

The Trial of Journalists and Guarantees of Freedom of Opinion and Expression

The Gap Between Legal Text and Judicial Practice



(An Analytical Paper)

ECRF
المفوضية المصرية للحقوق والحريات
Egyptian Commission for Rights and Freedoms



**The Trial of Journalists and Guarantees
of Freedom of Opinion and Expression:
The Gap Between Legal Text and Judicial Practice
(An Analytical Paper)**



Contents

Introduction and General Context.....	3
Research Problem	5
The Legal Framework Governing Press Freedom	6
Law as an Instrument of Control	11
Patterns in Journalists' Cases	11
First: Recurring Procedural Patterns in Journalists' Cases.....	12
Arrest and Enforced Disappearance.....	12
Investigation and Bail.....	13
Case Recycling	13
Second: Pretrial Detention as a Disguised Punishment	14
Third: Absence of Material Evidence	15
Impact of the Prosecution of Journalists.....	16
The Gap Between Text and Practice	18
First: From Constitutional Guarantee to Legislative Restriction	19
Second: Recharacterizing Journalistic Activity in Judicial Practice.....	19
Third: Pretrial Detention and the Transformation of the Exception into the Rule	20
Fourth: Political Will and the Legal Management of the Public Sphere	20
Deficiencies in Fair Trial Guarantees.....	21
First: Prolonged Pretrial Detention	21
Second: Circumventing Release Orders.....	23
Third: Restrictions on the Right to Defense	23
Fourth: The Problem of Terrorism Circuits	24
Conclusion and Summary	26
Recommendations	28
First: General Recommendations.....	28
Second: Legislative Recommendations	29
Third: Judicial Recommendations	29
Fourth: Professional and Syndicate Recommendations	30

Introduction and General Context

Egypt remains among the ten largest jailers of journalists in the world, as the authorities continue to impose strict restrictions on media outlets, particularly independent ones, and prosecute journalists on recurring charges, most notably “joining a terrorist group” and “spreading false news,” based on activities directly connected to the legitimate exercise of their journalistic profession. This is no longer limited to isolated cases; rather, it has become a sustained approach adopted by the authorities over recent years, encompassing a wide range of routine journalistic activities, including news coverage, the publication of news reports and investigations, as well as commenting on current events on social media or republishing journalistic content.

This continuing escalation in the prosecution of journalists cannot be understood in isolation from the state of freedom of opinion and expression and the shrinking and erosion of space for criticism and opposition in the country more broadly. Nor can it be separated from the legislative framework that has facilitated this repression, despite constitutional provisions affirming that “freedom of thought and opinion is guaranteed” and that “freedom of the press, printing, publication, and visual, audio, and electronic media is guaranteed.” In addition, Article 71 of the Constitution stipulates that “no custodial penalty shall be imposed for crimes committed by way of publication or publicity. As for crimes related to incitement to violence, discrimination among citizens, or defamation of individuals, their penalties shall be determined by law.”

It is noteworthy that the nature of the charges brought against journalists has undergone a qualitative transformation over recent years. Whereas such charges were previously linked to acts of a specific nature—such as insult and defamation—they are now, in most cases, framed in vague terms such as “spreading false news,” “publishing news likely to disturb public peace,” “misusing social media,” or “joining a terrorist group while knowing its purposes.” These accusations are brought based on journalistic materials or social media posts that, in essence, do not exceed the bounds of legitimate journalistic and media work.

Considering this shift, virtually every legitimate journalistic activity has come to be viewed by investigative authorities as conduct affecting security or public order. Trials are no longer being used as a means of addressing professional misconduct according to clearly defined legal standards; rather, they have become a tool of deterrence and intimidation directed at any independent or dissenting voice. This is reinforced by decisions that contravene the law, such as renewing journalists’ pretrial detention despite their having exceeded the maximum legal period of pretrial detention, as well as circumventing release orders by “recycling” released defendants into new cases carrying the same charges they had previously faced.

The Supreme State Security Prosecution is the principal actor driving these cases targeting journalists, bloggers, and writers. Whereas the previous approach involved security authorities conducting campaigns against journalists and human rights defenders before the Supreme State Security Prosecution undertook investigations of those arrested, the more recent trend has been for the Supreme State Security Prosecution itself to summon human rights figures, political activists, and journalists for questioning on vague and

repetitive accusations of “spreading false news,” “joining a terrorist group,” and “misusing social media.”

