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The situation of freedom of information in Egypt

Three years after the “25 January Revolution,” the situation of freedom of information is extremely worrying in Egypt. The different governments since President Hosni Mubarak’s removal have tried to control the media and have not hesitated to adopt repressive measures against journalists.

In the past three years, at least nine journalists have been killed in connection with their work, more than 50 have been injured and more than 200 have been arrested. No independent investigation has been carried out to identify and punish those responsible for these abuses.

The Supreme Council of the Armed Forces, which governed from February 2011 to June 2012, was open in its attempts to gag the media and used military courts to try journalists and bloggers. After consulting with the SCAF, the information minister announced a temporary freeze on licences for satellite TV stations in September 2011 because of the “need to restore order to increasingly chaotic media scene.” He also threatened other TV stations, accusing them of jeopardizing stability and security. His comments amounted to a declaration of war on the broadcast media and, in particular, independent satellite TV stations that dared to criticize the SCAF’s policies.

“Brotherization” of Egypt’s media under Morsi

The installation of a Muslim Brotherhood government in the summer of 2012 did not result in any improvement in respect for fundamental freedoms. As soon as the Muslim Brotherhood took office, it began asserting its control over the state media. In August 2012, President Morsi got the upper chamber to appoint Muslim Brotherhood supporters to run the state-owned newspapers. These appointments had a big effect on their editorial policies. At the same time, Egyptian media freedom NGOs reported a big increase in lawsuits and physical attacks against journalists.

President Morsi had a decree adopted in November 2012 that gave him special powers but backtracked in the face of an outcry. The constitution that was approved by referendum the following month lacked sufficient safeguards for freedom of expression. It did not guarantee the independence of the state-owned media and, in practice, opened the way for the Islamization of media legislation.

"Sisification" of Egypt's media since July 2013

Ever since Morsi's removal by the army under Gen. Abdel Fattah Al-Sisi on 3 July 2013, the new authorities have been orchestrating a "Sisification" of the media and conducting a witch-hunt against journalists working for media directly or indirectly affiliated with the Moslem Brotherhood, which has been banned as a "terrorist organization" since 25 December. The extreme polarization of the media both reflects and encourages the polarization of society, and is undermining freedom of information.

A new constitution that was adopted in January contains some fairly encouraging improvements in the protection of freedom of information. It guarantees freedom of expression and opinion, (article 65), press freedom (article 70) and media independence (article 72). Article 71 bans censorship and prison sentences for media offences.

But it has not stopped the persecution of journalists. Arrests, detention, trials on trumped-up charges – the authorities are flouting the constitutional guarantees enshrined in article 71 and are stopping at nothing to silence those who refuse to relay the government's propaganda. Five journalists have been killed and at least 125 have been arbitrarily arrested since 3 July 2013.

According to the information obtained by Reporters Without Borders, at least 20 news providers are currently being held arbitrarily. They include employees of Qatar-based *Al-Jazeera* TV and the news website *Rassd*. Some of the detainees are foreign citizens.

The trial of a total of 20 *Al-Jazeera* journalists – 16 Egyptians and four foreigners – for "broadcasting false information" was announced by the Egyptian prosecutor-general's office on 29 January 2014. The Egyptian journalists are also accused of membership of a "terrorist organization" and "undermining national unity and social peace" while the four foreigners – two Britons, an Australian and a Dutch citizen – are accused of "collaborating with the Egyptians by providing them with money, equipment and information (...) and broadcasting false reports designed to give the impression to the outside world that there was a civil war." Three of the 20 are currently detained. They are **Peter Greste** (who is Australian), Cairo bureau chief **Mohamed Adel Fahmy** (who has Canadian and Egyptian dual citizenship) and **Baher Mohamed** (who is Egyptian). They have been held since their arrest in Cairo on 29 December. The trial began on 20 February 2014 and is due to resume on 24 March.

The authorities are also holding a fourth *Al-Jazeera* employee, **Abdallah Al-Shami**. He was arrested on 14 August 2013. *Al-Jazeera* launched an international campaign for the release of its four detained journalists on 27 February 2014.

Journalists were meanwhile targeted by both police and demonstrators while covering demonstrations on 25 January marking the third anniversary of the start of the uprising that led to the overthrow of the Mubarak regime. Some journalists were injured and a dozen were briefly detained.

Military court proceedings

Civilians continue to be tried before military courts. A Cairo military court sentenced **Hatem Abou el-Nour**, a journalist with the Egyptian daily *Al-Watan*, to a year in prison on 30 October 2013. Arrested on 25 August, he was accused of passing himself off as a military officer during phone interviews with organizations not linked to the army in order to get information for his stories.

A military court in the northeastern city of Ismailia passed a six-month suspended jail sentence on 3 November 2013 on **Mohamed Sabry**, a freelance journalist who was arrested on 4 January 2013 while taking photos of a military zone in the North Sinai city of Rafah.

Sabry, who was taking the photos for a story about a military ban on buying land in the area along Egypt's border with the Gaza Strip, was released after a few days but his trial was repeatedly postponed.

On 5 October 2013, an Ismailia military court imposed a six-month suspended jail sentence and fine of 200 Egyptian pounds (30 dollars) on **Ahmad Abu Deraa**, a correspondent for the Cairo daily *Al-Masry Al-Youm*, who was arrested in El-Arish, in North Sinai, on 4 September 2013 after writing several articles about the army's operations in Sinai. He was held until his trial.

More recently, a military court began trying *Rassd* news website journalists Amro Al-Qazzaz and Islam Al-Homsi on 24 February 2014 on charges of divulging confidential information and insulting Field Marshal Abdel Fattah el-Sisi. The judge refused to allow them to be defended by a lawyer at the first hearing.

Trial by military court offers none of the procedural guarantees of due process and does not comply with Egypt's international obligations.

In an interpretation of article 14 of the International Covenant on Civil and Political Rights, which says that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law," the UN Human Rights Committee said that trials of civilians before military courts violate this article unless they are "exceptional" in nature.

This interpretation (General Comment No. 32) went on to define "exceptional" as meaning "limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials."

Aside from the fact that there have been no objective grounds for using military courts, these trials have also failed to satisfy the need to be "equitable, impartial and independent," cited in this General Comment. So they have not complied with article 14 of the Covenant.

In an interpretation of the African Charter on Human and Peoples' Rights (to which Egypt is a party), the African Commission on Human and Peoples' Rights said that military courts should "under no circumstances" have jurisdiction over civilians.

Torture and mistreatment in detention

Article 52 of the new constitution explicitly forbids torture, while article 55 says detention must respect human dignity. Article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights forbid torture and any form of treatment or punishment that is cruel, inhuman or degrading. Egypt is also a signatory of the Convention against Torture.

Nonetheless, there have been reports of frequent use of cruel, inhuman or degrading treatment and even torture. The victims have included **Abdallah Al-Shami**, the *Al-Jazeera* reporter held since 14 August 2013, **Islam Al-Kelhi** of *Al-Wadi*, arrested on 25 January 2014, and **Ahmed Jamal Ziyada**, a photographer for the *Al-Yaqeen* news network who was arrested while covering protests at Al-Azhar University on 28 December 2013.