Watch
https://www.hrw.org/ar/news/2022/09/12/egypt-government-undermining-environmental-groups

platforms and human rights organizations, and widespread arrests of journalists and bans on topics that the government considers taboo, including environmental issues.

For our part, the Egyptian Commission for Rights and Freedoms submitted a questionnaire to members of three environmental organizations operating in Egypt, and their answers agreed with many of the questions raised. About reconciling the situation, participants in the survey emphasized that reconciling the situation according to the Law of Associations is almost impossible. So, the environmental organizations registered themselves in the form of a company of individuals or a consulting company in accordance with the investment law. They also stressed the difficulty of accessing information despite their dealings with the state, but it is often impossible to obtain permits for field research, in addition to the difficulty of obtaining funding, which led to the suspension of the activity of many organizations

In general, participants emphasized that their reports were issued in coordination with the Ministry of Environment and did not attempt to issue reports on sensitive issues such as the state's urban projects or its policies harmful to the environment because they knew how dangerous this is. One of the participants added that they faced restrictions after signing a joint statement with human rights organizations, that disagree with the position of the state and because of that, the funding stopped, which led to the institution's activity stopping in the end.

In the Human Rights Watch report, many environmental activists described the harassment as to the extent that some of them received threatening phone calls in the event of their criticism of the government, in addition to their detention for security checks and interrogation at Cairo airport upon departure or arrival, and sometimes preventing them from leaving the country. The harassment was not limited to environmental activists, but extended to harassment of their families who interacted with an environmental campaign, where they were threatened by security on terrorism charges

The impact of the association law issued in 2019 was clear on the work of environmental organizations, like other human rights organizations. Regarding funding, the government supported the hostile media discourse against organizations in the local media that foreign organizations receive funds from abroad to destabilize the country and thus are agents of foreign agendas. Even in the case of being able to obtain funding the Ministry of social solidarity withheld funding from the organization to restrict its work. In one of the cases mentioned in the Human Rights Watch report, the Ministry of Solidarity suspended funding until three months before the end of the project, which led to its poor implementation. In another case, the ministry granted permission to fund, but security authorities refused its disbursement without reason.

Regarding registration, the questionnaire conducted by the ECRF agreed with the report issued by Human Rights Watch on the impossibility of registration in case the environmental organization openly criticized the government, in addition to the complexity of the registration procedures themselves according to the recent civil labor law, which requires hundreds of pages of

documents. Even those who tried to start the registration process received unofficial warnings advising them not to try.

Conclusion

Repressive and dictatorial regimes always resort to devious methods to tighten their control and reinforce their repression. The Egyptian regime, on establishing the pillars of its new republic, has harnessed all its legal and political capabilities to consolidate repression, undermine democracy, and legalize human rights violations, starting with the restriction of freedom of opinion and expression, exchange of information in addition to a series of legislations that led to a closer grip on public space to prevent the outbreak of a new revolution, as happened in 2011. It issued the law against information technology crimes, through which the repressive regime was able to tighten its control over cyber space and social networking sites, according to false accusations and loose crimes that guarantee its complete control over Internet users and impose silence on everyone and without distinction.

The regime also used the flawed laws that were issued before the revolution. The accusation of spreading false news to opponents became a codified means to restrict freedom of opinion and expression and control the public sphere after the Egyptian regime realized the danger of circulating opinions and ideas through social networking sites, which had the first credit for mobilizing the masses at the time of the January 25, 2011 revolution; the crime of spreading false news became a common denominator in all cases that are fabricated against opponents of all political currents and affiliations.

In addition, the regime has strengthened its legislative arsenal with new laws that waste the right to a fair trial and the simplest principles that stem from it, such as the principle of presumption of innocence and the rights to litigation and defense, through terrorism and emergency laws that are used in parallel so that broad accusations are directed from the provisions of the terrorism law and trial according to the exceptional emergency courts that are being litigated on one level and issuing unfair rulings without the slightest opportunity to challenge them.

There is no doubt that the repercussions of Egyptian legislative practices affect the work of environmental groups operating in Egypt. We have explained how their work has been restricted by the repressive practices of the Egyptian government, whether in the field of registration and withholding funding or restricting their work by complicating procedures for obtaining the necessary permits for field research or in the persecution of their members and the restriction of freedom of opinion, expression and circulation of information which have also become a major obstacle for these organizations in obtaining information, especially after blocking websites and prosecuting activists and journalists on loose accusations such as spreading false news or joining a terrorist group.

The violations that Egypt has introduced in its legislation contradict its international obligations in accordance with international human rights law, which impose on it a commitment to the international covenants it has signed, foremost the Universal Declaration of Human Rights and the

International Covenant on Civil and Political Rights, among others, obligations that the Egyptian regime circumvents and denies its continuous violations by codifying and legitimizing violations.