Against this reality, and amid this repression, restriction of freedoms, and targeting of journalists, a fundamental question arises that cannot be ignored: Has journalistic work in Egypt become an activity fraught with the risk of accusation and imprisonment because of its oversight and critical functions? How long will the constitutional provisions protecting press freedom and prohibiting custodial penalties in publication-related cases remain ineffective? Can one speak of a safe working environment for journalists while the criminalization of professional practices continues to expand and journalists face serious, vaguely defined accusations because of their legitimate journalistic work, making the boundary between lawful and criminalized conduct ambiguous and unpredictable? Finally, what impact does this reality have on society’s own right to knowledge and access to information if journalists are threatened merely for carrying out their oversight role?

Research Problem

This paper is based on the following research problem: If the constitutional provisions of the Egyptian Constitution prohibit the imposition of custodial penalties for publication-related offenses and explicitly guarantee freedom of the press, why do journalists continue to be prosecuted and held in pretrial detention for acts directly connected to the exercise of their profession? Do these practices merely represent a deviation in the judicial application of legal provisions, or do they reflect a legislative structure that permits the recharacterization of journalistic activity as a threat to national security? Or is

the issue linked to a broader public policy aimed at managing the public sphere through legal instruments? This paper seeks to analyze this gap between legal text and practice by examining the legal framework, identifying recurring procedural patterns, and demonstrating their impact on press freedom and society's right to information.

The Legal Framework Governing Press Freedom

The Egyptian Constitution of 2014 provides a few explicit guarantees for freedom of opinion and expression. Article 65 states that “freedom of thought and opinion is guaranteed, and every person has the right to express his or her opinion by speech, writing, imagery, or any other means of expression and publication.” Article 70 guarantees freedom of the press, printing, and publication in all forms (print, visual, audio, and electronic), while Article 71 prohibits the imposition of custodial penalties for crimes committed by means of publication or publicity, except in cases related to incitement to violence, discrimination among citizens, or defamation.

This constitutional approach is consistent with the Universal Declaration of Human Rights, adopted on 10 December 1948, which provides that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” It is also consistent with the International Covenant on Civil and Political Rights, adopted by the United Nations on 16 December 1966, which affirms that “everyone shall have the right to freedom of expression,” including the

freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, whether orally, in writing, or in print.

Despite the clarity of these constitutional guarantees, their implementation is undermined by a few legislative provisions that deprive them of their substance and impose restrictions on journalistic work and freedom of expression. About legislation regulating media activity, Law No. 180 of 2018 on Press and Media Regulation, for example, imposes requirements on journalists that burden their professional activities. Article 12 stipulates that journalists must obtain prior authorization for coverage and photography in public places, providing that “a journalist or media professional, in the course of performing their work, shall have the right to attend conferences, sessions, and public meetings, conduct interviews with citizens, and photograph in public places where photography is not prohibited, after obtaining the necessary permits in cases where such permits are required.”

Article 19 of the Press and Media Regulation Law states that “newspapers, media outlets, and websites are prohibited from publishing or broadcasting false news, or content that calls for or incites violations of the law, violence, hatred, discrimination among citizens, racism, defamation of individuals, insult or slander against them, or contempt for the heavenly religions or religious beliefs.” It is noteworthy that this provision is not directed solely at journalists and media professionals but also applies to any “personal website, personal blog, or personal electronic account with five thousand followers or more.” As a result, the Supreme Council for Media Regulation has become one of the authorities responsible for monitoring internet users.

There are also numerous penal provisions that directly contradict Article 71 of the Constitution, which prohibits custodial penalties for crimes committed through publication or publicity. These include, among others, Articles 102, 102 bis, 174, 177, 178, 181, 184, 186, 189, 190, 191, 192, and 193 of the Penal Code No. 58 of 1937. All these provisions prescribe imprisonment, fines, or both in cases related to publication, publicity, or the dissemination of information concerning court proceedings or parliamentary debates.

Other laws are also used as mechanisms to circumvent constitutional protections, most notably the Counterterrorism Law No. 94 of 2015, issued on 15 August 2015, and the Anti-Cyber and Information Technology Crimes Law No. 175 of 2018. Through these laws, journalistic activities may be recharacterized as threats to national security or public order. Consequently, the charge of “spreading false news” is transformed from a professional error that could ordinarily be remedied through established professional and syndicate procedures—such as issuing a correction when information proves inaccurate or granting an equivalent right of reply—into a serious security offense. This allows for the pretrial detention of journalists and their referral to exceptional courts, effectively bypassing the constitutional guarantees intended to protect them.

For example, a close examination of the Counterterrorism Law No. 94 of 2015, which has been widely applied against journalists, reveals the inclusion of broad and vague concepts such as “harming national unity or social peace.” The law also contains two provisions specifically related to the press.

The first is Article 35, which provides that “a fine of not less than two hundred thousand Egyptian pounds and not more than five hundred thousand Egyptian

pounds shall be imposed on anyone who deliberately publishes, broadcasts, displays, or promotes, by any means whatsoever, false news or statements regarding terrorist acts committed inside the country or operations related to combating them in a manner contrary to the official statements issued by the Ministry of Defense, without prejudice to any disciplinary penalties prescribed.”

The second is Article 36, which prohibits the photographing, recording, broadcasting, or display of any proceedings of trials involving terrorist crimes without authorization from the president of the competent court. Anyone violating this prohibition is subject to a fine of not less than twenty thousand Egyptian pounds and not more than two hundred thousand Egyptian pounds.

If we examine the Anti-Cyber and Information Technology Crimes Law No. 175 of 2018, we find that it is based on broad wording and expansive definitions that are open to multiple interpretations, while imposing penalties that restrict the scope of digital freedoms. As a result, cyberspace is transformed from an open arena for pluralism of opinions and the free exchange of information into a domain subject to state control, where opinions and expressions may be pursued as criminal acts. The provisions of the law conflict with constitutional texts and guarantees in several respects. One example is Article 7, which permits the blocking of websites without recourse to investigative authorities on the grounds of protecting “national security,” in clear contradiction to Article 65 of the 2014 Constitution, which guarantees every individual the freedom to express their opinion through speech, writing, imagery, and other means of expression and publication.

Nor can the provisions governing pretrial detention in the Criminal Procedure Code be overlooked. In practice, their application has transformed this precautionary measure into an actual punishment imposed on many journalists and opinion-holders over recent years. Many journalists have spent more than three, four, and even five years or longer in pretrial detention. This is due to the failure of the competent authorities to comply with the Criminal Procedure Code and their insistence on maintaining journalists in detention pending investigations for periods that flagrantly exceed the limits established by law.

It should be noted that the final paragraph of Article 143 of the Criminal Procedure Code provides that:

“In all cases, the period of pretrial detention during the preliminary investigation stage and throughout all stages of the criminal proceedings may not exceed one-third of the maximum custodial sentence prescribed for the offense, provided that it does not exceed six months in misdemeanors, eighteen months in felonies, and two years where the prescribed penalty for the offense is life imprisonment or death.”

Despite this provision, the detention periods of many journalists held in pretrial detention have exceeded the limits prescribed by law, constituting a blatant violation of both the Constitution and the law. It is noteworthy that most detained journalists face charges under Counterterrorism Law No. 94 of 2015, reflecting the routine misuse of the law and the repeated recycling of criminal charges against journalists.

Law as an Instrument of Control

The problem does not lie solely in the existence of vague legal provisions, but also in the capacity of these provisions to facilitate the securitized reclassification of journalistic activity. Rather than treating publication as a professional practice subject to civil or disciplinary liability, it is incorporated into a framework of offenses deemed to affect national security or public order. This enables the application of exceptional laws, such as the Counterterrorism Law, and the referral of journalists for investigation before specialized bodies such as the Supreme State Security Prosecution. In this way, the law is transformed from a framework that guarantees rights into an instrument for regulating and controlling the public sphere, thereby stripping constitutional protections of their practical effect.

Patterns in Journalists' Cases

It is noteworthy that the charge of “joining a terrorist group while knowing its purposes” has become one of the most common accusations brought against journalists, despite the absence of material acts supporting such a characterization. This is because this legal classification allows the prosecution to employ broader procedural tools, most notably prolonged pretrial detention, the jurisdiction of terrorism circuits to hear such cases, and the limited avenues available to challenge detention orders in this context. As a result, professional accountability is replaced by security-oriented prosecution that removes journalistic activity from its natural framework and places it within a context that extends far beyond the essence of media work itself.

First: Recurring Procedural Patterns in Journalists'

Cases

Arrest and Enforced Disappearance

In most cases, the procedural pattern followed against journalists consists of a series of recurring stages. It typically begins with arrest, followed by enforced disappearance for a period ranging from two to six days, although the period may be longer without any clear justification for the disappearance. This is followed by the journalist's appearance before the Supreme State Security Prosecution.

This pattern occurred in numerous cases, including that of cartoonist Ashraf Omar, who was arrested from his home in the early hours of 22 July 2024 and subjected to enforced disappearance for two days before being brought before the prosecution on 24 July.

Similarly, journalist Khaled Mamdouh was subjected to enforced disappearance for more than five days after his arrest on 16 July 2024. The authorities denied his detention at Al-Mokattam Police Station before he eventually appeared before the Supreme State Security Prosecution on 21 July. Following his appearance, he was interrogated, and the time of his arrest was officially recorded as coinciding with the time of his appearance before the prosecution.

Investigation and Bail

Another recurring pattern involves summoning a journalist for questioning, followed by an investigation and subsequent release on bail.

This occurred with Lina Attalah, Editor-in-Chief of the website *Mada Masr*, who was investigated by the Supreme State Security Prosecution on 4 August 2025. The investigation concluded with her release on bail of EGP 30,000. At the time, the prosecution charged her with spreading false news and operating a website without a license.

It should be noted that the investigation stemmed from a report published by *Mada Masr* concerning conditions inside Badr 3 Prison. The case was registered as Supreme State Security Case No. 6182 of 2025.

Likewise, on 19 January 2025, the Supreme State Security Prosecution interrogated journalist Hossam Bahgat, Executive Director of the Egyptian Initiative, and ordered his release on bail of EGP 20,000 in connection with Supreme State Security Case No. 6 of 2025. During an interrogation that lasted several hours, the prosecution charged him with participating in and financing a terrorist group, as well as spreading false news.

Case Recycling

“Case recycling” (tadweer) has become a systematic policy employed by the security authorities to ensure the continued detention of detainees without releasing them. Under this practice, detainees are unexpectedly added to new cases after completing a period of detention or while serving a sentence in earlier cases. They are registered in new cases involving repeated and largely

identical allegations that do not differ from the accusations previously brought against them.

The Egyptian Commission for Rights and Freedoms has previously condemned the policy of “case recycling,” describing it as a form of restriction and retaliation used against journalists and political detainees, including public figures.

Among the journalists subjected to case recycling is blogger Mohamed Ibrahim Radwan, widely known as “Mohamed Oxygen.” The circumstances of his arrest date back to 22 September 2019, when he was apprehended while present at the Al-Basateen Police Station to comply with a precautionary measure imposed in connection with an earlier case in which he had been detained.

At that time, the prosecution decided to recycle him into a new case, registered as Case No. 1356 of 2019, charging him with spreading false news and joining a terrorist group.

Second: Pretrial Detention as a Disguised Punishment

Many journalists suffer from pretrial detention for periods that exceed the maximum legal limits prescribed by the Criminal Procedure Code. More than 15 journalists have exceeded the legally prescribed maximum period of pretrial detention by two years, while some have remained in detention for more than five years, and in other cases for more than seven years.

Among the journalists who have exceeded the legal limits of pretrial detention is photojournalist Hamdy Mokhtar, known as “Hamdy El-Zaeem,” who has been held in pretrial detention since September 2020 in connection with

Supreme State Security Case No. 955 of 2020—more than twice the maximum period permitted by law. His lawyers were surprised by his referral to trial in January 2025 after five years of investigations, and the first hearing in his trial was held on 26 October 2025.

For its part, the Press Syndicate’s Committee for Freedoms affirmed that the continued pretrial detention of journalists beyond the legally prescribed period constitutes a clear violation of both constitutional and legal provisions, and that pretrial detention must not be transformed into a tool for punishing journalists or restricting press freedom.

Third: Absence of Material Evidence

The charges brought against journalists are concentrated around three recurring allegations that appear with remarkable consistency:

- 1. Spreading false news or information.**
- 2. Joining a terrorist group while knowing its purposes; and**
- 3. Misusing social media platforms.**

Most journalists currently behind bars have faced these accusations. The same allegations are also directed against journalists and writers who are summoned for investigation and subsequently released pending proceedings in Supreme State Security cases.

One of the most notable recent examples is journalist and researcher Dr. Ammar Ali Hassan, who was summoned in December 2025 for investigation before the Supreme State Security Prosecution in Supreme State Security Case

No. 10204 of 2025. He was charged with the same accusation — spreading false news and information — and was released on bail of EGP 20,000.

These accusations are typically based on prosecution records without the presentation of tangible evidence or exhibits demonstrating that the accused committed acts of violence or genuinely joined terrorist organizations. In most cases, there is no real evidence supporting such allegations.

Cases involving detained journalists are characterized by the absence of exhibits and material evidence proving the commission of the offenses attributed to them. During investigations, the prosecution generally does not present any evidence, and the questioning is often limited to the nature of the journalist's work or the articles that have been published.

Impact of the Prosecution of Journalists

The effects of the repression directed against dozens of journalists over recent years are not limited to those journalists who are directly targeted by accusations and imprisoned. Rather, they extend to create a broad deterrent effect at the individual, institutional, and societal levels.

At the individual level, repeated prosecutions and vague accusations compel many journalists—particularly those working for private and independent media outlets—to practice strict self-censorship and avoid covering topics classified as “sensitive” or related to public affairs and government policies. More fundamentally, these pressures lead many journalists to write in fields removed from political, social, and economic issues. In other cases, some choose to leave the profession altogether out of fear of imprisonment or prosecution.

At the institutional level, media organizations adopt more cautious editorial policies and resort to deleting journalistic content or refraining from publishing certain topics to avoid legal risks, thereby stripping the watchdog role of the press of its substance. In this regard, there are numerous incidents that occur without receiving any coverage in Egyptian newspapers until they have first been reported by international news agencies, after which local reporting appears only in a brief form devoid of details.

At the societal level, this climate contributes to a decline in media pluralism, the absence of accurate information, and the spread of rumors on social media platforms. It also weakens the ability of the press to hold authorities accountable, which negatively affects society's right to knowledge and access to information.

It should be noted that, despite the adoption of the current Constitution more than twelve years ago, no legislation guaranteeing freedom of information has yet been enacted, even though this right is explicitly recognized in the 2014 Constitution. It was also reaffirmed in what became known as the "National Human Rights Strategy," issued in September 2021.

Guaranteeing the freedom of access to and dissemination of information is the most effective means of presenting facts and enabling the public to form opinions based on transparency and knowledge. Article 68 of the 2014 Constitution provides that:

"Information, data, statistics, and official documents are the property of the people. Disclosure thereof from their various sources is a right guaranteed by the State to every citizen. The State shall be committed to providing and making them available to citizens transparently. The law shall regulate the

rules governing access to, availability, confidentiality, storage, and preservation of such information, as well as procedures for appealing refusals to provide it, and shall prescribe penalties for withholding information or deliberately providing false information.”

The same article further stipulates that:

“State institutions shall be committed to depositing official documents with the National Archives upon the completion of the period during which they are in use, and to protecting and securing them against loss or damage, restoring and digitizing them through all modern means and tools, in accordance with the law.”

The Gap Between Text and Practice

This paper reveals a structural contradiction between the constitutional framework, which provides broad guarantees for freedom of the press, and the actual way these cases are handled at both the security and judicial levels. At the textual level, the Egyptian Constitution guarantees freedom of thought, opinion, and the press, and explicitly prohibits custodial penalties for offenses committed through publication or publicity. However, these guarantees are not effectively reflected in procedural reality, as journalists continue to face pretrial detention and criminal prosecution for content that is purely journalistic in nature.

First: From Constitutional Guarantee to Legislative Restriction

An analysis of the legislative framework demonstrates that laws do not function as tools for implementing constitutional guarantees; rather, they are often used to restrict or circumvent them. Although the Law Regulating the Press and Media formally recognizes freedom of journalistic work, it contains provisions that open the door to restricting that freedom through requirements for prior authorization, prohibitions on publication framed in broad terms, and the extension of oversight to include personal social media accounts. Furthermore, provisions of the Penal Code, along with other laws of an exceptional nature, are used to reintroduce publication-related activities into the sphere of criminalization, in direct contradiction to the constitutional prohibition on imprisonment in publication-related cases.

Second: Recharacterizing Journalistic Activity in Judicial Practice

The gap does not stop at the level of legislation; it becomes even wider in practice. Instead of treating journalistic content as an expression of opinion or the dissemination of information, it is recharacterized within a security framework as the dissemination of false news, membership in a terrorist organization, or misuse of social media. This recharacterization transfers the case from its natural context into an exceptional legal track that justifies prolonged pretrial detention and places journalists under the jurisdiction of bodies such as the Supreme State Security Prosecution, thereby depriving them in practice of the guarantees ordinarily associated with publication-related offenses.

Third: Pretrial Detention and the Transformation of the Exception into the Rule

Pretrial detention is one of the clearest manifestations of this gap. Its use has expanded to the point where it functions as a punitive measure rather than an exceptional precautionary one. Despite the explicit restrictions imposed by the Criminal Procedure Code on the duration of pretrial detention, practice demonstrates that these restrictions are not respected in journalists' cases, whether through exceeding the legal limits or through the recycling of cases involving the same accusations. As a result, what was intended to be an exception becomes the rule, and detention becomes the normal condition of an accused journalist, even in the absence of tangible material evidence.

Fourth: Political Will and the Legal Management of the Public Sphere

The legal framework alone does not fully explain the broad scope of prosecutions. Political will remains a central factor in directing the use of the law. The selective activation of certain legal provisions over others, and the prioritization of security considerations over fundamental freedoms, reflects a broader tendency to manage the public sphere through criminal law rather than professional regulation. In this context, the law ceases to function as a regulatory framework and instead becomes a tool for controlling public discourse and restricting spaces for criticism and opposition.

Accordingly, the gap between legal text and practice in cases involving the prosecution of journalists is a complex one, involving three interrelated elements: legislative provisions that permit recharacterization, judicial

practices that tend to expand exceptional measures, and political will that employs the law as an instrument for managing the public sphere. This interaction undermines the constitutional protection of press freedom and transforms it from a guaranteed right into a conditional exception, necessitating a fundamental review before any meaningful discussion of improving the environment for journalistic work or strengthening freedom of expression can take place.

Deficiencies in Fair Trial Guarantees

The right to a fair trial constitutes a fundamental pillar of the human rights system, guaranteed by Article 10 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights. However, journalists in Egypt face systematic violations of these guarantees that begin now of detention and continue through the issuance of judgment, making judicial proceedings themselves a form of punishment.

These violations take four escalating forms: prolonged pretrial detention beyond legal limits, case recycling to circumvent release orders, systematic restrictions on the right to defense, and, finally, the use of terrorism circuits for expedited trials in a manner that undermines fundamental procedural rights.

First: Prolonged Pretrial Detention

Pretrial detention is intended to be a temporary and exceptional measure justified by the necessities of investigation pending clarification of the facts. In practice, however, it has become a punishment imposed without a judicial conviction.

Article 143 of the Egyptian Criminal Procedure Code establishes a maximum pretrial detention period of two years. Nevertheless, the Public Prosecution and State Security circuits frequently exceed this legal ceiling. Over recent years, detention orders have been issued against hundreds of individuals without any examination of their case files and without informing them of the reasons underlying the continued detention orders.

In addition to the routine renewal of pretrial detention without genuine justification, defense lawyers are sometimes prevented from attending detention renewal hearings alongside their clients, in direct violation of Article 136, which requires judges to issue detention orders only after hearing the defense of the accused.

Pretrial detention has thus become a means of exerting pressure on defendants. Journalists remain detained for years—well beyond the periods prescribed by law—without being referred to trial. In some cases, detention has extended to six years or more, as occurred with photojournalist Hamdy El-Zaeem, who has remained in pretrial detention since 2020. At the end of 2025, he and others were referred to trial, yet he remains in detention while the proceedings continue.

Similarly, journalist Mostafa El-Khatib of the *Associated Press*, who has been detained since October 2019, is still being tried in Supreme State Security Case No. 647 of 2020, registered before the court as Heliopolis Felony Case No. 413 of 2025. The first hearing was postponed until 8 December 2025 to allow for review of the case file and the submission of defense requests. This means that he has remained in detention—both before and after the referral of his case to trial—for more than six years.

Second: Circumventing Release Orders

The phenomenon of “prisoner recycling” has become a recurring pattern that security authorities resort to to circumvent judicial release orders. In such cases, the detainee is hidden for a period during the completion of release procedures or the serving of precautionary measures and then reappears in a new case—often involving the same charges for which they had previously been detained—thus beginning a new cycle of pretrial detention. This is what happened with the blogger “Mohamed Oxygen.”

There is another form of recycling, which involves bringing the accused from their place of detention and levelling new charges against them on the pretext of forming cells with other detainees from within prison. Notably, the new charges are often identical to the previous ones.

Third: Restrictions on the Right to Defense

Violations against journalists do not stop at prisoner recycling or the continuation of pretrial detention beyond its legal limit. They extend to their families and the defense team, whether during visits or during attendance at detention renewal hearings. Complaints from families of detained journalists are consistently repeated regarding being denied visits—at times—prevented from bringing in food or being allowed only a few minutes of visitation.

The defense also faces this type of restriction, in addition to obstruction during investigations that may reach the point of preventing lawyers from attending hearings or accessing the full case file. A precedent occurred with lawyer Khaled Ali, who was prevented from visiting his client, journalist Ahmed Tantawi, while he was serving a one-year sentence with hard labor in the case known in the media as the “Popular Mandates” case, which ended in May 2025.

Fourth: The Problem of Terrorism Circuits

In recent years, the authorities have expanded the use of terrorism circuits in the trial of journalists, politicians, and prisoners of conscience. Lawyers view this as a threat to the essence of justice and an emptying of the right to defense of its substance, especially since terrorism circuits are “exceptional” courts in which specific judges are assigned to these cases. These courts are often held inside police facilities or prisons (such as the Badr Courts Complex and the former Police Officers Institute).

- 1- Investigations :In addition, these courts rely almost entirely in forming their convictions on the investigations of the National Security Sector, which the Court of Cassation has previously described in its rulings as “merely the opinion of its author.” However, terrorism circuits have elevated these investigations to the level of conclusive evidence upon which long prison sentences are based.

2- Attendance of Defendants: One of the most prominent obstacles faced by the defense team is the absence of defendants from some hearings without legal justification, due to their continued detention in cells, in clear violation of the defendant's right to be present at trial as guaranteed by Article 237 of the Criminal Procedure Law, and also in violation of Article 96 of the Egyptian Constitution.

Alternatively, some defendants are allowed to attend hearings inside sound- and heat-insulated glass cages that prevent them from hearing what is happening in the courtroom or effectively communicating with their lawyers. Defense teams have repeatedly objected to this, without response from the court, thereby undermining the right of defense and violating the principle of equality of arms between adversaries.

3- Speed of Case Examination : Terrorism circuits handle cases at a pace that undermines the principles of justice, as a single circuit may hear hundreds of cases in one session. This speed turns the hearing into a formal procedure to "ratify" prosecution and National Security decisions to continue detention, without genuine examination of the case file or consideration of evidence of innocence. This transforms pretrial detention into an extended punishment without substantive trial.

3- Obstruction of Lawyers' Work : Lawyers representing journalists and political detainees suffer systematic restrictions that prevent them from performing their role. These include being prevented from pleading or from speaking on the substance of the case and limiting their role to submitting formal requests for release.

In addition, the Video Conference mechanism used in remote detention renewal hearings has deprived lawyers of direct communication with their clients. At times, audio is cut off when either the defendant or the lawyer attempts to speak about violations or challenge the charges.

Lawyers also face difficulty obtaining copies of case files or even accessing them. Among the journalists referred to a terrorism circuit whose trial reflected all these restrictions, and the obstruction of defense rights was journalist “Yasser Abu Alaa,” who has been detained since 1 March 2024 on charges of spreading false news and misuse of social media. On 10 November 2024, the Criminal Court (Terrorism) sentenced Abu Alaa to life imprisonment in Case No. 339 of 2022.

Conclusion and Summary

This paper, through an analysis of the constitutional and legislative framework and an examination of actual judicial practices in the prosecution of journalists, reveals a structural gap between the guarantees granted to press freedom in the Egyptian Constitution and the procedural reality faced by journalists in cases related to freedom of opinion and expression. Despite the explicit constitutional prohibition of custodial penalties in publication-related offenses, a few journalists continue to face prolonged pretrial detention, “recycling” into new cases, and referral to exceptional judicial circuits, based on stereotypical charges that are repeatedly formulated in near-identical terms.

The paper shows that the problem is not limited to the misapplication of legal provisions but extends to a legislative structure that allows journalistic activity to be reclassified as a threat to national security or public order, through reliance on broadly worded laws such as the Anti-Terrorism Law and the Anti-Cyber and Information Technology Crimes Law. In this way, publication—being a legitimate professional practice—can be criminalized at any moment, depending on the political context or the discretion of the investigating authority.

It further demonstrates that the pattern of handling journalists' cases before bodies such as the Supreme State Security Prosecution has entrenched a logic of exception within a formally ordinary legal framework, where pretrial detention is used as a tool of pressure or punishment, and fair trial guarantees are overshadowed by broad and undefined security considerations.

The effects of this gap are not limited to the individuals targeted by prosecution; they extend to create a wide-ranging chilling effect within the media sphere, encouraging self-censorship, weakening the press's oversight role, and restricting the flow of information to the public. This means that the continuation of such trials affects not only journalists' rights but also society's right to know and access information—a right enshrined in the Constitution itself as a cornerstone of the democratic system. Accordingly, addressing this gap requires serious legislative and procedural reform that restores constitutional guarantees and ends the reclassification of journalistic work within a security framework, ensuring coherence between legal texts and judicial practice, and restoring the press to its natural role as a watchdog operating under the law, not under threat from it.

Recommendations

First: General Recommendations

- **Affirm the primacy of constitutional provisions, particularly the guarantees enshrined in the Egyptian Constitution, as the binding reference for all state authorities, and ensure that legislation and judicial practices are aligned with them.**
- **Refrain from using criminal law as a tool to manage public space or restrict press freedom and ensure that journalistic work is not reclassified as offenses against national security without clear and specific material acts.**
- **Respect international standards on freedom of expression, particularly the principles of necessity and proportionality when imposing any restrictions on journalistic work.**
- **Create a safe environment for journalists that guarantees their ability to perform their watchdog role without fear of prosecution or detention due to their opinions or professional activities.**

Second: Legislative Recommendations

- Review provisions in the Penal Code, the Anti-Terrorism Law, and the Anti–Cyber and Information Technology Crimes Law that include vague formulations such as “spreading false news,” “harming national security,” or “disturbing public order,” ensuring precise and narrowly defined terminology to prevent misuse against journalists.
- Amend relevant legislation to ensure the effective implementation of the constitutional ban on custodial penalties in publication offenses and prevent circumvention through reclassification of journalistic acts under other crimes.
- Introduce explicit provisions prohibiting pretrial detention in cases related to publication or peaceful expression.
- Enact a Freedom of Information Law in implementation of Article (68) of the Constitution, enhancing transparency and reducing disputes related to publication.

Third: Judicial Recommendations

- Adhere strictly to the Criminal Procedure Law regarding pretrial detention periods, ensuring that it does not become a de facto punishment prior to judgment.
- Refrain from renewing pretrial detention based on general investigations unsupported by clear material evidence and require detailed and specific justifications for each detention order.

- End the practice of “recycling” detainees by keeping journalists in detention through new cases based on the same charges.
- Ensure that the defense is fully enabled to access case files and evidence and respect the defendant’s right to a fair trial within a reasonable timeframe.
- Interpret restrictions on freedom of expression narrowly, in line with constitutional guarantees and international standards.

Fourth: Professional and Syndicate Recommendations

- Activate the role of the Journalists’ Syndicate in providing legal support to prosecuted journalists and systematically following up on their cases.
- Establish a regular monitoring mechanism within the syndicate to document violations related to the prosecution of journalists and issue periodic reports reflecting patterns of repression.
- Strengthen legal awareness programs for journalists, particularly regarding laws governing publication and cybercrimes, to help them understand potential legal risks.
- Develop professional codes of conduct within media institutions that reinforce adherence to professional standards, reducing opportunities for criminal prosecution based on professional errors.
- Expand cooperation between the syndicate and human rights organizations to provide joint support in cases involving journalists.

